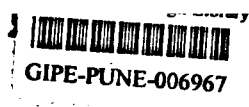


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1. The State Land Tax Acts. pp. 20.1-11 1920.  
(By J.A. Mulcahy). X723: (Z81) F0
2. A Hand-book to Land Tax. pp. 90.12-70 1921.  
(By E.C. Landeman.) X723 - 81 F1
3. Local Government Law & Finance.  
(By C.E. Chuter.) pp. 96.71-143 1920. F0
4. State Income Tax. V81,6:(Z) 0a X796 pp. 122-143 1923. F3  
(By C.G. McCorkell.) pp. 144-191  
X724 - 81
5. State Income Tax Acts 1902-22  
& State Land Tax Acts 1915-22  
(Queensland.) pp. 91.192-95 1923. F3  
724: (Z81) 144-191
6. An Act to further Amend "The  
Income Tax Act of 1902" in  
certain particulars. 192-195 F2  
(Queensland.) pp. 33.196-212
- 6a *see below* X724: (Z81)
7. An Act to amend "The Local Authorities  
Acts, 1902-1920" in certain particulars  
and to Amend "The Victoria Bridge act  
of 1897" and "The Fire Brigades Act of  
1920" in certain particulars. 1922. F2  
V81,6:(Z) HA-213-215.
- 6a ~~An Act to amend the "Local Authorities"  
Acts, 1902-22" and to Repeal "The  
Under Subdivision of Land Prevention Act  
1885". pp 196-212~~
8. Local Authorities Acts, 1902-20.  
pp 217-307

THE ACCOUNTANTS AND SECRETARIES'  
EDUCATIONAL SOCIETY.

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The State Land Tax Acts

(1)

By

Mr. JOHN A. MULCAHY

JULY, 1920.

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**The Accountants and Secretaries' Educational  
Society.**

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**The State Land Tax Acts.**

A Paper read by Mr. JOHN A. MULCAHY, of the State  
Land Tax Department, before the members of the  
Accountants and Secretaries' Educational Society on  
Wednesday, 14th July, 1920.

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**INTRODUCTION.**

Before proceeding to read my paper to-night, I must say that it gives me very much pleasure to meet you, understanding as I do, that you are all interested and experienced in the various matters appertaining to land taxation. I would like to ask for your kind indulgence towards what you may regard as any shortcomings in my paper. It may be that you will find a few comments and criticisms among my notes; these I trust will be regarded and treated as my private opinions.

Now, gentlemen, Taxation is a very old yet an up-to-date theme of discussion. It appears to be one of those evils, if I may say so, which Time does not amend; nay, rather, as some of you will agree, which Time seems to aggravate. Nevertheless, it is a very interesting subject. Taxation is that part of the revenue of a State, which is obtained by compulsory dues and charges upon its subjects.

There are two methods of levying taxes—direct and indirect. A direct tax is one which is charged directly upon the taxpayer. An indirect tax is one where it is recognised from the beginning that the individual who pays in the first instance usually passes on the charge to some one else.

A Land Tax is a direct tax. Really it is in the nature of a land rent. As most of you are no doubt aware, taxes on land are of very great, if not the greatest antiquity, as a means of raising revenue. Originally they were charged by reference either to the gross produce of the land cultivated, as in ancient Egypt, or to its area, as in Rome.

The ownership of land, at all times in history, has appeared to be a very desirable thing; and as communities grew into nations, and the modern system of governing States developed, this ownership has had to meet ever increasing demands.

In Australia, where the rights of the Crown to the land have been proclaimed and enforced since the earliest settlement, problems of land ownership and taxation have never assumed the difficult phases in which we see them in the old world to-day. But still they are bad enough with us.

If we glance at the map of this continent of ours, and reflect that fifty per cent. of the population is congregated in the five capital cities situated around its coast, the questions arise in our minds, not only as to the baneful influence this huge disproportion must ultimately have on the welfare of the nation, but also as to its effect from the view point of taxation. It suggests an enquiry as to the relative increases or decreases in the taxable values of urban allotments and country areas. It opens up the topics of unearned increment, the nature of our Land Taxes, the incidence of our land taxation measures, and the advisability of regarding the taxation of the soil, not merely from a revenue-producing aspect, but also from the broader view point of national policy.

These matters, gentlemen, it is not my intention to discuss here, but I commend them to you.

If we pause and consider the trend of recent legislation throughout Australia, it seems apparent that all the States ~~in~~ their initial periods of self-government, committed the error in their land policies, of permitting the formation of large estates, which have since proved a hindrance to closer settlement.

In Queensland more particularly this development may be noted, a development which I would like to emphasize, as it has a distinct bearing on the Queensland Land Tax Acts, which Statutes it is now my purpose to review.

As I will not have sufficient time to discuss each section of the Acts, I propose to touch only on what I consider the most important points.

I have divided the paper into five parts, viz. :—

- 1.—The Act and what it covers.
- 2.—Making of returns.
- 3.—Objections and appeals.
- 4.—Remission of Tax and appertaining thereto.
- 5.—Penalties and acquisition of land.



### **The Act and what it covers.**

The original Act became law in December, 1915, and was levied on land held on 30th June, 1915; amendments to the principal Act were passed in 1918 and 1920. The imposition of the Act was, firstly, for the purpose of raising revenue; secondly, the destruction of private monopoly in land; and thirdly, to force lands into use which were not being worked. It was also thought that the taxation of land values would have the effect of cheapening land. It is difficult to estimate correctly to what extent, the Act has resulted in achieving those aims, as since its inception, the seasons in the settled districts have been so bad that the statistics to hand are not a fair criterion.

It is evident that the Federal Act, which has been in force since 1910, was the basis on which the Queensland Act was drafted. Most of the sections are similar, and the most important definitions such as unimproved value and value of improvements are the same. Under the Federal Act, resident individual owners of land of the unimproved value of £3000 or over, are required to make returns, and are taxable when the unimproved value exceeds £5000. Under the State Act, resident owners are required to make returns when the unimproved value of their land is £200 or over, and are taxable when the unimproved value exceeds £300. A special feature of the Federal Act, which is not embodied in the State Act, is the treatment of primary and secondary taxpayers.

State Land Tax is levied on land held at Midnight on 30th June of each year, and is charged for the financial year beginning on 1st July following, and for the purposes of assessment, every absentee and every Company owning land, irrespective of the value of such land, and every other owner of land of the unimproved value of two hundred pounds (£200) or upwards, are required to make returns annually, on or before the 30th September.

The Act applies to all lands in Queensland which have been alienated from the Crown for an Estate in fee simple; that is, it covers all freehold land, but it does not apply to any land in process of alienation from the Crown until a Deed of Grant in fee simple has been issued. In other words, it does not apply to agricultural farms, unconditional selections, and allotments purchased from the Crown, until a Deed has been issued. All lands leased from the Crown, such as pastoral leases, grazing farms and perpetual leases, do not come under the Act.

The taxable value is, in the case of a resident owner, the total unimproved value of his land after deducting the statutory exemption of £300, and in the case of an absentee or a Company, the total unimproved value. Previous to this year, absentees and Companies though not allowed the exemption, were not taxable unless the total unimproved value exceeded £300; under the latest Amending Act, their land is taxable no matter what the value is.

The rates of tax vary from  $\frac{1}{2}$ d. (which applies to country land only), to 6d. in the £ taxable value, according as the unimproved value increases; the first step being from £1 to £499, the next from £500 to £749 (which applies to country land only), the next from £500 to £999, and so on. It is a flat rate for each step, and though the method is more easily understood by the average taxpayer, it is unscientific and creates many anomalies. A few instances to show my point will suffice, viz.: if the taxable value of an Estate is £999, the tax is £6/4/10; if £1000, the tax is £7/5/10; if £1999, the tax is £14/11/6; if £2000, the tax is £16/13/4. The progressive rate, such as is adopted for State Income Tax purposes, and by the Federal Office, cuts out all such anomalies, and is therefore preferable. The only disadvantage about the latter, is that the taxpayer is unable to check the rate he is assessed at, unless he has the progressive table of taxes.

There has been an alteration in the lower rate under the Amending Act of 1920; the provision being, that if the taxable value of all land owned by an individual is less than £750, and all such land is used by him only for agriculture, dairying and grazing purposes, the rate shall be, if the taxable value is less than £500,  $\frac{1}{2}$ d. in the £; if it is £500 but less than £750, 1d. in the £. It means that an agriculturist, dairyman or grazier, to come under that provision, must only own land of less taxable unimproved value than £750, and the whole of it must be used for one of the three purposes mentioned or a combination of the three. In effect, it means that a farmer does not come under that scale, if he is the owner of any other land than that used by himself for agriculture, dairying or grazing, even though his total taxable value is less than £750.

#### SUPER TAX.

Under the Amending Act of 1918, an additional tax was imposed, and was made retrospective to apply to land held on 30th June, 1917, and for each year during the war, and for the financial year next succeeding the financial year in which peace was proclaimed. This does not apply to land when the total taxable value is less than £2500. From £2500 to £2999, the rate is 1d.; from £3000 to £3999, the rate is 1 $\frac{1}{2}$ d.; and for £4000 and over the rate is 2d. in each £ of the total taxable value.

## OWNERSHIP.

Many taxpayers have not a very accurate knowledge of what constitutes ownership under the Act; some imagine that until a transfer of the property has been made to them, they are not the owners; others, that if there is a mortgage on the property, they are only joint owners; while others again think they must have paid at least 15 per cent. of the purchase money before they can be treated as owners. These conclusions are incorrect. To put it in a few words, the right to possession constitutes ownership; irrespective of whether a transfer has been executed, whether a mortgage is on the property, or what amount of purchase money has been paid. Ownership defined means when a person is entitled to the land for any estate of freehold in possession; or is entitled to receive, or is in receipt of, or if the land were let to a tenant, would be entitled to receive the rents and profits from the particular land; and notwithstanding any conveyance, transfer, declaration of trust, settlement, or other disposition of the land, so long as he is in receipt of the rents and profits, he is the owner. Possession therefore means the present right to enjoyment of the land. For instance, if a person purchases country land on terms, and under the agreement of sale, is entitled to immediately work the property and receive the profits, then he is the owner; if a person buys a town allotment on terms, and under the agreement of sale, has the immediate right to erect a residence either for himself or to let, and receive the rent, then he is the owner. It is immaterial what amount has been paid, or what is owing on the property. I would like to impress upon purchasers of land, the provisions of Section 37 of the Act, which state that all unpaid land tax is a first charge on the land, and that the present holder is liable, unless at the time of purchase he made written inquiry of the Commissioner, and was informed that there was no liability. It might be as well to mention that the number of purchasers of land who protect themselves, by ascertaining from the Commissioner, whether there is any unpaid tax attaching to the land, is surprisingly small; and in view of the fact that such transactions are usually conducted through the agency of a solicitor or other qualified person, the neglect is all the more incomprehensible.

Lessors who have inserted a covenant in their leases for the payment of all rates and taxes by the lessees, have not infrequently failed to lodge returns, believing the responsibility for doing so rested with the lessees. This is quite wrong. The liability to make returns, and also to pay the tax is on the owner, but under Section 22, the lessee or other occupier for

the time being of any land shall be liable to pay the Land Tax on behalf of the owner, and may deduct the amount from any rent due from him to the owner.

Under Section 23, a mortgagor is liable for Land Tax as if he were the owner of an unencumbered estate; which, in effect, means that there is no deduction allowed in respect of any mortgage on the land. Many persons consider that this is a great hardship to the owner, claiming that the true taxable value consists of the surplus value of the land above indebtedness. The Legislature in its wisdom, has decided otherwise; and the Department therefore taxes the owner without taking into account the amount owing on the land. The only way in which the tax could be collected on the full value of the land, if the present method had not been adopted, would have been to make the mortgagee joint owner with the mortgagor, and difficulties would have arisen if this had been done. It might be a reasonable proposition when the vendor was the mortgagee; but when another person was the mortgagee, to tax him would be to tax the capital invested, and not the land.

I might state that the New Zealand Act provides for the relief of a mortgagor where the unimproved value does not exceed £6000, and in some of the American States, a mortgagee of real estate is treated and taxed as having an interest in the land.

Under Section 24 of the Act, a mortgagee in possession of land is regarded as the owner, and is taxable as such; but as there are so many liabilities attached to taking possession that few mortgagees exercise that right, I will not dwell on the subject, except to state that under the Amending Act of 1920, a mortgagee who is in receipt of the income from the land is deemed to be in possession. This provision should be noted when returns are being prepared.

The matters I have dealt with, relate to owners of land in severalty. I will now discuss Joint Owners; which include Joint Tenants, Tenants in common, Beneficiaries in Trust Estates and Syndicates. Joint Owners are entitled to separate assessments under the Act, and each is required to furnish a return showing his interest, together with any other land he may own. If one of the Joint Owners supplies full particulars of the jointly owned land on his return, it will only be necessary for the others to refer to that return, and state what proportion of the land they own. When the land is not registered in the joint names, documentary evidence of the joint ownership must be furnished.

Regarding settlements and trusts, no fixed rule can be laid down, as it sometimes appears problematical as to who is the person rightly taxable. In fact the conditions and restrictive provisions are so variable and frequently so involved, that it is necessary to furnish a copy of the Will or Trust Deed in

every case. In many instances, beneficiaries under a Will are not joint owners. One who enjoys the whole of the income for life is the sole owner, to the exclusion of any other beneficiaries; an annuitant under a will is not regarded as an owner. An illustration of this came under my notice recently.

“The Testator died leaving real and personal estate. He left the residue of his estate, upon trust, with power of postponement, to divide the income as follows:—An annuity of £60 to his sister, but this payment to be at the absolute discretion of his Trustees. The balance of the income to be divided into ten parts; one-tenth to be placed to the credit of a “charities” account, to be distributed for 10 years after his death, and then to revert to the common fund. To his widow an annuity of £150 during widowhood. The residue to be further divided into seventeen parts; five parts to be paid to his son, and the remainder equally between his three daughters, but with a further provision that if the daughters’ shares were not equal to the £150 per annum to be paid to his widow, then her annuity to abate until such amounts were equal. After the death or remarriage of his widow the total income to be apportioned as before provided. The estate is not to be distributed in the lifetime of his children, but the grandchildren are entitled to the share of their deceased parent, upon attaining the age of 21 years, or if a female, on marrying.”

The method of assessment in this Estate is as follows:—The annuities are disregarded, and whilst part of the income is payable to the charities, these charities are entitled to be assessed on one-tenth share of the freehold lands, but as under Section 13 of the Act, charities are exempt from taxation, no assessment is issued on their account. The remaining 9/10ths is divided between the children in shares as specified, and they are assessed thereon; the son on 5/17ths of 9/10ths, and each of the daughters on 4/17ths of 9/10ths.

It has been the usual practice of the Department to treat members of syndicates as joint owners; that is, to assess each member on his share of the land; but in future this procedure may be restricted. Where there are five or more owners interested, the Amending Act of 1920 empowers the Commissioner to make one assessment, as if the land were owned by one person, but when this is done, the separate owners will not have the value of the land included in their individual assessment. The Amending Act also provides that if the Commissioner thinks it advisable to do so, he may assess jointly-owned land of the unimproved value of £5000 or over, as if it were owned by one person; and it further provides that lands held in severalty, by two or more persons, shall be considered as jointly owned, if the owners are members of a partnership or firm using such land.

## UNIMPROVED VALUE.

Unimproved value is the capital sum which the fee simple of the land might be expected to realize, if offered for sale on such reasonable terms and conditions, as a bona fide seller would require, assuming that the improvements (if any) thereon, made or acquired by the owner or his predecessor in title had not been made. This means that the unimproved value is the bona fide sale value, after deducting the value of improvements. The average sale value is the truest index to the real value. At any rate, it applies the known, instead of the unknown factor, and avoids an arbitrary estimate. Of course, like everything else, there are extraordinarily high as well as low sales, but the average is not appreciably disturbed by these instances.

The term "unimproved value" is not very widely understood. Some taxpayers are under the impression that it is the original value of the land when it was in its unimproved state. This supposition is at fault. The increased value attaching to any particular parcel of land, due to the working of other lands in the district, or to works effected by the State or the community, such as railways, roads, bridges, and public utilities, is portion of the unimproved value; but any increased value represented by the improvements effected on the particular land by the taxpayer, or his predecessor in title, such as buildings, fencing, dam sinking, ringbarking, clearing and cultivating, does not form part of the unimproved value.

Owners can therefore arrive at the unimproved value, by ascertaining what is the selling price of similar land in the locality; and if the land is unimproved, this price fixes the value of the subject land. If it is improved, it is necessary to ascertain what the improvements on the land would cost to erect or make at each 30th June, allowing for depreciation according to the time the improvements have been in existence. Considerable trouble has arisen at times by reason of what has been termed the 'added value' given to land by reason of various improvements, such as ringbarking, clearing, providing water supply, etc. It has been claimed that until these improvements had been effected, the land was worth very little, and consequently the owners argue that the added value belongs to the improvements, and not to the land. The Department, however, contend that if a person ringbarks a property, and there is not some quality in the land which responds to the treatment given to it, ringbarking will not add anything to the value of the property. Consequently, when land does respond to treatment, it is fair to only allow as the value of this improvement, what it would cost to have the operation performed. So also if a well is sunk and water is obtained; it is the water that gives the added value to the land—but this



water was part of the land; the sinking of the well only brought it into use. If the water had not been found, what would have been the value of the well as an improvement!

Timber indigenous to the land is part of the unimproved value and is taxable. This, of course, does not appeal to owners who have a nice lot of marketable timber on their land, but there can be no argument against treating it as part of the unimproved value, as neither capital nor labour was employed in planting and growing the trees. Of course, if the timber had been planted by an owner, it would not be taxable as part of the land value. In such a case, it would be treated in the nature of a crop. Owners can arrive at the value of timber country, by valuing the land minus the timber, and then estimating the quantity of standing timber thereon; valuing such at the ruling market rate, and deducting the cost of felling, hauling, loading and trucking to the market, or by calculating the value of the timber on a royalty basis, if they are not removing it themselves. It will be to the owner's interests to keep an account of the quantity of timber taken off after the estimate has been made, as each marketable tree removed off the land means a reduction of the unimproved value, and of course, a corresponding reduction of tax for the following year. Owners of timber mills can also claim as a purchase in their income tax return the value of the timber removed year by year.

Mineral lands should be treated similarly to timber country, excepting where the minerals have been reserved to the Crown.

#### VALUE OF IMPROVEMENTS.

Value of Improvements is the added value which the improvements give to the land at the date of a valuation, irrespective of the cost of the improvements, but in no case should it exceed the amount that would reasonably be involved in bringing the unimproved value of the land to its improved value at the date of valuation.

Improvements on land include all work done, or material used, by the expenditure of capital or labour, but in so far only as the effect of such work or material used would increase the selling price of the land. In effect, the value of improvements is that amount which represents the difference between the unimproved market value, and the improved market value, at the date of the valuation. For instance, a costly building unsuited to the land can only be valued at its proportionate part of the total selling value of the property. If the land without the building would sell for nearly as much as with the building, then the building is only worth the difference between the unimproved market value, and the improved market value of the property.

You will sometimes find very costly buildings on comparatively small country properties, and in many instances, prospective buyers would not be inclined to give anything approaching the cost of the buildings; they would be only prepared to pay an amount that would represent the cost of improvements suitable to the requirements of the property. I have in mind, as an illustration, a property in the Dalby district; the buildings on which must have cost approximately £50,000. If this property were put on the market, the vendor would be an optimist to expect anything like that amount for it; so that it would be absurd to claim as the value of the improvements, the cost of the buildings, which would be in excess of the total value of the property.

Fencing is an improvement, but a boundary fence cannot be claimed at its full value by two adjoining owners; and there is no added value to the land due to the land being enclosed. You will sometimes find that an owner has his cattle property enclosed with a costly sheep fence; well, the same principle is applied as to buildings, as a prospective purchaser would not be likely to pay any more for the fence than would be suitable for a cattle property.

The particular objective to be observed by an owner when he has arrived at his improved value, is that he must not claim, as improvements, such an amount as would reduce the unimproved value of his land below the market value of unimproved land of similar quality in his district.

#### UNDEVELOPED LAND TAX.

This is an additional tax on land which has not in or upon it, improvements of the value of at least one-fourth of the unimproved value of the land. If country lands have not the necessary improvements, the value of live stock ordinarily depastured thereon may be taken into account and classed as an improvement.

There is a proviso to the section relating to undeveloped land, which empowers the Commissioner to treat land as developed, if owing to drought or other causes he deems it just to do so. There was a further provision added under the Amending Act of 1920, under which the Commissioner may treat land as developed, if he is satisfied that the land is being put to good use. Land from which timber is being removed for commercial use may also be treated as developed, provided the Commissioner is satisfied that a reasonable quantity is being removed each year. The undeveloped tax did not apply to land held on 30th June, 1915 (the first year of the land tax). The rate for 1916 was 1d., for 1917 1½d., and for each year thereafter 2d. in the £ of the taxable value.

As there was a doubt as to whether any statutory exemption should be allowed against undeveloped land, the Department compromised by allowing a part of it, calculated as follows, viz., by allowing an amount which bore the same proportion to the £300 statutory exemption, as the total value of the undeveloped land bore to the total unimproved value owned. This procedure was embodied in the Amending Act of 1918, and construed so as to apply to the previous years.

The proportionate exemption should have few advocates, as the effect of it was to allow an owner of a large amount of undeveloped land, and a small amount of improved land, a greater proportionate amount of the exemption, than it did an owner with a smaller amount of undeveloped land, and a greater amount of improved land. To make my point clear, compare an owner with £900 worth of undeveloped land, and £100 worth of improved land, with an owner with £500 worth of undeveloped land, and £500 worth of improved land; the former would be allowed an exemption of £270 from his undeveloped land, and the latter only £150.

Under the Amending Act of 1920, there is no statutory exemption whatever allowed against undeveloped land; for instance, a resident owner of land of the unimproved value of £324, which has no improvements thereon, would be assessed as follows, viz.: ordinary tax, value of land £324, less statutory exemption of £300 equals £24 at 1d. equals 2/-, plus undeveloped tax on value £324 at 2d. equals £2 14s., total £2 16s. Previously his assessment would have been, ordinary tax £324—300 equals £24 at 1d. equals 2/-, plus undeveloped tax £324—300 equals £24 at 2d. equals 4/-, total 6/-.

Of course, a resident owner must have land of the unimproved value of over £300 before either tax can be applied.

Regarding the matter of treating live stock ordinarily depasturing on the land as an improvement, I desire to point out that this does not necessarily mean the owner's own stock; it would apply to stock that he has on agistment; but the property must be enclosed with a fence, otherwise he could not declare that the stock were ordinarily depasturing on the land.

Similarly, if buildings and other improvements, not the property of the owner of the land, are on the land, then provided the information is furnished, and that they are of the required value, the land will be treated as developed.

I must again emphasise the advantage of the owner stating on his return, the use the land is being put to, as the Commissioner takes that into consideration when deciding whether the land is developed or not.

Where several portions are fenced and used as one property, the value of the improvements on the whole block will be taken into account against the value of the whole block; and

where several conterminous allotments have a house or other improvements erected on one allotment, and the others are enclosed with a fence and used as yards, gardens, etc., the whole will be treated as one property, and the improvements as belonging to the whole.

It is needless to say that all the information must be indicated on the return.

No doubt the undeveloped tax falls heavily on owners of land, who are not in a position to effect improvements; but there is no question about it being sound in principle, as it will have the effect of compelling owners to make every effort to put their land to use. It is an undoubted fact that some land is solely held for speculative purposes, and it is the duty of the community not to encourage such speculation; such land should certainly be taxed on a higher scale than land that is producing something, or is being put to use. The undeveloped land owner is enjoying an unearned increment, without the expenditure of capital, other than the purchase price of the land. The owner of improved land may also be enjoying an unearned increment, but in a lesser degree; he has expended capital on it, and through it being put to use, is doing something towards increasing the value of his own and surrounding land.

## PART II.

### Making of Returns.

For the year 1915, a full return was required; and for those who furnished that return, supplementary returns stating land acquired or disposed of during the year, were accepted for the years 1916, 1917, and 1918. There were no supplementary returns issued for the year 1919; every owner being required to furnish full particulars, and although it put taxpayers to a certain amount of trouble, the result proved the wisdom of requiring the full return, as in scores of cases we discovered that taxpayers, after declaring that they had neither bought nor sold land, showed in their latest return land not accounted for before; while others again, have not shown land that they returned previously. I may say, gentlemen, that these discrepancies have entailed on the Department a vast amount of correspondence to rectify the apparent negligence of those taxpayers. If we had continued for another three years with supplementary returns, I am satisfied that the Office would have had to augment the staff considerably in order to cope with the idiosyncrasies of a number of contributors to the revenue.

A supplementary form will be issued for the current year, and this may be used by those owners who have furnished the full return for the previous year. This form provides that

owners will show the value of the land owned by them on 30th June, 1919, together with the value of lands acquired or disposed of during 1919-20. In addition they will be required to furnish on the usual forms, details of lands so acquired or disposed of, and these will be attached to the annual return. As a matter of fact, since the inception of the Act, every person who is or comes under the Act, within one month after contracting to acquire or part with land, is required to furnish the Commissioner with a notice of such transaction. Many taxpayers disregard this requirement, and wait until furnishing the annual return, to advise the Commissioner of changes in their holdings. It will be of interest to those people to know that they have rendered themselves liable to prosecution for their procrastination. It is a foolish attitude for them to adopt, because they have to supply the information eventually, so why not obey the law and supply the particulars within the prescribed time? So far, proceedings have not been instituted against anyone for neglect, but I anticipate that there is bound to be a case before long, as a prosecution seems to be the only way to compel a recognition of the law.

As you all must know, such transactions have an important bearing on values, and it is of the utmost importance to the Department to have early records of all such sales. It has a bearing on deciding objections or appeals. By waiting until the annual return is furnished, the record is apt to become stale, and may not be of so much use. While I am on this matter, I might state that the regulations also require every taxpayer, who changes his postal address, to notify the Department within one month of the change; and he is liable to prosecution if he fails to do so.

On the form used for the year 1919, there is a column in which an owner is required to state the use that each parcel of land is being put to. It is a simple matter to insert this information, but for some unaccountable reason a good many taxpayers dislike giving those particulars, and I might say that the owners are not the only offenders; taxation experts and agents are nearly as bad. I often think that their idea is that the information is unnecessary, and that some of the headings are merely filling-up stuff. While I am on this matter, I might say that the drafting of such a form entails a considerable amount of time and thought to make it both simple and effective, and all the information required under the different headings is essential for the working of the Act. What an enormous amount of correspondence would be saved, if only owners, agents and experts, would supply the necessary details when furnishing returns! A time will come when the Commissioner will refuse these incomplete returns, and the result will be an increase in revenue through late lodgment penalties.

## VALUATION OF LAND.

When the Land Tax Act came into force, owners were required to furnish returns setting forth their own as well as the Local Authorities' values. It was necessary to establish a basis to work on, and in limited time. The procedure adopted was to assess on the owner's values, providing the total was not below the Local Authorities', and did not amount to more than £3000, but there were certain exceptions. The Department accepted the owners' values for various parcels, when it was shown that the Local Authorities' was the minimum rateable value; as, for instance, allotments were purchased for as low as 2s. 6d., and yet the Local Authorities' value was £20. Naturally the Department did not insist on assessing at that figure. When the total unimproved value was £3000 or over, the Department adopted the valuations made by the Federal Land Tax Office. The intention was to have all other land valued, and the assessments issued were in reality only tentative, as under Section 20 of the Act, the Commissioner has power to make valuations and amend the assessments within three years from the date of the issue of the originals. Valuing all freehold land in Queensland is a big undertaking, so that we are still forced to base many of our assessments on either the owner's or Local Authorities' value. Our experience of the Local Authorities' valuations is that the majority are not a true index of the value of land. Some adopt a low valuation and a high rate, others a high valuation and a low rate, and others a moderate valuation and a corresponding rate. There are Local Authorities whose boundaries are contiguous; in one the land is valued at certainly not more than half of its true value, and in the other at something approaching the true value; so that it is obvious that the adoption of the Local Authorities' values for land tax purposes would be quite inequitable, and would be a glaring infraction of the fundamental rule of equality in taxation.

It is well known that the object of Local Authorities' values is to provide a basis for raising the revenue required for local works, and as long as the total rateable value of a Shire does this, and the relative values of different properties preserve the proper ratio to one another, Local Authorities' requirements are met. For this reason it is necessary for the Department to have its own valuations made, and this work is now being proceeded with. In this connection I would impress on owners the necessity for supplying particulars of sales and purchases at the earliest possible moment, so that this information will be available to the Departmental Valuers. If this had been always done, possibly many an objection made would have been rendered unnecessary.

From the view point of land taxation it is to be regretted that the proposed Land Valuation Department was not acceptable to our Legislative Council. Such a Department would have valued on a common principle, and established a uniform value for the whole of the State, which would have stood for a specified time. It would have meant economy; fewer valuers being needed, as at the present time the 171 Local Authorities in Queensland, the Federal Land Tax Office, the State Land Tax Department, the Succession Duty Office, the State Savings Bank, and others have all their own valuers, and many of them base their valuation on different principles. It would have been welcomed by the majority of owners, relieving them of computing their own values, and affording them the satisfaction of knowing that each was being treated the same as his neighbour.

There have been various judgments delivered by the High Court, relative to the unimproved value of land, and in my opinion, the most important was Nathan versus Federal Commissioner of Land Tax, which reversed the decision of the Supreme Court of Queensland. The Lower Court found that the unimproved value was not more than £5000; the High Court that it was £16,935. Truly a remarkable difference. The Appellant paid £31,000 for the Albion Park Racecourse, which would have been an extraordinarily high price, had it not been registered with the Queensland Turf Club as a race-course. The High Court held that the land in question was peculiarly adapted for a racecourse, and that in ascertaining the unimproved value, the land must be valued as a registered racecourse.

### PART III.

#### Objections and Appeals.

Any taxpayer may appeal against his assessment on the ground that he is not liable for the tax, or that his assessment is excessive. He has the option of lodging an objection, which must be on the prescribed form; or giving notice of appeal, which must also be on the prescribed form. The former allows the Commissioner an opportunity of dealing with the matter without any expense to the owner; the latter is a direct appeal to the Court, which would most probably mean some initial outlay. I would suggest to owners the advantage of furnishing some details of why their tax should be reduced; as, for instance, recent sales of similar land in their district. The bald statement that they are not liable, or that their assessments are excessive, is not of much assistance to the Commissioner when dealing with these matters. If they come before the Court, some further evidence will have to be submitted to be successful, so why not furnish it to the Department! If the Commissioner is furnished with the information that would

be supplied to a Court, he is in a better position to decide on the merits of the case, than if this information is kept in reserve. Quite a number of cases have been settled by conference between Owners and their Valuers on the one hand, and the Commissioner and the Departmental Valuers on the other. As this saves legal expenses, it should appeal to taxpayers. I would also suggest that if taxpayers could arrange an interview at the Department, in respect to their objections, the matter could be thrashed out there and then, which would possibly prove satisfactory to both parties.

An owner must lodge his objection within thirty days after the notified date on which the land tax is payable, or alternatively give notice of appeal to the Court of Appeal; the condition being similar to an objection.

When the Commissioner decides an objection, the taxpayer is advised of such decision. If the owner is dissatisfied with the decision, he may, within thirty days after the date on the notification, appeal to the Court; the procedure then being the same as if he had appealed in the first instance.

Under the original Act, the Courts for hearing appeals were the Supreme Court or the District Court, whichever was selected by the taxpayer. This has now been altered, as under the Amending Act of 1920, the Land Court is the only Court to which the taxpayer can take his case. As the members of this Court are experienced in dealing with land values, this should be appreciated by taxpayers.

An appeal to the Land Court is instituted by filing in the Office of the Registrar, a notice of appeal, and at the same time, a copy of such notice must be furnished to the Commissioner by the taxpayer, not less than sixty days before the date of the hearing of the appeal. The Commissioner may then reduce the assessment as required by the Appellant, and notify him to that effect, not less than fourteen days before the date fixed for hearing the appeal, and the appeal is then determined; or the Commissioner may reduce the assessment in part, and notify the Appellant to that effect, not less than fourteen days before the date fixed for hearing the appeal. If the taxpayer agrees to such reduction, he must give notice of his acceptance, not less than seven days before the date fixed for hearing the appeal, and the appeal is then determined. If the Appellant does not give such notice, the assessment as reduced will be the one appealed against.

Not less than ten days before the commencement of the Sittings of the Court, at which an appeal is to be heard, the Appellant must lodge with the Registrar of the Court, copies of all such documents in his possession as may be necessary for the hearing of the appeal, and must furnish the Commissioner with copies of the documents so lodged, not less than seven days before the hearing of the appeal.



Previously the costs of an appeal were at the discretion of the Court; but the Amending Act of 1920 lays down the rule of awarding costs, viz., if the value of the land as finally fixed by the Court is the value at which it has been entered by the Taxpayer on his return or objection, or is nearer to that value than the value placed upon it by the Commissioner, costs will be awarded against the Commissioner, otherwise costs will be awarded against the taxpayer. This provision is only fair and equitable, and brings to my mind one of our appeal cases; the taxpayer objected to our value of £180 per foot, and maintained that it should be reduced to £125 per foot. The decision of the Court was that the fair unimproved value of the land was £160 per foot, yet costs were allowed against the Department.

#### PART IV.

#### Remission of Land Tax and appertaining thereto.

Under Section 46 of the Act, where it is shown to the satisfaction of the Commissioner, that a taxpayer, liable to pay land tax, has become insolvent, or has suffered such a loss that the exaction of the full amount of tax will entail serious hardship, or that by reason of drought or adverse seasons or other adverse conditions, the returns from the land have been seriously impaired, the Commissioner may release such taxpayer wholly or in part from his liability.

This section is meant to apply principally to our primary producers. It is a practical way of showing that the Legislature is sympathetic to the man on the land, who through conditions over which he has no control, is unable to get a fair return for his labour. Numbers of taxpayers do not avail themselves of this section, as they are under the impression that they must come cap-in-hand, parade their poverty, and beg of the Commissioner for remission. As a matter of fact, they have a perfect right to take advantage of the section; it is a part of the Act, and it is quixotic of them to imagine that they are losing any self-respect by asking for relief. Of course it is obvious that there must be a judge to determine whether it is a case of hardship to pay the tax. The Commissioner is that judge; and each year, numbers of taxpayers have been granted relief after submitting their cases to his decision. It is necessary for applicants to supply full particulars of losses suffered; as for instance, the number, kind, and value of live stock lost during the year, the quantity of seed purchased, area sown, and the result. It should not be a difficult matter for taxpayers to furnish details of that nature; and reverting to the column in last year's form, in which owners were requested to state the use that each parcel of land was being put to, I might point out that furnishing that information was most important, and of the greatest help to the Commissioner

when deciding applications under this Section. In this connection, the attention of taxpayers is called to the necessity for sending in their income tax returns, when they experience bad years, as these returns are carefully examined when applications for relief are being dealt with. I would impress upon owners the advisability of supplying accurate information, and so avoiding unnecessary correspondence.

There is a provision in the last amendment of the Income Tax Act, which is of interest to the primary producer, who is making a taxable income. It reads as follows: "From the amount of tax payable on the income of any taxpayer derived from any agricultural, dairying, or grazing pursuits carried on by him, there may be deducted the amount of any land tax actually paid by the taxpayer, in respect of the same year on land of which he is the owner for an estate of freehold, and on which such agricultural, dairying, or grazing pursuits are carried on by him. For the purposes of this provision, "Grazing pursuits" means the grazing of stock on freehold areas, the unimproved value whereof does not in the aggregate exceed £1280; and where dairying and grazing pursuits are carried on by the taxpayer on the same lands, and the greater part of his income is derived from such dairying, he shall be entitled to the deduction, as if dairying pursuits only were carried on by him.

Previously, the aggregate value of £1280 applied to all primary producers. The effect of the provision quoted, is that the agriculturist and dairyman can claim a deduction from income tax payable, of land tax paid on agricultural or dairying land, irrespective of the value of the land owned; but if the taxpayer is a grazier, he can only claim the deduction, if the total unimproved value of his land, on which grazing pursuits are carried on, does not exceed £1280.

The effect of the provision which I have mentioned, relieves the primary producer of tax, but only when he enjoys a taxable income. For the purpose of demonstration, I append a table showing how an agriculturist (including, of course, sugar and fruit growers) and a dairyman would fare.

Unimproved value of land.	Land Tax.	Net Income.	Income Tax payable from which Land Tax paid, may be deducted	Total Tax payable.
	£ s d.	£	£ s. d.	£ s. d.
A 1,100	5 0 0	330	4 14 1	5 0 0
B 1,280	6 2 6	360	6 0 0	6 2 6
C 2,000	12 7 11	460	12 0 5	12 7 11
D 5,000	93 0 5	1,250	84 7 6	93 0 5
E 10,000	202 1 8	2,100	195 6 0	202 1 8
F 12,000	268 2 6	3,000	360 0 0	360 0 0

A and B would also apply to graziers. If any of them made an income, the tax on which exceeded the land tax as shown in "F" of the above table, he would require to pay the land tax, and also the difference between the land and income taxes.

#### PART V.

### Penalties and the Acquisition of Land.

#### LATE LODGMENT PENALTY.

If the annual return is not lodged by the due date, viz., 30th September, and the default continues up to 60 days, a penalty of 5 per cent. of the tax is incurred. If the default extends to 60 days or over, the penalty is increased to 10 per cent. of the tax.

It is unaccountable why so many owners neglect to furnish their returns within the prescribed time. If they only realized the extra administrative expenses involved thereby, I feel sure they would acknowledge that they are not harshly dealt with in the imposition of these penalties. I have no doubt that in the majority of cases, the neglect is due to forgetfulness. To these erring ones, I would suggest that they make a memorandum of the dates on which returns are due.

#### LATE PAYMENT PENALTY.

The prescribed date for the payment of land tax is the 30th November, and if the assessment is not paid within 30 days, 10 per cent. of the tax is added by way of late payment penalty. If the assessment is not despatched from the Department in time to allow the taxpayer to pay by the due date, the time for payment is extended accordingly.

The liability to a penalty for late payment has the effect of making most owners meet their obligations within the specified time. It does not seem an inequitable levy against defaulters, when we reflect that the one who pays promptly would otherwise be placed at a disadvantage in comparison with the defaulter.

It may be as well to mention that in some cases, the failure to lodge returns, and pay assessments within the prescribed time is due to the neglect of the agents, and not the taxpayers personally, yet the latter have to pay the penalties incurred thereby. In such cases, I would ask, gentlemen, if that is fair treatment for clients; or is it a reasonable proposition to expect the Department to forego such penalties?

#### LAND-OMITTED FROM A RETURN.

Where an assessment has been made against any person, and at any time afterwards the Commissioner finds that such person omitted certain land from his return, the Commissioner

is empowered, under the Amending Act of 1920, to add an amount equal to twice the difference between any land tax that he has paid, and the land tax which he ought to have paid.

#### UNDERVALUATION OF LAND.

Section 31 of the Act provides that if the Commissioner is of opinion that an owner has understated the unimproved value of his land to the extent of 25 per cent. or more, the Commissioner may apply to the Supreme Court for a declaration that the Crown is entitled to acquire the land under this Act, and if the Judge or Full Court upholds the Commissioner in his opinion, and decides that the under-valuation was made **with a view to evading taxation**, then the owner may be penalized to this extent, viz.:—The Governor-in-Council by proclamation may acquire the land on behalf of the Crown, but subject to all leases, mortgages, and other charges then affecting the land the owner being entitled to compensation therefor, upon the basis of the improved value obtained by adding the fair value of improvements to the unimproved value stated in the return, together with the amount of 10 per cent. upon that improved value, by way of an allowance for compulsory dispossession. I would like to draw your attention to the proviso that the unimproved value upon which compensation is determined, is the unimproved value stated in the return, and not the unimproved value as found by the Judiciary.

The matter of penalties for the fraudulent undervaluation of land, or for any wilful attempt or neglect to evade assessment or taxation, is also set forth in Sections 49 to 51, where the Act does not provide for the payment of any compensation whatsoever; but states that the owner shall be liable to a penalty not exceeding £500, and also to an amount equal to treble the amount of the tax which would have been evaded, if the owner's value had been accepted, or the tax had not been paid. A more drastic penalty is the forfeiture of the land undervalued, or any part thereof, and its consequent acquisition by proclamation on the part of the Governor in Council.

#### CONCLUSION.

And now, gentlemen, I must say that I hope this paper will prove to be of some benefit to those interested in the subject of Land Taxation, and the workings of the Act. To some it may appear that I have adhered too strictly to the technical points involved, and to the requirements of the Department; but my endeavour throughout has been to impart such information, as would materially assist those owners and agents, who perhaps have not the time nor the inclination to make a close study of the Act.

This Return  
must be Addressed to  
**COMMISSIONER OF TAXES,**  
Executive Buildings.  
Brisbane.

1919.  
QUEENSLAND.

SCHEDULE B.

File No.  
Asst. No.

# STATE LAND TAX RETURN

"The Land Tax Acts of 1915 and 1918."

## RETURN OF LAND owned Jointly or Severally as Beneficial Owner, Trustee, Mortgagee in Possession or Otherwise.

Return of Land as Owned at Midnight on the 30th June, 1919.

TO BE USED BY INDIVIDUALS AND COMPANIES.		TO BE USED BY TRUSTEES.	
Surname of Owner: ROE	Christian Names of Owner: RICHARD	Name of Trustee:	Name of Trust Estate:
Occupation: FARMER	Place of Residence from 1-7-1918 to 30-6-1919: NERANG	<b>BENEFICIARIES.</b>	
Address where Documents are to be Sent or Served: RICHARD ROE FARMER, NERANG		Names.	Addresses.
		Shares.	

I, **RICHARD ROE** of **NERANG** hereby declare that the list as shown on page 2 of this Return contains a full and true account of all the land owned wholly, or in part, by me as at midnight on 30th day of June, 1919, that the descriptions of the said land, with areas and values, are correct, and that the improvements as stated are actually in and upon the land.

Dated at **NERANG** this **29th** day of **SEPTEMBER** 1919

Signature **R. ROE**  
OWNER

Owner.  
Public Officer.  
Agent for Absentee.  
Trustee. } Cross out whichever  
are not required.

### Particulars of Improvements on Land.

Full details of Improvements and value of each particular kind are to be shown for each parcel of land; if Buildings, state whether Stone, Brick, or Wood; if used for Agriculture, state area cleared and under cultivation; if fenced, state kind and length; and, similarly, other improvements must be fully described. State kind, number, and value of Live Stock ordinarily depastured on each parcel. State which of the parcels are conterminous.

No. of Parcel	Name of Holding	Description of each Separate Class of Improvement and Value	Value of Live Stock on each Parcel	Total Value of Improvements on each parcel excluding Live Stock
1		SEVEN ROOMED HOUSE, BRICK £700	£	£
		FENCING, THREE WIRE, TWO MILES £100		
		DAIRY £100		
		DIP AND YARD £200		
		CLEARING AND GRASSING, 60 ACRES £300		
		STUMPING £50		
		CATTLE, 40 HEAD £120		
		3 HORSES £30 (Cattle and Horses belong to Tenant)	150	1450
2/4		SIX ROOMED HOUSE, WOOD £550		
		FENCING, THREE WIRE, ONE MILE £60		
		DAIRY £50		
		DIP AND YARD £200		
		RINGBARKING, 200 ACRES £50		
		CLEARING AND GRASSING, 50 ACRES £200		
		STUMPING £40		
		CULTIVATION £300		
		CATTLE, 40 HEAD £120		
		3 HORSES £30	150	1450
		HOUSE £500		
5		FENCING, THREE WIRE, TWO MILES £100		
		DAIRY £100 (Stock belongs to Tenant)		700
6		FENCING, SPLIT PALING £20		£20
7		FENCING, SPLIT PALING £10		£10

*With compliments  
Landeman*

3 FEB 1923

# HANDBOOK

TO

## LAND TAX

OR

## THE TAXPAYERS' GUIDE

### and FRIEND;

BY

E. C. LANDEMAN,

Assessor of Land Tax (State.)

②



X723.81

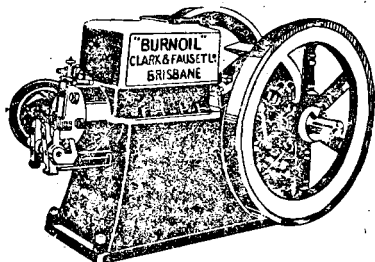
BRISBANE:

F1

John Mills "himself," Charlotte Street.  
1921

# CLARK & FAUSET Ltd.

Machinery Merchants,  
**EAGLE STREET, BRISBANE.**



## "BURNOIL"

KEROSENE ENGINES

The Most Economical

**NO** MAGNETO  
LAMP  
TROUBLE

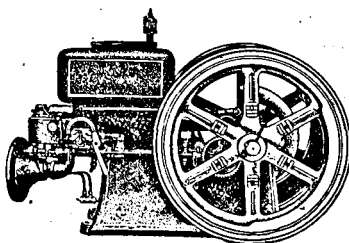
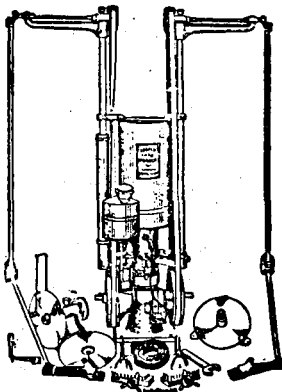
Starts instantly on  
Common Kerosene.

*Cooper*

## "Little Wonder"

SHEEP SHEARING PLANT

Also SHEEP SPRAY PLANTS,  
and the Famous Belt-Driven  
Overhead Gear, with Air-Cooled  
Handpieces.



## "Eureka"

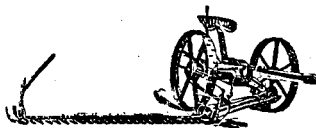
PATENT MILKING PLANT

The Most Reliable.

It Will Pay to Obtain Our Advice and Prices.

## 'Emu' PETROL & KEROSENE ENGINES

"MELOTTE" and "EMU"  
SEPARATORS



"OSBORNE" MOWERS

And Other Implements.

PUMPS for All Duties.

## PREFACE.

I have written this little book not as a learned commentary on the Land Tax Act of 1915 and its subsequent amendments, but as a simple and I hope readable guide for the taxpayer wishing to prepare his own returns.

With this end in view, I have taken each form that a taxpayer has to fill in, and dealt with it separately as the subject of a chapter or part of a chapter. In one case, indeed, I have gone the length of three chapters

This fact should be kept in mind when perusing these pages, particularly so when reading Chapters III, IV, and V.

There are very many matters dealt with there which are not closely related and are not in logical sequence, and it is only because a reference to them is included in Form 'B' that they are touched upon in the order they have been.

One difficulty in the way of dealing with the filling in of the different forms has been the necessity of avoiding repetition.

Wherever possible this has been carefully done, but in some cases the same subject has been treated from a different angle, as, e.g., "Improvements" in chapter I, and again in chapter IV. In the former case I have treated the matter from the standpoint of one who has purchased land and wishes to apportion the value of improvements in the Notice of Purchase, and in the latter from the view point of the taxpayer who has to be careful to see that all his improvements are shewn, so that he may not be liable for the tax on undeveloped land.

For the convenience of my readers, I may mention that I have inserted reduced specimens of all the forms used in connection with Land Tax, and in each case I have filled in the columns in illustration shewing particulars required. These forms will be found as follows:—

Form "K" (Notice of Purchase) .....	Opposite page 16
Form "K" (Notice of Sale) .....	" " 24
Form "M" (Notice of Sale) .....	" " 25
Form "B" (The Main Return) .....	Opposite title page
Form "C" (The Supplementary Return) ..	Opposite page 60
Form "F" (Notice of Appeal) .....	Between pages 82 & 83
Form "G" (Notice of Objection) .....	" " 82 & 83
Form "H1" (Notice Following Objection) "	" " 82 & 83
Form "H2" (Notice Disallowing Objection) "	" " 82 & 83

With the aid of these specimen forms, a taxpayer should have no difficulty in filling in his return, or taking other necessary action, and if there is any matter on which he is in doubt, a reference to the Index which I have provided at the end of the book, will guide him to the particular spot where the requisite information is contained, and I think that I have touched upon every difficulty that may occur to a taxpayer in Land Tax matters.

I have also added a Ready Reckoner which will be found next to the Index.

I may add that I have had to get official permission to publish this book, and this was not given without one very stringent condition attached, with which, I am glad to say, I have complied.

In conclusion, I would say to the reader who reads solely to pick holes in the fabric I have woven,

"Be to my faults a little blind,

And to my virtues very kind."

F. C. LANDEMAN.





# Don't *Tax* Your Sight?

Every Tax is unpopular. The Tax of Weakened Eyesight is particularly so.

The Income Tax might be pretty stiff, but just think what a stern 'collector' is nature if you neglect your eyes. She'll tax you to the limit in money, worry, and sickness; and there'll be no 'deductions.'

Put Nature on the job and you'll be sorry you were not kind to your eyes earlier. She'll teach you a lesson you won't easily forget.

To have good eyesight is a duty—like paying your taxes—and none should be allowed to shirk it.

Life's journey should be a joyous adventure. Through the long calendar of years you should enjoy good eyesight—you will if you are kind to your eyes.

"FRASER SERVICE" is still elbowing its way into favour through courtesy, and by reason of the high qualifications of its optometrists.

The OPTICAL HOUSE of  
**CHAS. SANKEY FRASER**

(Next Rowe's Cafe)  
Edward Street, Brisbane;

Also at Margaret Street, TOOWOOMBA.

# HAND BOOK TO LAND TAX (State).

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## CHAPTER I.

### NOTICE OF PURCHASE OR ACQUISITION OF LAND FORM K.

This should be lodged within one month of the purchase of any land.

As the purchase or acquisition of land generally forms the beginning of a taxpayer's relations with the Land Tax Office, the subject is given the pride of place in this little book.

Unpaid  
Land Tax

But one must go back a little earlier even than that to get into touch with the Land Tax Act.

Before even the purchaser buys his land he gets a warning delivered to him in no uncertain manner under Section 37 of the Act, to make certain, that there is no unpaid Land Tax attaching to the land. He is to write to the Commissioner of Taxes and ask him whether the taxes have been paid or no

Enquiry re  
Unpaid  
Land Tax

Sometimes there is a charge registered against the land at the Real Property Office, and of course, a clear Title to the land cannot be obtained until the Commissioner's claims are satisfied.

Registration  
of  
Charge  
Against  
the Land

So it is as well for the would-be purchaser to be clear on this point. If there is not time to write, then he should send an urgent reply-paid wire to the Commissioner in the following terms:—

“Am purchasing block of land Portion sixty or allotment twenty (as the case may be) from Richard Jones of Bonhomie is there any Land Tax outstanding. Reply prepaid.”

This will generally meet the requirements of the case, or if the sale is being made by Auction, and there is no time to send or receive a wire, it would be as well to get a statement from the Auctioneer, in writing, that there was no land tax owing. If then it was subsequently ascertained that there were outstanding liabilities of this nature he could collect from the Auctioneer the amount owing, in a Court of Law. The purchaser should be careful to protect his rights all round in this matter, as he might also be let in for unpaid rates, and even unpaid Federal Land Tax. It seems rather hard that the way of the purchaser should be beset with pitfalls for the unwary, but he will have thus early to acquaint himself with the rules of the game or suffer accordingly.

Many an individual in Queensland has, before today, had cause to regret his neglect in overlooking these simple precautions.

The same applies to land received by way of gift, either under the terms of a will, or during the lifetime of the owner, but of course, cases in which Land Tax was owing would be few and far between, and in any case the person receiving the gift would be compensated for any Land Tax owing, by the mere fact that the land was a gift to him. And perhaps it would be too much like looking a gift horse in the mouth to be too persistent in enquiries concerning the matter, although even here full information should be obtained if possible.

If the purchaser is buying on terms, and finds out that there is land tax outstanding on the land he has bought, he can pay the dues from any unpaid purchase-money that he holds, and he is specially protected by Section 38 of the Act, which gives him the necessary legal authority to do so.

Agreement  
as to Who  
Should Pay  
Tax

In a case where the purchaser and the seller agree among themselves, as to who is to pay the tax for, or over, a certain period, it must be borne in mind that the purchaser is the person who is, after the 30th June, succeeding the date of purchase, legally responsible for the payment of the tax, and not any other person. Such agreements if made are of a private nature and are a matter of mutual personal arrangement, but do not affect the liability of the person in possession of the land to pay the tax, and therefore could not be brought forward in a Court of Law, as a defence for not discharging the obligations laid down by the Act.

The Date  
of  
Ownership

The next question to consider is:—

On what date does the purchaser become the owner of the land as far as the requirements of the Land Tax Act are concerned? That is to say, from what date does he become liable to be taxed.

In the definitions given in the preliminary portion of the Act, it says distinctly:—"Where before or after the passing of the Act an agreement has been made for the sale of land, whether the agreement has been completed by conveyance or not **The Buyer shall be deemed to be the owner of the land as soon as he has obtained possession of the land**, and the seller shall be deemed to remain the owner of the land until possession of the land has been delivered to the purchaser." In other words and to put it as simply as possible, the Land Tax Act requires that before a man can be taxed, he must receive possession of the land from the vendor.

This explanation will, no doubt, suffice to meet the requirements of the ordinary case, but there are times when it may be necessary to be quite clear as to what the word possession does really mean. The following definition by a legal luminary will, I think, prove of use in the matter:—

"Generally where an Estate or interest in land is spoken of as being **IN POSSESSION**, that does not mean the actual occupancy of the land, but means the present right thereto, or to the enjoyment thereof."

Many people buy land which they never actually occupy themselves. They may let it to others, or they may let it lie idle. But no one questions their ownership, as they are in legal possession, which means that they have a legal right to the land, i.e., they can legally make what use of it they like.

So also an owner is said to be a person who is entitled to receive or is in receipt of, or if the land were let to a tenant, would be entitled to receive the rents and profits thereof.

Therefore, it may be said, that when a person by reason of purchase, whether on terms or otherwise, enters into actual occupation of the land for his own enjoyment or benefit, or when he becomes entitled to the rents and profits from the land, even though he does not enter into actual occupancy thereof, he becomes, as far as the Land Tax Act is concerned, the owner of the land, and is responsible for the payment of the tax.

But it ought to be clearly understood, that when a person leases land from another with the option of purchase at the end of a term of years, or at any time, he does not become the owner until he exercises the option and is therefore not liable to Land Tax until the date on which he makes the purchase.

Lease with  
Option of  
Purchase  
not  
Ownership

No Returns  
Necessary  
for  
Leasehold  
Land

The Holders of Leasehold Land from the Crown are also not liable for Land Tax, and should not send in Returns of any description, until the land is made freehold. They are liable to tax from the date the deed is issued but not before.

Apportionment of Purchase Money  
Between Land and Improvements

The question of the amount of money paid for a property is a very important one from the standpoint of Land Tax, as this has to be apportioned out by the purchaser between the unimproved value of the land on the one hand, and the value of the improvements on the other.

Unimproved Value

Much care should be taken in putting down the unimproved value of the land. Some people simply take the present Local Authority's value of the land, and deduct same from the total purchase price, the balance being apportioned, by a species of conjurer's juggling, as value of the improvements. This method would no doubt appear to find some sanction in Sir Pope Cooper's judgment in the case of Nathan versus Federal Commissioner of Taxes, where he says, "And I think if the true rule is to deduct the value of improvements from the improved value, then the added value which the improvements give to the land at the date of valuation irrespective of the cost of the improvements, must be taken to be the difference between the Local Authority's valuation and £31,000 (i.e., the purchase price).

But that this rule is not safe to follow (it gives a purely imaginary value to the improvements) is seen in the fact that the High Court reversed this judgement, and followed the principle laid down in the Act of first deducting the reasonable value of the improvements from the purchase price and thus arriving at the unimproved value.

Of course, it is quite understood that there are likely to be diversities of opinions as between the purchaser and the vendor as to the respective values of land and improvements. But a buyer should always give consideration to the seller's values, as there should be a fairly good agreement when the transaction is being carried out as to the values of each. So that the buyer should see that the unimproved value shewn is not merely an echo of the Council's value. The method, therefore, that I would suggest, would be to value the improvements first, and then deduct the total value of same from the total purchase price, which would give the unimproved value of the land.

How to Arrive at Unimproved Value

Say the total purchase price of a piece of land is £2,000, and the value of the improvements £800, then by deducting the value of the improvements from the improved value of £2,000, you get roughly the unimproved value, which would be £1,200.

But the reader may say, what is the correct meaning of the phrase "value of improvements?"\* To which I would reply: In the State Land Tax Act, the "value of improvements" is defined as follows:—In relation to land the added value which the improvements give to the land at the date of valuation, irrespective of the cost of the improvements. Provided that the added value shall in no case exceed the amount that should reasonably be involved in bringing the unimproved value of the land to its improved value as at the date of assessment."

Value of  
Improve  
ments

Improvements are here taken to mean the enhancement or increase of the value of the property by the operation of man. Consequently we can put down as improvements:—:

Improve  
ments

Clearing  
Stumping  
Ringbarking  
Planting with artificial grass  
Draining  
Irrigation  
Fencing  
Buildings  
Stockyards  
Dips, etc., etc.

All these are attributable to the action of man, and enhance the value of the property.

For instance, a man buys a piece of scrub land, at say £3 per acre. He spends £5 per acre in clearing, burning off, ploughing, and getting ready for cultivation. Would the improved value of the land be only £8 per acre? Not so. If he were selling, he would very likely want about £30 per acre. His improvements have enhanced the value of the land. That is to say, that although he has only spent £5 per acre in improving the land, the land is now worth not the original unimproved value of £3 plus the cost of improvements at £5 per acre, but something more, and that something more is the added value

Enhanced  
Value  
Due to  
Improve  
ments

\* The definition of "value of improvements" was originally inserted in the Federal Land Tax Act in view of the provisions of Section 48 of that Act enabling the Crown to compulsorily acquire land fraudulently undervalued. It was adopted from the same provision in the New South Wales Act with which it is substantially in accord. The restrictive clause "Provided that the added value, etc.," was added later, as I have pointed out above.

which the improvements give to the land, IRRESPECTIVE OF THE ACTUAL COST THEREOF, and which we call the cost of improvements. But it must be noted, distinctly that the added value must not exceed the amount which would reasonably be spent AT THE DATE OF VALUATION to effect the improvements thereon.

What is the  
Meaning  
of Cost  
of Improve-  
ments

To be perfectly clear as to what the words "cost of improvements" mean here, I will quote the words of a learned Judge of the High Court- Mr. Justice Isaacs, who says in the matter: "The cost, there, means what the improvements did in fact cost the owner. He may have been fortunate in getting them at a specially low cost, or unfortunate in having had to pay an abnormally high sum. But the material fact is that there they are, whatever they originally cost; and the question is how much their presence adds to the natural value of the land. And in ascertaining that, the cost of replacing them, if they were then annihilated, is a most material factor for a prospective buyer to consider in determining what he would give for the land, and if for a buyer, so for the Court. It may not be the only factor, of course, but it is one necessary factor." (McDonald versus Deputy Federal Commissioner of Land Tax C.L.R. 231).

Unimproved  
Value  
Enhanced  
by Improve-  
ments

So that, to come back to what I was discussing, the improved price of the property works out at £30 per acre, and the improvements are valued at £5 per acre, then the unimproved value of the land is £25 per acre. (This is, of course, only an imaginary case and only used for illustration).

Sir S. Griffith  
on  
Value of  
Improve-  
ments

This question of value of improvements is well discussed by Sir Samuel Griffith, in Morrison versus Federal Commissioner of Land Tax, where he says: "When one considers the nature of land in Australia and how lately it has passed from its primitive condition, it is obvious that all sorts of operations may tend to enhance its value. Take, for instance, a jungle so dense that it is almost impenetrable for four-footed animals even the smallest. Compare it with the same land after, say, the lapse of ten years, when it presents the appearance of a meadow clothed with grass and carrying dairy herds. What is the value of improvements in that case? Surely the difference between the value of the land as jungle and its value in the condition in which it is when found. That difference clearly comes within the definition of "the value of improvements," the added value which the improvements give to the land at the date of valuation, irrespective of the cost of improvements." In such a case as I have mentioned, and it applies with variations to a great part of Australia, the improvement is effected

not merely by the immediate acts of man in cutting down trees, ringbarking, destroying tussocks of grass and so on, but by all the operations of nature which could not take place without the prior operations of man. It is the combined effect of what man has done and of the operations of nature which are only effected by what man has done. And it is provided that the cost of doing it is not to be the test. The only questions are: "What would be the value of the land if it continued in the state of nature?" and "What is its value now?"

It must be remembered, however, that these words are in interpretation of the definition as unaffected by the restrictive clause quoted below, which was introduced later by the Federal Act No. 37 of 1912 Sect. 2. Prior to that date the definition only ran:—

"Value of Improvements. In relation to land the added value which the improvements give to the land at the date of valuation irrespective of the cost of improvements."

So that value of improvements merely meant the difference between the value of the land in its original virgin state and its value after it had been improved. But to get a correct interpretation of the words "value of improvements" as it is now laid down, we are to read Sir Samuel's words in conjunction with the latter part of the definition which is also contained in our Act, viz.:—

"Provided that the added value shall in no case exceed the amount that should reasonably be involved in bringing the unimproved value of the land to its improved value as at the date of assessment."

But while Sir Samuel approaches the subject from one angle, Mr. Justice Shand approaches from the opposite viewpoint, viz., the unimproved value of the land, in the case of *W. J. Munro versus Federal Commissioner of Taxation*, heard in September, 1916. And he has some pertinent remarks to make with regard to the value of improvements.

Judge Shand  
on  
Unimproved  
Value

He says: "The Act does not say that you are first to conjure up a picture of the land as it existed in a state of virginity, untouched by the hand of man (a task which in course of time would overtax the powers of the oldest inhabitant), that you are then, so to speak, to take a debtor and creditor account of the damages inflicted and benefits conferred upon the land by the hand of man, since the date when he first touched it, and that for the purpose of arriving at the unimproved value you are finally, so to speak, to deduct the credit balance (if any)



of this amount from the value which the land might be supposed to possess if it had been left in its virgin state.

If land, when offered for sale, has been deteriorated by the exhaustion due to cultivation, such land, whether improved or unimproved, obviously must realise less than it would realise if no such deterioration had taken place. But if when the land is offered for sale, cultivation is the best purpose to which it can be put, and the clearing of the land actually adds to its sale value, that clearing, as it seems to me, does not cease to be an improvement because the land could never have been cultivated if it had not been cleared and would not have become deteriorated by exhaustion if it had remained uncultivated.

As it seems to me, the questions to be determined are these: What is the sum which the land as it was on the 30th June, 1915, might have been expected to realise if offered for sale on that date? and, How much of that sum is fairly attributable to things which the owner for the time being of the land can be proved to have done upon it? and which are still there, and of which the ABSENCE would diminish the saleable value of the land? The difference would give the unimproved value of the land."

The words of Sir Samuel Griffith and Mr. Justice Shand would almost seem to be mutually contradictory, but they really supplement each other, and that is why I have quoted them rather extensively.

From what has now been said of the "value of improvements" the reader will have gained a fairly clear idea as to what is meant by this expression and, as I have pointed out before, once having arrived at the value of the improvements in respect to any property, to get at the unimproved value is merely a simple sum in subtraction, viz., the deduction of the value of the improvements from the improved value of the property as a whole.

But see chapter IV., p 42 et seq., where some additional information is given regarding the way in which improvements are valued.

With regard to the question, which may be raised by some reader, as to why I am quoting, in connection with State Land Tax, High Court judgments which were delivered on the interpretation and administration of the Federal Land Tax Act, I should like to point out that anyone taking the trouble to compare the different Acts, will see that the State Land Tax Act of 1915 is in part an adaptation of the Federal Land Tax Acts with certain important differences to meet the requirements of the State of Queensland, for the collection of land tax within

its borders, such as a statutory exemption of £300 instead of £5,000, the taxation of freehold lands only, instead of both leasehold and freehold lands. Also, as in the evolution of man certain rudimentary organs, such as the vermiform appendix, have been left in his body which give a clue to the processes of development which he has undergone, so there are left in our Act certain rudimentary organs, so to speak, which give an indication as to its evolution, i.e., in the definition of the word owner, the words \* "though not to the exclusion of any other person" have been incorporated in the explanation as to when the buyer becomes liable for tax, and when the vendor's liability ceases, because in the Federal Act both the buyer and the seller are liable for the tax, the buyer being called the primary taxpayer, and the seller the secondary taxpayer. Whereas in our Act, the buyer only becomes responsible for the tax as soon as he has obtained possession of the land, and the vendor's responsibility ceases as soon as he has given possession of the land, and we have no division of taxpayers into primary and secondary taxpayers.

Where, therefore, I have quoted the judgment or decision of a learned judge on any point in the Federal Acts, it has only been because in such cases the State Acts and the Federal Acts have been at one in the matter, and therefore what would apply in such circumstance to the one would also apply to the other, i.e., precedents have been established which are applicable in all similar cases. "Precedents," according to a legal writer, "are previous decisions of the court which should always be followed in similar cases by courts of a co-ordinate authority."

Reason for  
Quoting  
from  
Judges'  
Decisions

So that in quoting such judgments and decisions, I am keeping the interests of my readers very much at heart, for it does not matter very much what I say, or anyone else says. In a court case on any controverted points the words of a Judge in laying down what the law is in a certain respect must settle and fix how that law is to be administered. For instance, there is nothing in our State Land Tax Act about the removal of prickly pear as an improvement. I mean a direct reference to prickly pear. But, say a farmer or grazier has land infested badly with the pest. He spends money in removing it, but is told he cannot claim that as an improvement. The law is being interpreted for him, but whether correctly, or incorrectly, he cannot say. If, however, he can quote a distinct opinion given by a judge, as in the following quotation, he has won the battle.

\*These words may also have been inserted 'ex abundanti cautela,' i.e., from excessive caution and to leave no loopholes in the Act, but they undoubtedly give traces of its origin.

Removal of  
Prickly  
Pear as  
an Improve-  
ment

"In so far as land that was previously infested with pear is now clear from pear, or is less badly infested, there is an improvement, and the unimproved value is arrived at by assuming that that improvement had not taken place. In so far as the result of the expenditure has simply been that the pear has been prevented from spreading, it comes within the category not of improvement, but of maintenance. The fact that such expenditure is necessary must, of course, be taken into account in estimating the value of this land, whether improved or unimproved. No buyer would give as much for land requiring an annual expenditure of £500 to keep down pear, as for the same land without that liability. He would naturally regard it like any other annual charge, as something to be capitalised, AND TO THAT EXTENT DEPRECIATING THE VALUE OF HIS LAND.

Now there the point is clearly and simply discussed and the decision of the Judge is likely to be taken as a precedent for future guidance on similar matters. The quotation is from a judgment given by Mr. Justice Ferguson in the Supreme Court of New South Wales, in *Abbott versus Deputy Federal Commissioner of Land Tax*.

Improve-  
ments  
Appertain-  
ing to  
the Land

So also with regard to improvements appertaining to the land, or in simple words, attaching to the freehold. Improvements, according to the Land Tax Act of 1915, may be in or upon the land, or they may be appertaining thereto. Now the word appertaining in the ordinary sense of the word means belonging, so that appertaining to the land, would mean belonging to the land, but not necessarily in it or upon it. Thus if the owner of a piece of land had the right annexed to that property by special grant to graze his stock in an adjoining paddock which belonged to another person, such right could be looked upon as being appurtenant to the land or appertaining thereto. That is, any person buying the land would also get with it the right of grazing his stock in the adjoining paddock, which would be transmitted with it, and would be incident to its ownership. I am only using this illustration to show, as clearly as I can, what is meant legally by the words appertaining to the land or appurtenant thereto, so that taxpayers will know how they stand when they claim any improvements as appertaining to their land.

In a certain case (*McDonald versus Deputy Federal Commissioner of Land Tax*, 20 C.L.R., 231), it was claimed that the existence of a water bore, which had been con-

structed by a public trust on land adjoining the appellant's property, and from which the property might be watered, was an improvement appertaining to the land. Mr. Justice Isaacs, who delivered the judgment of the Court, said, "There is no doubt, in one sense, the existence of such an opportunity improves the property, by making the possible income from it greater, just as a new railway station, close at hand, would, or a new invention for clipping sheep, or a rain making device. But it is not an improvement within the meaning of the Act, which is something thereon or appertaining thereto. The improvements contemplated by the Act, are such as are IN A STRICT LEGAL SENSE, APPURTENANT TO THE PROPERTY, AND INCIDENT TO ITS OWNERSHIP. This cannot be said of the mere legal and actual possibility to obtain water from the Trust."

A further case, which will be of interest to sugar cane farmers, is where the Trustees of the late W. J. Munro claimed, before Mr. Justice Shand, in the case of *Munro versus Federal Commissioner of Land Tax*, that as a certain piece of land had been mortgaged to the Treasurer in connection with the Mulgrave Central Mill Co., Limited, and the owner of the land was the owner of 7,350 shares in that Company, therefore the right to have the cane crushed at the Company's Mill was an improvement appertaining to the land and which enhanced its value, and that the enhancement of value attributable to this improvement had been wrongly included in the unimproved value thereof as assessed by the Commissioner.

Further  
Illustration

Under Article 95 of the Articles of Association of the Mulgrave Central Mill Coy., Limited, it is laid down that:

"All cane grown by shareholders or on shareholder's land, except as hereinafter provided, must be sold to the Company at current rates, and the Company shall be bound to purchase it. In the event of the total tonnage of cane exceeding the total capacity of the mill, the surplus shall be rejected pro rata, but until such surplus occurs, all cane grown by shareholders as hereinbefore contained shall be taken by the mill and share in the profits."

This right of having the cane crushed at the mill, which could be transferred to a purchaser of the land, was claimed to be an improvement appertaining to the land.

Mr. Justice Shand disallowed this claim, as he pointed out that a Company's articles of association can only constitute a contract between the company and its shareholders as such.

He further pointed out that: "No doubt the appellants by transferring to a purchaser of parcel No. 7 (the land in question) their shares in the Mulgrave Central Mill Coy., Ltd., together with parcel No. 7 itself, can secure to the purchaser the right conferred by clause 95 of the Company's articles. This is a fact and possibility which admittedly enhances the value of parcel No. 7 by facilitating its use for that purpose for which it is best adapted, namely, the cultivation of sugar cane; but, in my opinion, it is not an improvement in a strict legal sense appurtenant to parcel No. 7 or incident to its ownership; and is not an improvement within the meaning of the Land Tax Assessment Act of 1910-1914."

There are one or two other little points which I may touch upon here, as they may constitute matters of difficulty to some of my readers.

Timber  
Indigenous  
to  
Land not  
an  
Improvement

And first, with regard to timber growing on the land. If this has been artificially planted, it may be regarded as an improvement, just as an orchard may, or growing crops. But if the timber is natural to the country, it must not be regarded as an improvement from the standpoint of Land Tax, as its presence there is not due to the operation of man. In filling up a Notice of Purchase, therefore, the value of standing indigenous timber is to be taken as part of the unimproved value of the land\*

To be  
taken as  
Part of  
Unimproved  
Value

Removal of  
Timber an  
Improvement

Under the Land Tax Amendment Act of 1920, the removal of such timber, in reasonable quantities, for commercial purposes, is practically regarded as if it were an improvement. The wording of the paragraph is: "Land from which timber is being removed for commercial use shall not be treated as undeveloped, provided that the Commissioner is satisfied that a reasonable amount is being removed each year." This is a fairly substantial concession, as it saves the owner from an additional imposition of 2d. in the £ on the value of such land.

Value of  
Timber  
Removed  
to be  
Deducted  
Each  
Year

If a man buys a piece of land for, say, £2,000, and the value of the improvements thereon is £500, and the value of the timber is taken to be £800, then the unimproved value of the land is £1,500. But he is allowed to reduce the unimproved value each year, by deducting the value of any timber removed.

\* This is the usual procedure, based on the accepted interpretation of the definition of unimproved value as the capital sum which the fee-simple of the land might be expected to realise if offered for sale on such reasonable terms and conditions as a bona fide seller would require, assuming that the improvements thereon or appertaining thereto had not been made.

File No.....

QUEENSLAND.  
(State.)

Form K.

File No.....

**NOTICE OF SALE OR PURCHASE OF LAND**

(To be sent within one month of sale or purchase).

Not more than one transaction to be shown in this form

Name of Seller, RICHARD ROE

Occupation, Farmer

Postal Address, Nerang

**DATE OF SALE.**

10th January, 1921.

(This is the date when  
agreement was entered into.)

Name of Purchaser, JOHN DOE

Occupation, Farmer

Postal Address, Kilcoy

Local Authority to which Rates are paid.	Resubdiv. Subdivision	Allotment Section	Portion	County	Parish	City and Town Land				Area			Reference to Registered Title.			Particulars of Sale  (Insert here the values making up the total sale price).	Present Local Authority Value		
						Town	Street	Front		Depth		Ac	Rd	Per	No.			Vol	Fol.
								Ft.	In.	Ft.	In.								
Noosa	1	2	34	March	Tuchekoi					158	2	0	13452	869	24	Unimproved Value of .. £ 850 Value of Fixed Improve- ments (as per list at- tached) .. 1600 Value of Standing Crop .. Nil Value of Live Stock .. 500 Value of Plant .. 150 Other Items included .. Nil (as per list attached).  Total Sale Price 2100	£550		

**TERMS OF SALE.**—Deposit £300. Balance to be paid in instalments of £700 extending over four years with interest at six per cent, per annum.

If land is sold, cross  
out word purchased.  
If land is purchased,  
cross out word sold.

I, JOHN DOE do Solemnly and sincerely declare that the Return and the Statements therein referred to contain full and accurate details of the several matters and things set forth, and that the above described land has been purchased by me in a bona fide manner, and not for the purpose of evading payment of Land Tax.

Dated this 31st day of January, 1921

(Usual Signature) JOHN DOE  
State whether as Owner, Agent, &c. Owner

NOTE.—It is essential that the information required under each heading on this Form be supplied. Any omissions will only necessitate further correspondence.

In valuing the timber on the property, it is the practice to value only those trees which produce logs with a girth of not less than 48 inches. For the purpose of valuing such logs, they might be divided into two classes, viz., those from 48 inches to 59 inches, and those over 60 inches. Tops, though, having some commercial value, need not be taken into consideration at all. It may be of use to anyone wanting to ascertain how many superficial feet of timber are in a log, to give the following method: Length multiplied by girth multiplied by three-quarters of the girth gives the number of superficial feet. The experienced valuer, of course, does not rely so much upon mathematical calculations to arrive at his results, but is able to tell almost at a glance the contents of a log.

How to  
Value  
Timber

Tops not  
taken  
into Consid-  
eration

In cases where a taxpayer sells the timber on his property, but does not sell the land itself, there may be some doubt as to who should pay the tax on the land. The owner of the land says, and quite rightly too, that as he does not own the timber he should not be called upon to pay the tax thereon, although the value of the timber is said to form part of the unimproved value of the land. The difficulty may be got over thus: Let the owner pay the tax on the whole of the land and timber, but let him charge the purchaser of the timber with his proportion of such tax, such proportion to bear the same relation to the whole of the tax, as the value of the timber bears to the whole of the unimproved value of the land. That is to say, if the land and timber were both valued at say £1,500 and the timber alone was valued at £500, then the owner of the timber would have to pay one-third of the tax, and the owner of the land would have to pay the balance. Some such arrangement should be arrived at by the parties, and drawn up in a written agreement.

When  
Timber is  
Sold how  
is Tax  
to be  
Apportioned?

The position with regard to coal or other minerals is on exactly the same basis as the timber. The coal or other mineral contained in the land should be valued by someone whose opinion would carry some weight, and this value would form part of the unimproved value of the land. As the coal or other mineral was removed, a corresponding reduction in the unimproved value should be made. A gravel pit is also on the same basis.

Coal or  
Other  
Minerals  
in Land

With regard to the purchase of a Hotel property care should be taken to deduct the value of the license (presumably including good-will) from the purchase price before attempting to apportion the value of land and improve-

ments. In the case of Tooheys, Ltd., versus Valuer General, New South Wales, heard in August of this year (1921), before Judge Scholes, of New South Wales, this was expressly allowed.

I have dwelt at considerable length on the value of improvements and the unimproved value of the land, for on these two things depends the whole structure of Land Tax Assessments, and therefore the taxpayer should make himself thoroughly conversant with them. The other matters in the Notice only want the exercise of a little commonsense to fill in the necessary particulars.

I have filled in a specimen form (inserted opposite page 16) to illustrate how this Notice should be filled in.



When making Your  
**WILL or SETTLEMENT**

appoint

**Queensland Trustees  
Limited**

as **TRUSTEES**

Corner of **QUEEN & EAGLE STREETS, BRISBANE**  
(adjoining the Custom House)  
**AGENCIES IN ALL PRINCIPAL TOWNS OF QUEENSLAND**

**DIRECTORS:**

**SIR ROBERT PHILP, K.C.M.G., R. J. ARCHIBALD, Esq.,**  
Chairman. Deputy Chairman.  
**HON. F. T. BRETNALL, M.L.C. A. E. L. MORT, Esq.**  
**HON. G. W. GRAY, M.L.C. W. GORDON GRAHAM, Esq.**  
P. A. BLUNDELL, Managing Director.  
MAURICE S. HERRING, Manager.  
(Solicitor Supreme Court of Victoria, Chairman Taxation  
Committee, United Graziers' Association of Queensland)  
W. PAGE GRAY, Secretary.

**PASTORAL INSPECTORS:**

**WILLIAM KENT, Esq.,** Southern and Western Districts.  
**C. W. MITCHELL, Esq.,** Central and Northern Districts.

**£20,100 INVESTED IN GOVERNMENT DEBENTURES**  
in the name of the State Treasurer, in compliance with  
Special Act of Parliament.

This Company undertakes all Executors, Trustees and Agency  
Business, acts as Attorneys for Absentees and others, and as  
Receivers and Committee in Lunacy, and as Liquidators in  
Insolvency. **THE COMPANY'S CHARGES ARE LESS THAN THE  
COURT USUALLY ALLOWS TO PRIVATE EXECUTORS.**

**AMOUNT AT CREDIT OF TRUST ESTATES AND CLIENTS**  
**AT 30th JUNE, 1921, £5,363,333**

All work in connection with **TAXATION**, both State and Federal,  
undertaken and dealt with by Special Taxation Branch.

All persons who have been called upon to act as Executor and  
Trustee will have realised the onerous burdens of such a position.

**QUEENSLAND TRUSTEES LIMITED**

Will Relieve You ————— Consult the Company.

## CHAPTER II.

**NOTICE OF SALE OR ALIENATION OF LAND.**  
**Form 'K' (Continued)**

This should be lodged within one month of the sale or alienation of any land.

The same procedure is observed in filling up this form as in making out the Notice of Purchase.

The main difference is that the words "of Sale" are struck out, also the word "Sold" in the declaration, and the Notice is signed by the vendor.

Notice of Sale Should be Lodged in all Cases of Sales or Other Disposition of Land

This Notice should be made in all cases, i.e., whether the land is being sold on terms, or is being transferred in consideration of "love and affection," or is being sold for-cash.

In the case of land sold on terms, it should be stated in the place provided on the form for this information. The knowledge that land was being sold on terms might give a greater insight into the market value of the land if this were stated, as usually a much higher price is asked for land when sold on long and easy terms, than when, for instance, it is sold on a cash or a nearly cash basis.

Transfers of Love and Affection

When making out a Notice of Transfer of "love and affection," the date of the actual registration of the transfer of the land at the Real Property Office should be given or if there is a delay in the transfer being registered at the R.P. Office the next best thing to do is to give the date of the production of the document for transfer. Without the registration of the transfer having actually been made, or the document produced for registration, the Office is not likely to recognise the transaction.

It should be clearly noted on the Notice of Sale that it is not a sale for cash, but a gift of "love and affection."

Seizure of Land

When land is seized by a Mortgagee because the Mortgagor is unable to fulfill the terms of his contract, a Notice of Sale should be furnished by the Mortgagor, and a Notice of Purchase by the Mortgagee. The Notice of Sale in this connection is merely a Notice of Alienation of the land, and is an advice to the Department that they are not to tax the former owner any more.

If a mortgagor whose land has been seized neglects to furnish this form, he is likely to be still regarded as the owner, and the sequel to the whole affair may be a summons in the Police Court to pay arrears of Land Tax, for which the unfortunate individual is not responsible, but for which he has made himself liable by not sending in a Notice of Sale.

Both the  
Mortgagor  
and  
Mortgagee  
Should  
Notify the  
Department

There is this further aspect to be considered, viz., that Regulation 20 provides that every person required by these regulations to furnish returns shall, within one month after acquiring or parting with ownership of land, send Notice to the Commissioner in Form K or M as the case requires. and notice should be taken of the fact that there is a substantial penalty for failure or neglect to furnish any return asked for by the Commissioner.

In some cases, Banks and other financial institutions do not take possession of a man's land, on failure to comply with the terms of his mortgage, but they sell direct to a third party. In such a case there is no mortgagee in possession, and the land is transferred direct.

In most cases where a poor, unfortunate individual is in difficulties over his mortgage, he is also in difficulties with his Land Tax and there are generally arrears of Land Tax, for if he cannot pay his interest and redemption to whoever financed him, he is not likely to have paid his Land Tax. Not that I would blame him for not doing so. But in such a case, Caveat emptor, let the purchaser beware.

There is another Form used where land is subdivided and sold. This is known as Form M. See specimen form filled in opposite to page 25. When a person subdivides and sells his land, he should send in with the first Notice of Sale on this form, a lithograph plan of the land or estate so subdivided.

Form 'M'

On the front of this Form, place is provided for the name and address of the seller, the description of the land subdivided, and a declaration as to the bona fides of the sale. This information should be filled in clearly.

On the reverse of the Form are entered the names of the respective purchasers, the number of the allotment or subdivision (the full description being given on the front), and the price paid in each case.

Now, with regard to the sales of land, the further question always arises, how much profit did the vendor make, i.e., on what amount will he have to pay income tax?

Profits  
on Sales

If he sold four or five different parcels of land during the year, and made losses on some and profits on the

Losses to  
be set off  
against  
Gains

others, then in his Income Tax return he would be permitted to set off the losses against the gains, and claim to be taxed on the net profit only. Supposing, for sake of illustration, that a taxpayer, 'A,' had five parcels of land which he sold to different purchasers during any financial year. He makes a gross loss of £500 on two of the parcels and a gross gain of £2,000 on the others. Then his profit is calculated at £1,500. This, however, is not the gross profit on which he can be taxed. Allowance can be obtained for reasonable expenditure in connection with sales such as advertising, subdividing, making of roads, payment of commission to agent, and such other charges which may be approved by the Department.

The deduction of the total of these charges from the sum obtained by the disposal of the properties, after allowing for losses as above, will shew the net profit on which the Taxpayer will have to pay income tax.

In connection therewith, the following information is given for the benefit of any taxpayer who has made sales of property, and who is anxious to know on what basis he will be assessed for income tax.

Net Gains,  
How  
Taxed

(1). All net gains or profits accruing from the sale of any property, real or personal, is treated as income derived from personal exertion.

There is a substantial benefit in this for the taxpayer, as the rate of tax for income derived from personal exertion is lower than the rate of tax on income derived from the produce of property.

Section 3 of the Income Tax Act Amendment Act of 1921 lays down that:

"When the taxable income does not exceed £4,000 the rate on each and every £ of the taxable income shall be 6d. plus as many times 6/1000d. as there are pounds in the taxable income.

When the taxable income exceeds £4,000 the rate shall be 30d. in the £ on the first £4,000, and 36d. in the £ on each and every £ in excess of £4,000."

The Rate  
on  
Income  
Derived  
from the  
Produce  
of Property

(2). On all taxable income derived from the produce of property; and on the taxable income of all absentees:

"When the taxable income does not exceed £3,000, the rate on each and every £ of the taxable income shall be 12d. plus as many times 4/1000d. as there are pounds in the taxable income;

When the taxable income exceeds £3,000 but does not exceed £4,000, the rate on each and every £ of the taxable income shall be 6d. plus as many times 6/1000d. as there are pounds in the taxable income;

When the taxable income exceeds £4,000 the rate shall be 30d. in the £ on the first £4,000, and 36d. in the £ on each and every £ in excess of £4,000."

I am, of course, quoting the exact words of the Act, but I do not need to stress the point any further to shew that there is a real difference in the incidence of the rates.

The following further information relative to his income tax will be of use to the taxpayer, although this little book does not profess to deal with the problems of income tax.

When a taxpayer receives income from both sources, i.e., as a result of personal exertion and also from the produce of property, he is charged the distinctive rate of tax on each kind of income, on the income derived from personal exertion at the rate prescribed for such, and on the income derived from the produce of property at the rate laid down for same.

A word may be said here as to the correct method of arriving at the profit on a subdivisinal sale of land and of ascertaining the unimproved value of the unsold land remaining on hand after a subdivisinal sale has taken place. Let us suppose that John Roe had purchased one hundred acres of land for £2,400, and to make it fit for sale by auction or otherwise, he had it surveyed, and had roads made at a cost of £300. Then he dedicated ten acres of the land for road purposes. This area would naturally have no further cash value for him, so that after deducting it from the original area he would have left ninety acres of land, valued at £2,400 plus £300 (the extra amount spent on it), or £30 per acre. If he sold 30 acres the first year and realised £2,400, then to get at his profit from this, he would need to deduct the cost of advertising, commission to agent or auctioneer, and other expenses of sales, amounting to, say, £300, but not including cost of survey and making of roads. This would leave the net proceeds of the sale at £2,100. From this he would deduct £900 for the cost of the thirty acres sold and his profit would be £1,200. The unimproved value of the sixty acres remaining on hand would then be shewn on his next annual return as being worth £30 per acre, or £1,800.

How to  
arrive at  
Profits on  
a Sub-  
Divisional  
Sale

The following year, the same method would be followed, and if any additional expenditure had taken place, it would require to be added to the first cost.

#### TRANSFERS OF "LOVE AND AFFECTION," AND GIFTS TO BENEFICIARIES UNDER WILLS.

It may not be generally known that, regarded from an income tax point of view, these gifts are now regarded as sales.

Transfers  
of Any  
Kind to be  
Regarded  
as Sales

In the Income Tax Act Amendment Act of 1921 (Section 4), the following is laid down:—

- (a) Transfers of any property including live stock by any person to any other person by way of gift or for a nominal or manifestly inadequate consideration, or to any beneficiary under any will or in the distribution of any intestate estate; or
- (b) The taking over of a taxpayer's estate on his death by an executor or administrator,

shall be considered to be sales, and the selling price in the case of all such property other than live stock shall be the market price of the property transferred or taken over as at the date of transfer or death, and in the case of live stock shall be the price per head at which the late owner returned the same class of live stock in the last income tax return in which he returned his live stock on hand at the close of the year in respect of which such return was made, or, if purchased during the year for which the return is made, at the actual purchase price, to which in each case shall be added, for the purpose of arriving at the purchasing price to any beneficiary, executor, or administrator as aforesaid, the amount of any probate duty, succession duty, or estate duty paid in respect of such live stock.

This amendment has been made retrospective so as to apply to incomes for the year commencing 1st January, 1915, and each subsequent year.

The points to be noted are, as I have pointed out, that transfers of land, whether as gifts of love and affection, or of transmission by death, either through testamentary disposition or in the distribution of an intestate estate, are to be regarded as SALES. And the figures to be inserted in the money column are the current prices which such property would realise if put into the market for sale. Hence it is necessary for notices of transfers to be made in all such cases, and the difference between the current market price and the market prices of the land, etc., at the 1st January, 1915, is to be regarded as the profit or loss from the transaction, if the vendor owned the land as 1st January, 1915.

If a profit can be shewn then it can be returned for income tax purposes, under the heading of income from personal exertion.

In the case of ordinary sales, the amount of profit made (if a profit is made) is determined in a similar way. The current sale price is, when the vendor owned the land at 1st January, 1915, compared with the value obtained at the 1st January, 1915, or as near to that date as possible. For all practical purposes, the value given by the vendor in his Land Tax return for 30th June, 1915, is accepted as the basis on which to compute the profit or loss if he owned the land at the date mentioned.

For the way to fill in a Notice of Sale see specimen form on opposite page.

File No.....

QUEENSLAND.  
(State.)

File No.....

**NOTICE OF SALE OR PURCHASE OF LAND**

(To be sent within one month of sale or purchase).

Not more than one transaction to be shown in this form

Name of Seller, RICHARD ROE

Occupation, Farmer

Postal Address, Nerang

**DATE OF SALE.**

10th January, 1921.

(This is the date when  
agreement was entered into.)

Name of Purchaser, JOHN DOE

Occupation, Farmer

Postal Address, Kilcoy

Local Authority to which Rates are paid.	Re subdiv. Subdivision.	Allotment Section	Portion	County	Parish	City and Town Land				Area			Reference to Registered Title.			Particulars of Sale (Insert here the values making up the total sale price).	Present Local Authority Value		
						Town	Street	Front		Depth		Ac	Rd	Per	No.			Vol.	Fol.
								Ft.	In.	Ft.	In.								
Noosa	1	2	34	March	Tuchekoi					158	2	0	13452	869	24	Unimproved Value of Land £ 850 Value of Fixed Improve- ments (as per list at- tached) 1600 Value of Standing Crop .. Nil Value of Live Stock ... 500 Value of Plant .. .. 150 Other Items included .. Nil (as per list attached).	£550		
<b>TERMS OF SALE.</b> —Deposit £300. Balance to be paid in instalments of £700 extending over four years with interest at six per cent, per annum.															Total Sale Price 8100				

If land is sold, cross  
out word purchased.  
If land is purchased,  
cross out word sold.

I, RICHARD ROE do solemnly and sincerely declare that the Return and the Statements therein referred to contain full and accurate details of the several matters and things set forth, and that the above described land has been sold by me in a bona fide manner, and not for the purpose of evading payment of Land Tax.

Dated this 31st day of January, 1921.

(Usual Signature) R. ROE,  
State whether as Owner, Agent, &c. Owner

NOTE.—It is essential that the information required under each heading on this Form be supplied. Any omissions will only necessitate further correspondence.

# SPECIMEN OF FORM "M"

FRONT.

SCHEDULE M.  
(Reg. 25).

QUEENSLAND.

"The Land Tax Act of 1915."

(State).

Every owner of land who has subdivided and sold the land or any portion thereof, shall make a Return showing the subdivision and sale thereof within One Month of such sale taking place.

Name of Owner, JOHN DOE,

(Sd.) H. D. BRENNAN,

Occupation, Farmer

Commissioner of Taxes.

Address, Kilcoy

## PARTICULARS OF LAND SUBDIVIDED.

Local Authority To Whom Rates are Paid	No. of Portion, Subdivision, Allotment, and Section	Parish	County	Town	Area		
					Ac.	Rd.	Per
Windsor	Subdivision 33 of Portion 44  (two acres dedicated for roads)	Enoggera	Stanley	Windsor	10	0	0

I declare that the above particulars, together with those on the other side hereof, contain a full and true account of the sale of the above land and the purchasers thereof, and that the sale took place at Windsor, on the tenth day of August, 1920.

Usual Signature, J. DOE

Occupation, Farmer

Address, Kilcoy



REVERSE OF FORM "M".

QUEENSLAND.

"THE LAND TAX ACT OF 1915."  
(State).

RETURN TO BE MADE BY PERSONS SELLING ESTATES.

Allot.	Sub-Dvn.	Name of Purchaser	Address	Area			Price			Allot.	Sub-Dvn.	Name of Purchaser	Address	Area			Price					
				Ac.	Rd.	Per	£	s.	d.					Ac.	Rd.	Per	£	s.	d.			
1	33	J. Jones	Brisbane			16	30		24	33	M. Sutton	Ipswich			16	22						
2		W. Nye	Murgon			16	35		23		William Ewing	Red Hill			18	38						
3/4		J. Robinson	Nerang			32	70		25		James McDonald	Brisbane			16	26						
5		R. Sinclair	Brisbane			16	33		26/27		Abraham Smith	New Farm			32	72						
6/8		W. Booth	Kilcoy	1		8	68		28		T. G. McCoombs	Doomben			16	24						
9		F. Jones	Woondum			16	32															
10		M. Smith	Gatton			16	40															
11		H. Ball	Windsor			16	35															
12/13		M. Sweeney	Spring Hill			32	80															
14		F. Williams	Windsor			16	25															
15/16		C. Atkin	Bald Hills			32	62															
17/19		E. Douglas	Nerang	1		8	84															
20		J. Moody	Blackbutt			16	35															
21		F. Atherton	Brisbane			24	31															
22		R. Wilkins	Maroochy			16	26															
													Total			3	2	18	869			

Note.— Names of individuals given are purely imaginary, and only for purpose of shewing how Form should be filled in.

## Chapter III.

THE ANNUAL RETURN  
FORM 'B'

This should be forwarded on or before 30th September of the year in which it is called for and is the main return which is kept as a basis for ascertaining full particulars of all freehold land held by taxpayers.

Since the inception of the Act, this form has only been called for twice in the last five years, once for 1915, and once for 1919.

Great care should be taken in its preparation, as there are more particulars to fill in than in the other forms, and on the correctness of these particulars depends very much the amount of tax to be paid by the taxpayer.

When this return was first called for, most would be taxpayers were suddenly seized with nervous apprehensions lest they should undervalue their land, and so come under the operation of Part VI. of the Act, and Sections 49 and 51 of Part VIII., whereby their land could be confiscated by proclamation if they undervalued it to the extent of 25 per cent. of its unimproved value. Since the second return has been furnished on Schedule B, it seems to have become apparent that as drastic action of this kind has not been taken, the terror has been robbed of its sting, and people are inclined to treat it too lightly.

Fear of  
Under  
valuation

To such I would say, do not take unnecessary risks. The pitcher that is carried to the well too often, may some day be broken.

It is better to be on the safe side, and pay a little more tax than possibly to have your land confiscated. These portions of the Act may never be enforced, but they are there, and while they remain on the Statute Books one can never say when they may be applied.

Now, the first thing the taxpayer wants to know with regard to furnishing his annual return, is, when is it required to be lodged? The answer to this, is, that it should be lodged in the office of the Commissioner on or before the 30th September of each year. There is no excuse for ignorance in this matter, as notices are published in the Public press throughout Queensland as to the duties of taxpayers in this respect.

Date of  
Lodgment

But this, though a very simple matter to observe, is not carried out by thousands of taxpayers every year. The result is that penalties are inflicted and endured which could be avoided by a little care and forethought.

Form 'B' is called for as occasion requires and also when a taxpayer furnishes his first return. Form 'C' may be used for the intermediate years.

Extension  
of  
Time for  
Lodgment

If a taxpayer, for some reason, cannot furnish his return by the due date, he should make application to the Commissioner for extension of time to lodge same, and if his request has any reasonable basis, he may be certain of its being granted. But, of course, a person making such a request would think of the matter beforehand, and not make his application after the due date had elapsed.

Registration  
in Post

To make certain that your return has been lodged in the office, I would most earnestly suggest that **YOU SEND SAME BY REGISTERED POST.**

True, it may cost you a few pence more, but it will be a sure protection against a penalty for late lodgment if you can produce a receipt from the postal authorities in support of your statements.

Penalties

In saying this, I am not merely considering the matter of penalty for late lodgment, but the greater punishment that may be put upon a taxpayer's shoulders for a breach of Section 48, for which the fine is anything up to £100.

There are three sections of the Act to which I would draw the attention of the reader, in this connection:—

Who Must  
Furnish  
Returns

**Section 16:** Which provides that every resident owner of land to the value of £200 or upwards shall furnish a return each year on the prescribed form on or before the due date.

No Return  
or  
Unsatis-  
factory  
Return

**Section 19:** Which provides that assessments may be made in default against the taxpayer if he has not made a return or if he has made AN UNSATISFACTORY RETURN, and that penalties for late lodgment, amounting to 5 per cent of the total tax may be imposed for a delay of less than sixty days after the due date, and 10 per cent. of the total tax for a delay of more than sixty days after the due date.

Penalty for  
Refusal or  
Neglect

**Section 48:** Wherein it is provided, amongst other things, that any person who fails or neglects to duly furnish any return as and when asked for by the Commissioner, is liable to a penalty not exceeding £100.

Sections 16 and 19 are being continually put into operation, as I daresay many taxpayers have found to their annoyance and dismay.

With reference to the making of returns, Mr. Justice Rich, in delivering the judgment of the High Court in the Income Tax case of Union Steamship Company of New Zealand versus Federal Commissioner of Taxation, says:

“It is essential for the efficient working of the Department that returns should be furnished so that the Commissioner may proceed on the making of assessments.” Lord  
Loreburn on  
Penalties

In this connection, I would quote a few words from the opinion of Lord Loreburn, L.C. in Attorney General vs Till (1910 A.C. 30 at p. 53). There, his Lordship, discussing the delivery of returns under the English Income Tax Act, said:—“It is necessary, therefore, that there should be a sharp weapon available, in order to prevent the requirements of the Act being trifled with. On the other hand, the making of the return or statement is not always easy, and mistakes may occur, notwithstanding that care may have been used to avoid them, still more, when proper care has not been used. Accordingly, provision has been made for penalties which are to fall in the event either of unpunctuality or of inaccuracy in the return or statement required. But alongside of this are to be found provisions to relieve a man from the penalty, if he mends his mistakes. I see nothing harsh or unreasonable in this. A fair balance is held, and while the revenue is protected against procrastination and carelessness which, if practised in any large scale would make the collection of the tax an intolerable business, any one who though honest has been neglectful may redeem his neglect.”

These words dignify the task of making returns into a serious duty, and the imposition of penalties a matter not to be lightly treated. Of course, the making of returns is part of a citizen's duty to the State, and one which he cannot neglect with impunity to himself, therefore he ought to take due care that this part of his civic duties is carried out satisfactorily.

Now, with regard to the filling in of the return, these General  
Directions practical directions will no doubt prove useful:

**Name** 1. Write full Christian Name and Surname as plainly and legibly as possible.

**Place of Abode** 2. The taxpayer's place of abode during the previous twelve months should be given. The information is necessary to shew whether he is an absentee or not. The definition of an absentee is a person who does not ordinarily reside in Australia. If a person is away from the Commonwealth on a holiday for a short period, he is not, of course, an absentee.

The disability under which an absentee labours is that he is not entitled to the Statutory exemption of £300 which is allowed in all cases excepting that of a Company.

**Address** 3. The taxpayer's address, to which all documents are to be sent or served, should be given, and it is particularly necessary that where a change of address takes place, that the office be notified immediately.

In the case of a taxpayer who changes his address and goes, say, to England or to Timbuctoo and does not notify the Commissioner of his change of address, but leaves some Land Tax unpaid on his land, the provisions of Section 35 will apply:—

▶ If, in any proceedings against a taxpayer for the recovery of land tax, the defendant—

(a) Is absent from Australia and has not to the knowledge of the Commissioner after reasonable inquiry in that behalf any attorney or agent in Australia on whom service of process can be effected; or

(b) Cannot after reasonable inquiry be found, service of any process in the proceedings may without leave of the Court be effected on him by posting the same or a sealed copy thereof in a letter addressed to him at his last known place of business or abode in Australia or by fixing the same on a conspicuous part of the land to which the tax relates.

**Signature on Returns** 4. With reference to the signature on returns, Regulation 10 lays down as follows:—

Every return shall be signed by the owner, or if the owner be a company, joint-owner, or absentee, by the person making such return on his behalf, and, if he be unable to write his name, his signature, which shall be made by his mark, shall be attested by a witness who shall sign as such.

This is of great importance, as, if the taxpayer does not sign his own return, he must furnish a written authority to the Commissioner, authorising the person who makes out his returns to sign same for him—otherwise the return may be regarded as incomplete.

**Public Officer of a Company**

5. The Public Officer of a Company must sign all returns of the Company and act as its representative in all matters connected with the administration of the Act.

6. Joint Owners are people who hold land jointly, either as Joint Tenants or Tenants in Common or who are Beneficiaries in a Trust Estate.

Joint  
Owners  
Joint  
Tenants  
and  
Tenants in  
Common

The difference between Joint Tenants and Tenants in Common is as follows:—

Joint Tenants are joint holders of property under the same Title and in equal shares, who have what is known as a 'jus accrescendi' or a right of survivorship amongst them, i.e., if one dies, his share goes to the survivor or survivors.

Tenants in Common, on the other hand, are joint holders of property in equal or unequal shares and either by the same or different Titles. On the death of a tenant in common, his share goes to his representative, and not as in a joint tenancy to the survivors.

With reference to 'Joint Owners' returns, Section 25 will be of interest:—

(1) Joint owners of land shall be severally assessed and liable in respect of the land (exclusive of the interest of any joint owner exempt under this Act), and the value of each owner's share shall be added to the value of all other land of which he is the owner.

(2.) Each joint owner of land shall be separately assessed and liable in respect of—

(a) His individual interest in the land (as if he were the owner of a part of the land in proportion to his interest), together with

(b) Any other land owned by him in severalty, and

(c) His individual interests in any other land.

(3.) The Commissioner may, for the purpose of this Act, declare any joint owner of land to be the agent or trustee of all other joint owners of the same land.

This Section has been amplified by the Amending Act of 1920, and reference is made later on to the new provisions.

Under Regulation 12, Joint Owners are to make returns as follows:—

#### Joint owners' returns.

(1) Joint owners' returns shall be furnished by the joint owner resident in Australia whose name appears first in the title deed to the land, or, in the case of a partnership, first in the deed of partnership.

(2) Where there is no joint owner resident in Australia, then the return shall be furnished for the joint owners by the agent, manager, or chief representative of them or any of them resident in Australia.

(3) Each joint owner shall also make a separate return in his own behalf of the share or interest to which he is entitled in the jointly owned land, showing also any land owned by him otherwise than as a joint owner.

If the return is being furnished in respect of the Estate of a deceased person, the full name of the person should be given, also the names of the Trustees, and the names of the beneficiaries, i.e., those who benefit under the terms of the deceased's will, and the shares to which they are entitled.

Returns of  
Beneficiaries

Generally speaking, where the beneficiaries in an Estate are entitled to receive, or are in receipt of, or if the land were let to a tenant, would be entitled to receive the rents and profits from the land, they must be regarded as joint owners, and a separate return should be furnished by each beneficiary, shewing not only his or her share in the Estate, but also particulars of any other land held in severalty or jointly as the case may be.

It is not necessary for each individual beneficiary to give all the particulars of the land held by the Estate, that would be multiplying work needlessly; all he need do is to write on the reverse of Form 'B' furnished on his own behalf:—

“One-quarter share (or whatever proportion he holds) in the Estate of the late Richard Roe (or John Doe) as per Estate's Return already furnished.”

Then he gives the particulars of the lands held in addition by him.

Where  
Trustees  
are to be  
Assessed

Where the income from the Estate follows the capital, as in the following case, the Trustees are to be assessed with one exemption only, and the beneficiaries are not to be regarded as joint owners.

“A testator devised his Estate to trustees in trust for his children who being male attain 21 or female attain 21 or marry.

The Trustees were given power to apply, in their discretion, any amount up to one half of the expected share of any beneficiary and also any amount of the income of such share for the benefit of such beneficiary and the remainder of the income to go to capital. The case of *In re Woolf* 89 L.J. Ch. 11, decides that in such circumstances there is no present gift of such share to the beneficiary. Therefore, the Trustees are liable to be assessed as owners for Land Tax purposes with one exemption only.”

The explanation of this case is as follows: In order to render a person liable to taxation as an owner of land for an estate of freehold in possession or entitled to the rents and profits therefrom, and in order to enable a number of persons to be liable jointly, it is necessary that they hold the same position in regard to land or rents and profits as an individual owner would fill. In the present case it is quite clear that until the sons of the testator attain twenty-one years of age, or the daughters

attain that age or marry, they have no interest whatever enforceable in law or in equity in the lands, or the rents and profits. There is power to the trustees to allow maintenance out of the rents and profits, and advancement out of **corpus**, but this does not give the beneficiaries any enforceable right.

The position is that beneficiaries cannot be treated as "joint owners" unless they are "owners," which is obvious. For an owner (in the definition thereof) in relation to land includes every person who jointly or severally

- (a) Is entitled to the land for any estate or freehold in possession; or
- (b) Is entitled to receive, or is in receipt of, or if the land were let to a tenant would be entitled to receive, the rents and profits thereof, whether as beneficial owner, trustee, mortgagee in possession or otherwise.

And as these persons do not become owners in that sense until they fulfil the conditions of the will, the trustees are taxable at the present time.

When the Trustees of an Estate desire separate assessment for the beneficiaries, they should furnish, not only an Estate Return but a separate return for each beneficiary, and a list giving the full names of the beneficiaries, their ages, and addresses, and the relationship in which they stood to the deceased person, together with a copy of the will or trust deed. The date of the Testator's death should also be furnished in every case.

Separate Assessments for Beneficiaries How Obtained

A sure means of ascertaining whether the beneficiaries are entitled to be treated as joint owners, is to find out if they are entitled to receive or are in receipt of the rents and profits from the land, or if the land were let to a tenant would be entitled to receive the rents and profits thereof. But the beneficiaries must have a life or greater interest in the shares of the income of the land.

How to Ascertain if Beneficiaries are Entitled

The name of an annuitant should not be included in the list of the beneficiaries, as it has been decided by the High Court of Australia that an annuitant is not a joint owner (*Adams versus Federal Commissioner of Taxation* 25 C.L.R. 341); the annuity being regarded merely as a pecuniary legacy charged on the land and not a devise or interest in the land. An annuitant is a person who receives a certain fixed yearly payment from the income of an Estate.

Annuitant not to be Regarded as Joint Owner

Where the Testator leaves his land to Trustees upon trust for his widow during her lifetime, or until her remarriage, and after that, say, in equal shares to the children, then while the widow is still alive and unmarried she is regarded as the owner of the land, and she is not a joint owner with the children, and is entitled to be

Life Tenants



Remaindermen

assessed, with one exemption only. On her death or re-marriage, the Estate, or the income from the Estate, goes to the remaindermen, i.e.; the children, who are entitled to be treated as joint owners under the Act; but while their mother is alive and unmarried, they do not come into the piece at all.

Note.—A Life Tenancy may be either:—

- (a) For one's own life, or
- (b) For the life of another 'pur autre vie.'

It may also be equitable, i.e., where there is a Trustee, as above, or Legal, where there is no Trustee. Differentiation is not made between them by the terms of this Act.

The Life Tenant should furnish a return in his or her own name shewing not only particulars of the land held as Life Tenant, but also particulars of any other land that may be held in severalty, or jointly with others.

Return of Life Tenant

INTESTATE ESTATES.—With regard to the assessment of Intestate Estates, the administrator of the Estate should furnish separate returns for each of the next of kin who are interested therein according to the shares to which they are entitled under the Statutes of distribution under the Intestacy Acts. Where the Estate has not actually undergone division, a separate return should be furnished by the Administrator shewing the total amount of land held, in addition to the separate returns as mentioned above.

The following are the Statutes of distribution under the Intestacy Acts:—

A person dies intestate leaving as kin:—

1. Widow or widower and children.
2. Widow or widower and one child.
3. Widow or widower and children and children of deceased children
4. Widow or widower and no child or grandchild.
5. Widow or widower and father but no child or grandchild.
6. Widow or widower, mother brothers, and sisters, but no children or grandchildren or father.

Estate thus divided:—

Widow or widower, one-third; children, two-thirds, equally divided among them.

Widow or widower, one-third; child, two-thirds.

Widow or widower, one-third; children and grandchildren, two-thirds divided among them, as to children per capita, as to grandchildren per stirpes.

Widow or widower, a half; next-of-kin, a half, equally divided among them, but see note \*.

Widow or widow, a half; father, a half, but see note \*

Widow or widower, a half; mother, brothers, and sisters, a half, divided equally, among them, but see note \*.

- |   |  |
|---|--|
| 7. Widow or widower, mother brothers, sisters, and nephews and nieces (children of deceased brothers and sisters), but no child, grandchild, or father. | Widow or widower, a half; mother, brothers, sisters, nephews, and nieces, a half equally divided among them; mother, brothers, and sisters, per capita; nephews and nieces, per stirpes, but see note *. |
| 8. Widow or widower, mother nephew, and nieces, the children of deceased brothers or sisters, but no child, grandchild, father, brother, or sister.     | Widow or widower, a half; mother, nephews, and nieces, a half; but see note *.   |
| 9. Widow or widower and mother, but no child, grandchild, nephew, nieces, brother or sister, or father.   | Widow or widower, a half; mother a half, but see note *<br><br>)   |
| 10. Father, but no widow, widower, or children.   | Father, the whole.   |
| 11. Father and child or children, but no widow or widower.  | Child or children, the whole; if more than one, equally divided.   |
| 12. Father and grandchildren or grandchild, but no widow or widower or children.  | Grandchild or grandchildren, the whole; if more than one, equally divided.   |
| 13. Father and children and grandchildren, but no widower or widow.   | The whole among children and grandchildren. Children per capita, grandchildren per stirpes.  |
| 14. Mother, but no widow, child, grandchild, father, brother, or sister or children of the latter.  | Mother, the whole.   |
| 15. Mother, brothers, and sisters, but no widow father, child, or grandchild.   | The whole equally divided between them.  |
| 16. Mother, brothers, sisters, nephews and nieces (the children of deceased brother or sisters), but no widow, &c.                                      | The whole among mother, brothers, sisters, nephews, and nieces. Mother, brothers and sisters per capita, nephews and nieces per stirpes.   |

Note \*.—In cases where a person leaves a widow or widower, no children and no widowed mother, the widow or widower is entitled to £500 as first charge on the estate and her or his share of the balance as provided in the Statutes of Distribution. That is, half remainder to wife or husband, balance to next of kin.

Note A.—The right of representation does not go beyond brothers and sisters' children—that is to say, the right of taking a deceased parent's share.

Note B.—Children of the half blood take equally with children of the whole blood.

Note C.—If a child be advanced during the lifetime of the intestate, he must bring the amount of the advancement into hotch pot.

Note D.—If the death of a wife occurred before 1906, the above distribution may not apply, and the matter should be referred to the Public Curator or Local Deputy.

Note E.—Per Capita means by the number of individuals, as opposed to Per Stirpes by the number of families.

'Hotch Pot,' a clause usually inserted in settlements or wills where property is given to members of a class, e.g., children, in order to prevent those who have already received a share of the fund by way of advancement, from taking any part of the undistributed fund unless they bring into hotch pot, i.e., take into account what they have already received.

New  
Provisions  
Regarding  
Beneficiaries

In the Amending Act of 1920, a new provision is added, whereby the Commissioner is given wide discretionary powers to assess beneficiaries under a will, either as joint owners with one exemption each, or to assess the Estate as a whole with one exemption only.

Partners  
in a  
Firm

He is also given the power to assess the partners of a firm using land which is registered in the names of two or more members of the firm or partnership. He can assess the firm as one with one exemption only, or he can assess the partners separately with one exemption each. It is a matter which is entirely left to his discretion,

The Section reads as follows:—

“The following provision is added to subsection two of section twenty-five of the Principal Act:—

Provided that where the jointly owned land is of an unimproved value of five thousand pounds or upwards, or where there are five or more joint owners of land, the Commissioner may, if he considers it advisable to do so, make one assessment as if the land were owned by one person, but in each case the proportional assessment on the shares in the land shall not be added to the individual assessment of joint owners.

For the purpose of this provision—

- (a) Lands which are held in severalty for an estate in fee simple by separate titles in the respective names of two or more persons shall be considered to be jointly owned by such persons if the lands are used by a partnership firm or company whereof such persons are members:
- (b) Land held by a trustee shall be considered to be jointly owned if there are two or more persons having a life or greater interest in the land.”

7. Mention has been made of Trustees in connection with the assessments of beneficiaries and estates. What, therefore, is a Trustee? A Trustee is a person to whom property or funds have been committed in the belief and trust that he will hold and apply the same for the benefit of those who are entitled according to an expressed intention either by the parties themselves or by the deed, will, settlement or arrangement of another. This is the usual and accepted meaning, but the Land Tax Act broadens its scope in the definition of Trustee given therein:—

“Trustee in addition to every appointed or constituted trustee by act of parties or by order or declaration of a court, or by operation of law includes:—

- (a) An executor, or administrator, guardian, committee, receiver or liquidator, and any public officer acting as curator in intestacy or insanity.
- (b) Every person having or taking upon himself the administration or control of land affected by any express or implied trust, or acting in any fiduciary capacity, or having the control or management of the land of a person under any legal or other disability.”

I think that we may, for sake of clearness, classify trustees into two divisions. Those who are trustees in a private capacity, and those who are trustees in a public capacity.

Private: Those who are trustees under the terms of a will, the administrators of intestate estates, where the administration is not in the hands of the Public Curator, the Guardians of minors, etc.

Public: Such as Committees in whose names lands are vested ex officio, such as the Committees of racing clubs, bowling greens, and so on. liquidators and assignees of estates in voluntary liquidation, or of assigned estates, and the Public Curator acting as Curator in intestacy or insanity.

But whether they may act in a private or a public capacity, the Land Tax Act lays down very clearly and explicitly their duties and responsibilities in relation to the furnishing of the necessary returns, and the payment of Land Tax.

Duties of  
Trustees  
under Act

It is said in Section 43 with regard to every agent and every trustee, that:—

“(1). He shall be answerable as a taxpayer for complying with the requirements of the Act, in respect of the land held by him and the payment of the tax thereon.

(2). He shall make the necessary returns and be assessed thereon but only as trustee or agent, and such assessment shall be distinct and separate from any other.

(3). If he is an executor or administrator he shall make the same returns as the deceased person would have been liable to make.

(4). Where as agent or trustee he pays land tax (presumably out of his own pocket), he is authorised to recover the amount so paid from the person on whose behalf he has paid it, or to deduct it from any money in his hands belonging to that person.

(5). He is not only authorised but is REQUIRED to retain from time to time out of any money which comes into his hands in his representative capacity, i.e. as trustee or agent, sufficient to pay land tax which is, or will become, due on the land.

(6). If while any Land Tax is owing to the Commissioner, he sells or otherwise disposes of any real or personal property which is held by him in his representative capacity, and does not make provision out of the moneys received for the payment of the unpaid Land Tax, he is held personally responsible for the payment thereof, but he will not be otherwise responsible for the tax. (As a matter of fact the provision laid down is, that if a trustee sells any real or personal property while Land Tax is owing he immediately becomes PERSONALLY responsible for the payment of the tax, but of course he covers his own liability if he makes due provision for the payment).

(7). He can raise money by mortgage of any real or personal property in his possession or of which he has charge as trustee or agent, to pay Land Tax. He can also utilise any other moneys in his possession as trustee or agent, for doing so.

(8). For all the payments he makes in pursuance of this Act to the Commissioner he is indemnified, i.e. protected against any legal action by the parties for whom he is acting.

(9). To ensure payment of Land Tax, the Commissioner shall have the same remedies against the land or other property of any kind held by a trustee or agent as he would have against the property of any other taxpayer.

What is an Agent?

It should be noted that the word "agent," as used in the Act, has a very restricted meaning. According to the definition given, it "includes every person who in Australia, for or on behalf of any person out of Australia (herein called the principal) has the control or disposal of any land belonging to the principal, or the control, receipt, or disposal of any rents, issues, or proceeds derived from any such land."

Amounts of Tax to be Paid to be Determined by Occupation

8. We come now to the occupation of the taxpayer. A space is provided on the return in which to insert the occupation followed by the owner. A man may be a grazier, dairyman, carpenter, builder, etc., but whatever he is, he should put it down. Especially is this

important in the case of farmers, graziers and dairymen. According to Section 2 of the Amending Act of 1920, it is provided, "that if the taxable value of all the land owned by a taxpayer is less than seven hundred and fifty pounds and all such land is used by him only for agricultural, dairying, or grazing purposes, or a combination of any such purposes, the rate of tax shall be:

If the taxable value is less than £500— $\frac{1}{2}$ d. in each and every £. Differential Rates

If £500 or over but is less than £750—1d. in each and every £.

The taxable value of the land is the balance of the total unimproved value of the land held by the taxpayer after deducting the statutory exemption of £300. Thus a man holds a property the unimproved value of which is £1,000. To get at the taxable value of the land, deduct the statutory exemption of £300, and the balance £700 is the taxable value. What is Taxable Value

Every owner, not being an absentee or a company, is entitled to this exemption in respect to the value of all freehold land held by him.

These new rates for farmers, graziers, and dairymen have been in operation for one year only, viz. 1920. If you, as following one of these callings, or a combination of them, have still been assessed at the old rate of 1d. in the £ up to £499, and  $1\frac{1}{2}$ d. in the £ up to £749 of the taxable value of your land, you should start making enquiries about it. But, and this is an important but, if there are any taxpayers wishing to claim the lower rate, they must be sound on the following points:—

(1). To claim the lower rates they must be farmers, or graziers, or dairy farmers, or follow a combination of such callings. Rules for Claiming Lower Rates

(2). They must use all their land for any of these purposes, or for a combination of them. There must be no land vacant, or undeveloped. If they have any vacant lands they will not be entitled.

(3). They must not possess any town or city lands.

(4). They will not be entitled, if they have leased their lands to anybody else.

(5). A woman calling herself a farmer, will not be entitled, if the income from the land is shewn in somebody else's Income Tax return, say, her husband's.

All farmers should see that they get the benefit of this section, if they are so entitled.

9. Now, the next thing to be clear upon, is, who is to furnish the return? The return should always be furnished by the owner himself, or by someone duly authorised by him. In the case of an absentee, the return is lodged by the Agent. In the case of a Company, it is lodged by the Public Officer thereof, and in the case of an Estate, by the Trustees or Trustee.

All Agreements Invalid where they Affect the Liability of Any Person to Pay Tax or Make Returns

There are cases where an agreement has been entered into between a purchaser and the vendor, or between the lessee and the lessor (i.e. the person leasing the land) that the return for future years should be furnished in the one case by the vendor, and in the other by the lessee. This is not the correct thing to do, any agreement to the contrary notwithstanding, for Section 44 provides expressly that:—

“(1) Every contract, covenant, agreement, undertaking, or arrangement made or entered into, in writing or orally, whether before or after the passing of the Act shall so far as it has, or purports to have the purpose or effect of in any way, directly, or indirectly:—

- (a) Altering the incidence of any land tax, or
- (b) Relieving any person from liability to pay any land tax or; make any return, or
- (c) Defeating, evading, or avoiding any duty or liability imposed on any person by this Act; or
- (d) Preventing the operation of this Act in any respect, be absolutely void, but without prejudice to its validity in any other respect or for any other purpose.”

Any such agreement is of no effect whatsoever in relieving the person legally liable to do so, from the responsibility, of making the return. The owners of Leasehold Land from the Crown are not required under this Act to make an annual return. Also it is not necessary for anyone to include particulars of leasehold land that they may hold, with their freehold land. If they do so, they will only have themselves to thank if they are taxed over and above what they should in reality pay.

Particulars of Leasehold Land not to be Included in Return

10. In addition to owners of leasehold lands, or lands that are being alienated from the Crown, such as Agricultural Farms, Selections, etc., the following are also exempted from paying any tax, and in some cases from making returns.

(1). The Commonwealth or State Government, or any Local Authority, or other public body, e.g. the Metropolitan Water Supply and Sewerage Board. Exemptions  
from  
Land Tax

(2). Friendly Societies, such as the Oddfellows, etc.

(3). Trade Unions, provided that the land owned by them is not used for purposes of pecuniary profit.

(4). Building Societies, but they are not exempt from taxation on land which they have acquired by virtue of foreclosure of any mortgages held by them.

(5). Charitable or Educational Institutions, if they are not carried on for purposes of money making.

(6). Religious Societies who hold land the proceeds of which are devoted solely to the support of aged or infirm clergy or ministers of the Society, or their wives and children, or to religious, charitable, or educational purposes.

(7). Any person or society owning land that is used solely as a site for the following purposes:—

- (a) A Church, or a presbytery, or a dwelling house for the clergy or orders of a religious society.
- (b) A charitable or educational institution not carried on for pecuniary profit.
- (c) A club or association not carried on for pecuniary profit.
- (d) A public library, institute, or museum.
- (e) A show ground
- (f) A public cemetery or public burial ground.
- (g) A public garden, public recreation ground, or public reserve.
- (h) A public road.
- (i) A fire brigade station.

(8). Life Assurance Companies are not taxable, except on land of which they are mortgagees in possession.

The only one of these exemptions that calls for any comment, is that referring to a club or association, not carried on for pecuniary profit. Such instances come to one's mind, as racing clubs, and bowling clubs. In these cases, only the land on which the club buildings

Racing &  
Clubs and  
Bowling  
Clubs



are actually situated is exempt from taxation. The other portions are taxable. They are not provided for under the Act. So that such institutions should furnish returns and comply with all the other requirements of the Act, as also building societies, and life assurance companies where they are holders of land as mortgagees in possession.

### MORTGAGEE IN POSSESSION.

11. The term Mortgagee in Possession, being so commonly used, hardly requires any explanation. But for the benefit of those who may have not quite clearly understood what it means, I would say that it simply means that the mortgagee, or the person from whom the taxpayer has borrowed money on the security of his land, has foreclosed under the powers of the Bill of Mortgage held by him, and has taken possession of the land, as the mortgagor has not been able to fulfil his engagements.

#### Equity of Redemption

The mortgagor has, however, a right, which is called "the equity of redemption" by which, practically up to the last moment before the transfer is registered at the Titles Office, he can get back his land by the payment of the amount due, plus interest and costs. I only mention this as a case occurred within my knowledge of a sale of land at the District Court, where a purchaser bought the equity of redemption, and took over, of course, the mortgage on the land from the mortgagee. The land was worth very much more than it would have fetched at a forced sale, so it is assumed that he got something of a bargain. The price he paid for the land was the amount he paid the mortgagor for the equity of redemption plus the amount he paid, or arranged to pay, the mortgagee in satisfaction of his claim right up to date. The person purchasing the equity of redemption at once became the owner as soon as he had completed his arrangements with the mortgagee, and he was liable to be taxed as from that date.

In the ordinary purchasing agreement, no mention is made of any such thing as the equity of redemption, and if the purchaser makes default, the mortgagee can step in and take possession, without notice being given. But, of course, everything depends on the nature and the terms of the agreement made.

In some cases, as I have pointed out, the mortgagee does not enter into possession at all, but sells direct to a third party. So that if a mortgagor is in difficulties, and he thinks that the mortgagee is likely to take possession of his land, he should advise the Commissioner of his difficulties.

The Commissioner might not then enforce the tax against him, but he might enter a charge against the land at the Real Property Office under Section 37, Clause 2:—

“Where the Commissioner thinks it advisable to register the charge, he may lodge with the proper Registrar of Titles a certificate under his hand describing the land charged, and stating that there are arrears of land tax payable in respect thereof; and the Registrar shall register it in the register and as nearly as may be in the manner in which the dealings with land are registered, and shall deal with and give effect to the certificate as if it were an instrument of charge or encumbrance duly executed.”

The effect of this charge, or Caveat as it is called, will be, that no one will be able to get a clear title until the amount is paid, which means that any sale will be stopped.

The mortgagee should also, for his own safety, enquire from the mortgagor how his land tax is getting on, as if it is in arrears, he will know exactly how he stands. If any difficulty is experienced in getting this information, he should write to the Commissioner and find out what the position is.

12. A strange delusion exists in the minds of some taxpayers that a person who mortgages his property is not liable to pay land tax, or is only partly liable. This is not correct, for Section 23 lays down that:—

Mortgagor  
Liable  
for Land  
Tax

“No deduction from the unimproved value of land shall be allowed in respect of any mortgage to which the land is subject, or in respect of any unpaid purchase money.

A mortgagor shall be assessed and liable for land tax as if he were the owner of an unencumbered estate.”

And in Section 24 it is provided that:—

Mortgagee  
not  
Liable

“A mortgagee or other person owning any estate or interest in land by way of security for money shall not be liable to land tax in respect of that mortgage or interest.”

So that it can be clearly seen, that the person mortgaging his land IS THE PERSON LIABLE FOR THE TAX, and not the mortgagee, or the person to whom he owes any money on the land.

## CHAPTER IV.

## FORM "B" (Continued).

In the preceding chapter I have dealt with nearly all the requirements of the upper portion of the form Schedule B.

I shall now proceed to deal with the information required for the lower portion.

A fair amount of space is provided for the particulars of improvements to be given.

Particulars  
of  
Improvements on  
Form "B"

These details are only in amplification of the figures given on the reverse of the form. There the total figure only is given, in each case, of the value of the improvements on the parcels numbered consecutively. Here the details of those improvements are given as on each parcel of the land, to correspond with the numbers of the parcels on the other side.

For instance, on the reverse of the form, parcel 1 has a total value of improvements on it to the value of £500. Here you set down how you arrive at that figure.

House	..	..	..	£200
Fencing	..	..	..	50
Clearing	..	..	..	100
Ringbarking	..	..	..	100
Draining	..	..	..	50
Total	..	..	..	— £500

Improvements  
that have  
not  
lasted not  
to be  
Taken into  
Account

Whatever has been done to improve the property is an improvement, if this benefit is still existent. But where the improvements have been of such a temporary nature that they did not last, and are not on the land at the date of the return, THEY MUST NOT be taken into account.

Thus, if an orchard of fruit trees had been on the land in some dim prehistoric past, but were now only represented by a few old worthless trees, you could not reasonably claim that as an improvement.

So if the land had been brushed for lantana some ten years before the date of the return, but had again become overgrown by the weed, you could not reasonably claim

that first brushing as an improvement. The benefits have to remain if the operation can be claimed as an improvement.

I think that the tendency in a great number of cases, is not to overvalue, but to undervalue the improvements, and consequently the taxpayer is let in for what is known as the tax on undeveloped land. **BUT IT IS HIS OWN FAULT IF HE IS.**

Now, what is undeveloped land? It is land which has not in it or upon it improvements to the extent of twenty-five per cent of its unimproved value. That is to say, a taxpayer has a piece of land valued at £2,000. He sets down the improvements at £300. Now this does not come up to the requirements of the Act, which is twenty-five per cent of the unimproved value, therefore his land is classed as undeveloped, and he has to pay an additional tax of 2d. in the £.

What is  
Undeveloped  
Land

But perhaps the taxpayer, in estimating the value of his improvements, omitted to put down the cost, say of clearing the land, £100, and twenty-five head of cattle, worth £400. If he adds these on, then the total value of his improvements amounts to £800, which is more than twenty-five per cent of the unimproved value, and he is, therefore, exempted from the tax on undeveloped land.

But the reader may say what are the things that I may set down as improvements? The answer to this question I have already given in chapter I. Anything that has been done to improve the property is an improvement.

What may  
be set  
down as  
Improvements

Clearing  
Stumping  
Ringbarking  
Planting with artificial grass  
Draining  
Irrigation  
Fencing  
Buildings  
Stockyards  
Dips, etc., etc.

And last, but not least, the stock running on the land, not the indigenous fauna, such as wallabys, kangaroos, etc., but the stock which he himself places on the property in the ordinary course of events:

Wallabies  
and  
Kangaroos  
not an  
Improvement

Of course, if a man were running a wallaby or kangaroo stud farm for commercial purposes, I suppose it might be possible to raise the question as to whether said wallabys or kangaroos could not be counted as part

of the improvements as laid down by the Act. The Act does not actually specify what kind of stock is to run on the land, but the word is used in its ordinary sense to mean cattle, horses, pigs, sheep, etc.

An ostrich farmer could likely claim that his ostriches were part of the improvements, and I see no reason why he should not. But, of course, that is only an extreme case. But the point is that a man can claim the stock running on his land as an improvement, as this is specifically laid down by the Act, and not only his own stock, but also the cattle and herds belonging to other people which he takes on agistment. The Act states that "The value of all stock ordinarily depastured on the land may be taken into account as an improvement."

There is the further provision that any land in any year may be exempted from the tax on undeveloped land by the Commissioner, if owing to drought or other sufficient cause he deems it just and proper so to do.

Value of  
Stock as  
an Improve-  
ment

There is a separate column provided for the inclusion of the value of stock. Be careful to see that this is duly filled in. In estimating the value of fixed improvements, such as houses, fencing, etc., it would be a good plan to estimate how much the houses, fences, etc. would cost to erect at the date for which the return was furnished. Then a certain amount could be allowed off for depreciation, say 4 per cent. or 5 per cent. for each year they were in existence, and you would have the value of the property.

Aim of  
Tax on  
Undeveloped  
Land

The aim, evidently, of this tax on undeveloped land is to ensure the land being used for the purposes for which it was intended, and not for speculative purposes.

It is a hindrance to speculation in land by buyers who may hoard up land, so to speak, against the time when they may be in a position to sell at greatly enhanced prices, and in the meantime to hold on to it to the exclusion and detriment of persons who might be glad to utilize it and who would be a source of strength to a new country like ours.

This view of the case is borne out somewhat by the Amending Act of 1920, which lays down, in Section 2, Subsection 3, that the land may be exempted from the tax on undeveloped land "if the Commissioner is satisfied THAT THE LAND IS BEING PUT TO GOOD USE."

In other words, if the Commissioner is satisfied that the land is being utilized in some reasonable and bona fide manner.

This amendment enlarges the latitude allowed to a taxpayer, so that if he does not actually have improvements to the value of twenty-five per cent. of its unimproved value on the land, at all events if he can satisfy the Commissioner that he is really putting the land to good use, he will be exempted.

Some land, for instance, cannot have erected thereon improvements to the value of twenty-five per cent. of its unimproved value. It may be land on which a firewood depot is situated, or a monumental mason's establishment with its cheerful stock of various kinds of gravestones. The land may be very valuable land in the heart of a city, and if the twenty-five per cent. improvements were insisted upon, could not possibly shew improvements to that value. Therefore, it may be classed as developed. Other cases would probably occur to the mind of the reader. But these are all instances where the Commissioner may exercise his prerogative of saying whether the land is to be treated as developed or undeveloped.

Land on which 25 per cent. improvements cannot be Erected

The mere intention to erect a house or other improvements on any land though very good in its way, is not recognised until the intention is translated into actual fact. There is an old saying of the road to some delectable spot in some other sphere being paved with good intentions. Of course, those are not the kind of good intentions referred to here. But say, for instance, that a man buys a piece of land with the laudable intention of building a house upon it. On the 30th June of that year there are no improvements on the land, but he is in negotiation with a timber merchant to supply him with the timber, etc. Could that land be classified as developed within the meaning of the Act? The reader's common sense will advise him in the matter. As a matter of fact, the purchaser of the land, until the improvements are actually erected, has the liberty of changing his mind on the question, and where this uncertainty exists, I submit most respectfully, that he cannot claim the land to be developed.

Intention to Build not an Improvement

Another typical case is where a man buys a piece of land in which he thinks there are coal deposits. He spends hundreds of pounds in a boring plant, and proceeds to bore for coal. He finds that the land does contain coal, but that it is in insufficient quantities for a profitable commercial undertaking. He stops boring. On the 30th June of the year in which boring operations were carried on was his land developed or undeveloped?

Unsuccessful Boring for Coal Oil or Water not an Improvement

The land can be regarded as developed only during the year in which boring operations were carried on. After that it has to be classified as undeveloped. The same thing applies to putting down an artesian or sub-artesian bore for water, or boring for oil. If the operations are not successful, the lands are not improved in any way, and revert back to their original state, only more so.

Difference  
Between  
Unimproved  
Value  
of Land  
and  
Undeveloped  
Land

Many people seem to get into a curious fog with regard to the difference between the unimproved value of land, and undeveloped land.

The unimproved value of land is the difference between the value of land in its improved state (or its improved value) and the value of the improvements thereon. If you take away the value of the improvements from the improved value, you get the unimproved value of the land.

Undeveloped land, however, is land which does not carry upon it improvements (including stock) to the extent of twenty-five per cent. of its unimproved value, or which, in the opinion of the Commissioner, is not being put to good use.

Misunder-  
standing  
Between  
Value of  
Improve-  
ments and  
Enhanced  
value  
of Land  
Due to  
Improve-  
ments

Before closing my remarks upon the question of improvements, I should like to take an imaginary case where a taxpayer has misunderstood what is meant by the enhanced value of the land, brought about by improving it.

He puts down in the column of improvements:—  
Ringbarking cost £350.

And then as a separate item in respect to the same block of land:—

Enhanced value of land due to ringbarking, £1,050

We are all agreed that ringbarking does materially enhance the value of land. But it is really the unimproved value that it enhances. It only brings out the good qualities that were potentially in the land. Take this case in point.

The unimproved value of the land was say £1,000. The owner spent £350 on ringbarking, so that the value of the land in its virgin state plus cost of ringbarking amounts to £1,350. But the taxpayer says it has now an added value, in addition to the actual cost of ringbarking, of £1,050, and he is doubtless quite correct. The improved value would then be £1,350 plus £1,050 or £2,400. Now how much of this is to be set aside for improvements, and how

much for the unimproved value? Let us value the improvements first. The sum of £350 was actually spent on ringbarking, but the Act says:—

“Value of Improvements. In relation to land, the added value which the improvements give to the land at the date of valuation irrespective of the cost of improvements. Provided that the added value shall in no case exceed the amount that should reasonably be involved in bringing the unimproved value of the land to its improved value as at the date of assessment.”

The point to be decided on here, is whether the sum of £350 was the amount that should have reasonably been involved at the date of valuation to achieve that particular purpose. Was it more, or was it less than what should have been spent? If £350 was the amount which should reasonably have been spent, then that is the value of the improvements. But say the owner had got the job done dirt cheap, so to speak, and that it would really cost him £1,000 at the date of appraisalment to carry out the improvements, then £1,000 is the amount he should set down as the value of the improvements, less depreciation in accordance with the age of the improvements, for the Act very distinctly says, “irrespective of the cost of improvements,” that is irrespective of what they actually did cost him in money, but not more than should reasonably be expended in getting the improvements done. But in this connection there is a further amount which can be claimed and that is the interest on the money invested in the property until it becomes fully productive.

This is clearly set out in the judgment delivered by Sir Adrian Knox in the “Carabost” case (Carabost being the name of the property), Kiddle versus Deputy Federal Commissioner of Taxation.

Carabost  
case  
(Kiddle  
versus  
Deputy  
Federal  
Commissioner of  
Taxation)

In this case, heard in November, 1919, his Honor, the Chief Justice, before giving judgment, visited the property himself, and arrived at the valuation on the basis of the first-hand information gathered. He set aside the usual method of arriving at the valuation by an analysis of the sales of adjoining lands as not being applicable in the case of pastoral properties (Carabost being a sheep station), and instead took the method of arriving at the improved value of the property by taking the carrying capacity of the land as a basis. He says, “Both parties accept £3 15s. as the value, in this district of country, that will carry one sheep. In my opinion, the average carrying capacity expressed in terms of sheep may be taken as 12,800. The improved value on this basis is £48,000.”

Having thus arrived at the improved value, he proceeds to the next step of valuing the improvements



separately, so that the value thereof being deducted from the improved value may give the unimproved value of the land.

He continues: "In the present case, the improvements which have to be valued are not, in my opinion, excessive, or in other words, I think all such improvements were reasonably necessary to develop the property to its full carrying capacity and to enable it to be used to its full advantage and so to acquire its present improved value.

The question to be solved in ascertaining the value of improvements for the purpose of arriving at the unimproved value is what part of the improved value of the land is to be attributable to the improvements to be valued? Presumably, a purchaser of land, if he considered the question at all, would determine that the amount to be attributed to value of improvements would be equal to the amount he gained or saved by reason of the improvements having been made, he thereby being relieved from the necessity of making them.

This amount would be found by ascertaining the amount which it would cost to make the improvements in question at the relevant date, including a proper allowance for loss of interest on all outlay during the period which must elapse before such outlay became fully productive, and by deducting from the sum so ascertained a proper allowance for depreciation or partial exhaustion of the improvements. With regard to the outlay on improvements comprised in classes (a) and (b), I think the fair allowance to be made by way of interest is five per cent. for two years. I have accordingly included an allowance on this basis in the amounts assessed by me on the value of the improvements comprised in these two classes."

The principle is introduced here, by the learned Chief Justice, of including in the value of improvements an allowance for loss of interest on the money invested in making the improvements, until the improvements reached the maximum of their efficiency. In the cases of (a) and (b), (a) being fencing and (b) being structural improvements, other than fencing, he considers that these improvements do not attain the maximum of their usefulness until the lapse of two years which would be the time probably taken for their completion. He therefore, allows five per cent. for those two years, and includes the allowance so made in the valuations set down by him.

Then he extends the same principle with regard to ringbarking, or as it is termed, timber treatment.

He says: "In the circumstances of the present case I am of opinion that the period which would elapse before the full benefit would be derived from the outlay in purchase money of the unimproved land and in expenditure on timber treatment would be between eight and ten years and that it is fair to conclude that during this period the returns from the property averaged over the whole period would amount to half the normal return from the investment. But having regard to the fact that the outlay on improvements would extend over a period of years, and on a consideration of all the circumstances, I think it fair to allow as an addition to the assumed outlay in purchase money of the unimproved land, and in expenditure of timber improvements, interest on such outlay at the rate of five per cent. for four years.

I have accordingly included an allowance on this basis in the amount assessed by me as the value of the improvements in class (c)."

So that in presenting the sum to be deducted for the value of improvements, Sir Adrian sets down the following figures:—

(a) Fencing (including interest at five per cent. for two years) .. .. .	£4664
(b) Structural improvements (including interest at five per cent. for two years .. .. .)	£5695
(c) Ringbarking (including interest at five per cent. for four years) .. .	£16523
(d) Improvements caused by making land ready for plough, and planting with willows .. .. .	£1100
	<hr/>
	£27982

Now this amount has to be deducted from the improved value to arrive at the unimproved value of the land.

Improved value .. .. .	£48,000
Improvements .. .. .	£27,982
	<hr/>
Balance .. .. .	£20,018

But this amount of £20,018 is made up of principal, and interest at the rate of five per cent for four years. Working it out, the interest comes to £3,336, which being deducted from £20,018, leaves £16,682, the unimproved

value of the land, and on this amount judgment was given; i.e., it was determined that the unimproved value of the land was £16,682, and the Federal Taxation Commissioner's assessment had to be altered to this figure.

It will be seen here that the Chief Justice allows:—

- (a) Interest for two years on fencing and structural improvements.
- (b) Interest for four years on value of ring-barking.
- (c) Interest for four years on the unimproved value of the land.

In all these cases the interest is allowed because it took a certain period of time to make the improvements fully productive. In other words, it took the sinking of so much money for so many years before the owner could enjoy the fruits of his investment fully. The loss of interest then can be looked upon as a further expenditure to bring the land to its full productive capacity and therefore part of the actual cost of improvements. For if instead, the taxpayer had invested his money in War Bonds or other profitable investment, he would have had the interest coming to him in the shape of current coin of the realm, which he manifestly does not get for a certain period of years if he puts the money into the land and improvements on the land, i.e., until the land becomes fully productive. This is only sound common sense. But a case like this is bound to have far-reaching effects in the appraisements of land values, and should therefore be carefully studied, and thought out for himself by every taxpayer.

CHAPTER V.

FILLING IN OF REVERSE OF FORM "B"

We come now to the method of filling in the reverse of Form 'B'. The following particulars should be inserted:—

1. A separate number should be given for each parcel of land owned. This is very helpful when a sale takes place or any increase in the value of a parcel, as a reference to the parcel number will suffice instead of a lengthy description of the land being necessary.

Each Parcel to be Numbered

2. The name of the Local Authority to which the rates on the land are paid:

Name of Local Authority

3. The distance of the land from the nearest railway station. This information has a direct bearing, not only on the valuation of the taxpayer's land, but also on the valuation of the timber upon the land, as the further from the railway station the greater the cost of haulage and the less the profit the owner can make thereon. In some cases, the haulage eats so much of the profits, that the timber is practically valueless from a commercial point of view, and a taxpayer can reasonably contend for a reduction of his valuation on this ground alone.

Distance of Land from Nearest Railway Station

4. Purpose for which land is solely or principally used. This information has reference to the application of Section 2 of the Amending Act of 1920, whereby farmers, graziers, and dairymen are entitled to the lower rates of tax in virtue of the use to which the land is being put. See Chapter III. for particulars.

Purpose for which Land is Used

5. If the land is let, the name of the tenant should be given. It is perhaps not generally known that a tenant may sometimes be called upon to pay the taxes due upon the land, if the owner does not do so.

Name of Tenant

Section 22 provides:—

"The lessee or other occupier for the time being of any land shall be liable to pay the tax on behalf of the owner, but if he pays the same he shall have the right to recover the amount thereof from the owner, and also may deduct the amount so paid from any rent due or to accrue due from him to the owner."

6. The description of the land, i.e., the number of the allotment, subdivision, portion, etc. This is most important, and the particulars can be obtained from the deeds of the land, or from purchasing agreements, etc. Very often taxpayers do not understand what is meant when a description of the land is required, and launch out

Description

into word pictures of the land, its physical configuration, stock carrying capacity, and so on. This is not what is required here, though the information might prove to be very useful in respect to other matters. The lack of clearness in description often leads to endless trouble and correspondence, and also, and this is more important from a taxpayer's standpoint, to erroneous assessments being made.

**Location**

7. The County, Parish, Town, Street, shew where the land is located, and the description is absolutely incomplete if these particulars are withheld. I have no need to remind the reader that there is a Section of the Act which empowers the Commissioner to make an arbitrary assessment in such a case, viz., if the return is unsatisfactory.

Section 19, paragraph (c), lays down that:—

“If the Commissioner is not satisfied with the return made by any taxpayer or person, the Commissioner may make an assessment of the amount on which, in his judgment, land tax ought to be levied, and the taxpayer or person shall be liable to land tax thereon, excepting so far as he establishes, on appeal, that the assessment is excessive.”

So that I think it is quite worth while even if the taxpayer has to employ an agent to do so, to make out his returns with clearness. But if he does not employ an agent, he will never go wrong if he follows the instructions given here.

**Area**

8. The correct area of the land should be given, also in the case of town or city land frontage and depth.

**Deed  
Number**

9. Reference to registered title. The title number must be given, also the number of the volume in which the deed is copied, and the folio or page number. It may be interesting to point out to taxpayers that an exact replica of their deed is preserved in the Titles or Real Property Office, and when a charge is registered against any land for taxes unpaid, that fact is stamped with a rubber stamp on the copy of the deed in that office. And until that claim is satisfied, the endorsement remains.

**Local  
Authority's  
Value**

10. **Local Authority's Value.** This should be filled in from the Valuation Notices supplied by the Town or Shire Council. If there should be any reduction in these values to any considerable extent in any year, the valuation notices should be sent to the office along with the taxpayer's return. This will assist in the quick adjustment of the figure on which the assessment will be made.

Assessments are made, in the absence of a Departmental valuation, either on the Local Authority's values, or on the owner's unimproved values, but it would be as

well for the taxpayer owning land in out of the way places where the lack of means of communication has placed insuperable obstacles in the way of the commercial development of the district, and the population has diminished, and the value of land has nearly disappeared out of sight, there being plenty of sellers but no buyers to speak of, or in cities and towns like Charters Towers, Ravenswood or Cooktown, from which their former glory has departed, and over the memories of whose vanished greatness the word 'Ichabod' could be written, to point out to the Commissioner in these and all other cases *et hoc genus omne* as clearly and forcibly as he can, that the Local Authority Values do not always represent the actual market price of the land, which, after all, is the most important factor to be considered in arriving at the value of land in any district. Such information would be of the greatest value in determining the amount on which the assessment should be made and the taxpayer would be acting contrary to his own interests if he failed to bring such facts to the notice of the Commissioner as being entirely relevant to the consideration of the whole question.

If the owner of land does not think the L.A. value is a fair one, being much greater than his own unimproved value, he should immediately appeal against the valuation, to the Local Court, and try and get it upset.

If he does not do so, it will be taken to mean that he is satisfied with the valuation or he would have appealed, against it, and so his Land Tax assessment may be based on that value. I think, in very many cases, the L.A. value is not a fair one, but in others it may be a true index to the value of the land, while in still other cases, it may be below the market value of the land.

It is important that close attention be paid to this matter of L.A. values. The different Councils are naturally more concerned with their own municipal needs and if they do overvalue a ratepayer's land it is no concern of theirs if he does not object. But the owner of such overvalued land finds to his sorrow that the increased valuation has more far-reaching effects than were dreamt of in his philosophy, when he gets his bill for State Land Tax.

There is another point to be considered. It may be looked upon as a minor one and not of much importance when discussing more important problems. It is the question of minimum valuations. Very often a Municipal Council will place a minimum valuation on a piece of land for the very simple reason that it cannot go lower. It saves a lot of troubles—for the Council—but if the market

value of the land is below such minimum, the owner of the land should be careful when filling in his return, to note against such valuation the word "minimum," and to insert his own value of the land in the column provided for the insertion of owner's unimproved value.

Owner's  
Unimproved  
Value

11. With regard to you own unimproved value of your land, it is best to give an honest estimate of what it is worth, that is, what you honestly think you could get for it if you put it up for sale under ordinary conditions; in other words, the market price of your land.

Valuation  
of Station  
Properties

12. If the taxpayer is the owner of a station property. I would draw his attention to a very interesting and very important judgment given by the Chief Justice of South Australia, in Rymill versus Federal Commissioner of Taxation, heard in November, 1917, judgment being given in January, 1919.

In the course of his judgment the Chief Justice says:

"The date of the assessment is the 30th June, 1914. What I have to find is the capital sum which the fee-simple of the land might have been expected to realise on that date if offered for sale on such reasonable terms and conditions as a bona fide seller would require, assuming that the improvements thereon or appertaining thereto at that time had not been made."

He quotes the principle laid down in the judgment of Isaacs and Gavan Duffy, J.J., in Fisher's case. "When ascertaining the unimproved value of a station property such as this, which has been for years an improved and working concern, the practical, and really only way, at least in the majority of instances is to find first of all, from its present conditions and its history, its fair carrying capacity, of course, taking into consideration among its characteristics all existing improvements. That is what any practical man desirous of buying would do. Having got the carrying capacity as a basis—so many sheep or cattle to so many acres—the prospective buyer has fixed the intrinsic character of the station itself as a money-making machine. But before he can say what price he is willing to give for it, the extrinsic circumstances have to be examined and appraised—as the situation of the property relatively to markets, all taxation, the state of trade, current prices, future probabilities, and so on. So the prospective buyer arrives at a price for the improved property as it stands. Then this has to be reduced to unimproved value. All you have to do is to make an allowance, by way of deduction, for the absence of internal characteristics of improvements. Imagine they are non-existent, but displace nothing else."

He then goes into the history of the station for several years and finds the average carrying capacity. He says: "I hold then that the average carrying capacity of Curnamona proper is thirty-three sheep to the square mile, or 17,336 and no more."

Having arrived at the carrying capacity, he ascertains, by careful calculation, the nett annual profits which such a property might be expected to produce. He fixes this at £3,985, after allowing for State Land Tax, State Income Tax, and taking into consideration Federal Taxes. He then says: With a net earning capacity of £3,958 per annum, what sum would a purchaser be prepared to invest in the property.

"This question," he continues, "depends on the return he would require for his money. It is unreasonable to suppose that in country of so hazardous a nature he would risk his capital for a small rate of interest. A few bad seasons at the outset might involve his ruin. The majority of the witnesses think for the respondent he should have ten per cent. No one suggested less. Mr. Kelly and Mr. Richardson (two of the witnesses) would give him from 10 to 15 per cent. Probably the latter are more nearly right, but for a reason I shall explain later, I will take the smaller rate. A net return of £3,985 per year would pay interest at 10 per cent. on £39,850. This, therefore, should be the total amount he would be prepared to invest in stock, plant, improvements and land. The first three items involved an outlay of £34,978, that is (omitting rams), £8,778 for sheep, £1,500 for working stock and plant, and £24,700 for improvements. The balance is £4,872, and must, of course, be the amount he would be willing to pay for the fee-simple of the land unimproved. In other words, it is the unimproved value of the land."

He later gives the reason for adopting the lower rate of interest, "What has mainly led me to decide on 10 per cent. is that I regard the carrying capacity I have determined on, while not too low, as reasonably safe."

This case furnishes a very good illustration of the principles to be observed in the valuation of pastoral properties, both by the taxpayer as well as the official valuer, the stock carrying capacity being taken as the basis for valuation. Properties are being valued all over Queensland by both the State and Federal valuers and in most cases care is being taken that their activities do not overlap. So that the taxpayer should keep in mind the fact that whichever valuation he adopts in his return, it will be checked sooner or later by an official valuer.

Departmental  
Valuations



When such a valuation is made, the Commissioner has the power to alter the assessments for the three years preceding, under Section 20, which provides that:

“When the Commissioner has assessed any person upon the return sent in by him without making or obtaining an independent valuation, the Commissioner, as soon thereafter as it is conveniently practicable, but not after the expiration of three years from the date of the assessment, if from valuations made or obtained by him, or other information in his possession, he finds out that the assessment ought to have been made for a greater amount, he may add to and alter the assessment accordingly as from the date when the assessment was made.”

To make the position clearer, let us take a concrete example:—

A taxpayer set out in his return for 30th June, 1916, that his land was worth £2,500. He was assessed on the 12th December, 1916. In January, 1920, his land was valued by a Government Valuer at £3,500. Could his land be reassessed for 1916? No; as it was more than three years since his land had been assessed for 1916. If the valuation had been made in 1919, it would, of course, have been different. See also Chapter VI. on Amended Assessments.

Federal  
Value

The same thing applies where the valuations made by the Federal Taxation Department are adopted by the State. That is to say, if the State Department found in July, 1920 that the valuations made by the Federal authorities were greater than the taxpayer's own valuation, or greater than the valuation laid down by the Town or Shire Council, those, i.e., the Federal, valuations could be adopted by the State, but the Commissioner could not go back for more than three years from July, 1920. All assessments during that period could be amended, but not any issued prior to July, 1917.

Attempt  
at Fraud  
or Evasion

But this does not apply to cases where a taxpayer has omitted land from his returns, which he should have included. There the Commissioner has the power to go back and reassess for all years, and add the value of the land omitted. And in this case the penalties are fairly steep.

Where indications point to possible attempts at evasion, the taxpayer can be dealt with under Section 20, subsections 2 and 3, where it is laid down that:

“Where the Commissioner has assessed any person either on any return sent in by him, or in the absence of any return, and at any time thereafter, finds that any land in respect of which that person was liable to pay land tax was not included in the assessment, he may add to and alter the assessment accordingly, as from the date when the assessment was made.

**SPECIMEN FORM**  
**OF**  
**Notice of Alteration in Assessment**  
**as a result of Valuation.**

Land and Income Tax Office,

Brisbane, 1st October, 1921.

Name, **RICHARD ROE,**

Farmer, Nerang.

Assessment No. 24636

The following alterations have been made in the unimproved value of your land held on 30th June, 1920, consequent on a valuation made by the Government Valuer.

Parcel No.	Description and area of land	Unimproved Value as per Previous Assessment	Unimproved Value Assessed
2	Subd'n 64 of Portion 3 area 44 acres in the Parish of Nerang	£750	£1250
3	Subd'n 65 of Portion 3 area 54 acres in the Parish of Nerang		

**Note for Taxpayer.**—This is the usual notice sent out with the assessment notice, when an alteration has been made in the valuation consequent on the land being valued by a Government Valuer. Paragraph 6 of Section 20 lays down as follows:—

“Provided that every alteration or addition which has the effect of imposing any fresh liability or increasing any existing liability, shall be notified to the taxpayer affected, and, unless made with his consent, shall be subject to appeal.”

(3) In any such case, the taxpayer shall, and notwithstanding that land tax may have been paid in respect of the land, be liable to pay an amount equal to **Twice the difference** between any land tax that he has paid and the land tax which he ought to have paid if the assessment had been originally made as altered."

The words, "an amount equal to twice," were added by the Amending Act of 1920. That is to say, the following penalty may be imposed:—

Mr. Jack Johnson\* was assessed in 1919 on £2,000, the tax on which amounted to £12 7s. 11d. It was found in 1920 that he had omitted particulars of land worth £4,000, from his 1919 return. He could be reassessed as follows for 1919:—

Land originally returned . . .	£2,000
Increased by value of land omitted	£4,000
<b>Total</b> . . . . .	<b>£6,000</b>
Less statutory exemption . . .	£300
<b>Taxable value</b> . . . . .	<b>£5,700</b>
£5,700 at 3d. in the £ . . . . .	£71 5 0
Super Tax, at 2d. in the £ . . .	£47 10 0
<b>Twice the difference between present and previous tax</b> . . .	<b>£212 14 2</b>
<b>Total</b> . . . . .	<b>£331 9 2</b>

Which would be a very formidable bill to meet, for penalties there amount to £212 14s. 2d.

However, I do not think that anyone will be so foolish as to omit particulars of any land from his return with the intention of cheating the Department. In such a case, however, if it is found that a taxpayer deliberately sets himself out to defraud the Revenue by attempting to evade taxation, the punishment is very severe, for it is provided in Section 50 that:

"Any person who by any wilful act, default, or neglect, or by any fraud, art, or contrivance whatever, evades or attempts to evade assessment or taxation shall be liable to a penalty not exceeding £500 and treble the amount of the tax, payment whereof he has evaded or attempted to evade; or to forfeiture of the land in respect of which the offence was committed, or any part thereof."

Deliberate  
Fraud  
Penalty for

\* This is only the name of an imaginary individual.

Also in Section 53, that:

“Whoever aids, abets, counsels, or procures, or by act or omission is in any way directly or indirectly knowingly concerned in the commission of any offence under this Act, shall be deemed to have committed that offence, and shall be punishable accordingly.”

Sources of  
Information  
open  
to the  
Department

The chief sources of information open to the Department are the various Shire and Town Councils scattered over the length and breadth of Queensland, The Registrar General, The Registrar of Titles, the Deputy Registrars of Titles in Townsville and Rockhampton, and all public officers in any Government Department whatsoever. So that every person owning land is bound, sooner or later, to come under the notice of the Commissioner, and as I have pointed out, it would be very foolish to try and evade taxation. But to come back to the subject of valuation, from which we have strayed somewhat. The Commissioner can assess any person on the return sent in by him, or he can have an independent valuation made by an officer of the Department, or he can adopt the valuation of the Federal Taxation Department, or he can assess on the basis of any other information in his possession. As the Act lays it down, see Section 18, that:

“From the returns and valuations so made, if any, and from any other information in his possession, or from any one or more of these sources, and whether any return has been furnished or not, the Commissioner shall cause assessments to be made for the purpose of ascertaining the amount upon which land tax shall be levied.”

Valuations  
for  
Probate  
Duties  
not  
Necessarily  
Binding  
on the  
Commissioner

I would point out that valuations for Succession and Probate Duties may be accepted by the Department, but very likely will not be made the basis for assessments in the face of either Departmental valuations, or of valuations made by the Federal Taxation Department.

If you have been assessed by the State on the Federal valuations and have not previously appealed against those valuations, you will probably have no hope of getting your assessment reduced. This information will only apply to those taxpayers who have land to the value of £3,000 and upwards.

We turn then to the next matter in hand, viz., the filling in of Schedule "C." But before doing so, I would draw the reader's attention to the specimen Form "B," which has been filled in with the particulars necessary for his guidance.

**Form C.**—With regard to Form C this is merely an advice to the Commissioner either that there have been land transactions during the preceding year, or that there have been no such transactions.

The same particulars are required in respect of name, address, and so on, as in Form B. There will therefore be no need to touch on these points again.

The matters that require attention are as follows:—

A.—On the front of the Form:

1. The unimproved value of the land on the 30th of June preceding.
2. The unimproved value of land purchased since the 30th of June preceding.
3. Unimproved value of land sold since the 30th of June preceding.

This information has to be given in the following way:—

	Form "C" Transactions in Land
Unimproved value of land held at 30th June preceding . . . . .	£500
Unimproved value of land purchased . . . . .	£200
Unimproved value of land sold . . . . .	£200

If land has not been sold or purchased, the form should be filled in as follows:—

Unimproved value of land held at 30th June preceding . . . . .	£500
Unimproved value of land purchased . . . . .	Nil.
Unimproved value of land sold . . . . .	Nil.

The information required for the first item should be obtained from a copy of the previous year's return. It is to be hoped that the taxpayer keeps a copy each year of the documents submitted to the office. It is of paramount importance that he should do so. If he has not kept a copy of the preceding year's return, then he should refer to his last assessment notice.

Items 2 and 3 can be filled in from the taxpayer's copies of the Notices of Sale or Purchase lodged, or to be lodged at the office.

B.—On the reverse of the Form give the following information:—

Names of Parties in Transactions

1. Name and address of the person to whom land has been sold or from whom land has been bought, also whether Form K has already been sent, or is being sent with the return. Be very careful to send in a Form K for every transaction, if only to save yourself from unnecessary correspondence and expenditure of postage stamps.

New Improvements

2. Full details and values of all improvements erected on your land since the preceding 30th June, are to be given. Take great care to shew improvements erected on any land that may hitherto have been classed as undeveloped. You want to have improvements to the value of at least twenty-five per cent of the unimproved value of your land for it to be classed as developed.

Variations in the Local Authority's Value

3. Do not omit to set down any variations in the Local Authority's value of your land. If the value has been reduced (and this is very important for your own sake), shew the reduced amounts in each case.

If the valuations have been increased, then shew the increased values in each case. If you omit to do so, and it will very likely be found out later, you make yourself liable for an increased assessment with the addition of a penalty for late payment of tax on the difference between your original assessment and the one issued afterwards.

You may ask why this should be? And the answer is, "If you had inserted the increased valuations in the first instance you would have been assessed on those figures and had to pay the increased tax accordingly. By holding back the information you were assessed on the lower figure, and the tax was less than that which you should have paid."

See specimen form opposite, for the taxpayer's guidance.

# SPECIMEN OF FORM "C"

## FRONT

This Return  
must be Addressed to  
**COMMISSIONER OF TAXES,**

1921.

QUEENSLAND.

Form C.

Asst. No. ....

File No. ....

### SUPPLEMENTARY STATE LAND TAX RETURN.

#### TO BE USED BY INDIVIDUALS AND COMPANIES.

Surname of Owner: <p style="text-align: center;">ROE</p>	Christian Names of Owner: <p style="text-align: center;">RICHARD</p>
Occupation: <p style="text-align: center;">Farmer</p>	Place of Residence from 1-7-1920 to 30-6-1921. <p style="text-align: center;">Nerang</p>

Address where Documents are to be Sent or Served:  
Mr. R. ROE;  
Farmer, Nerang.

#### TO BE USED BY TRUSTEES.

Name of Trustee:	Name of Trust Estate:
------------------	-----------------------

#### BENEFICIARIES.

Names:	Addresses:	Shares:

An owner of land who has made a return showing all land of which he was the owner under the Act at midnight on 30th June, 1919 or 1920, may make this return

**For Office Use Only.**

(1) Total unimproved value of land owned at midnight on 30th June, 1920	£2250	
(2) Total unimproved value of land purchased or acquired within the period from 1st July, 1920, to 30th June, 1921, as per list at back hereof	£ 300	
(3) Total unimproved value of land sold or disposed of within the period from 1st July, 1920, to 30th June, 1921, as per list at back hereof	£ 850	

I, RICHARD ROE, of Nerang, hereby declare that this return contains a true account of all land acquired, or disposed of, by me within the period from 1st July, 1920, to 30th June, 1921.

Date 30th September, 1921 (Signature) RICHARD ROE.

**NOTE.**—If the owner has not acquired or disposed of any land during the year, he will write "Nil" against items 2 and 3.

### SPECIMEN OF BACK OF FORM C.

**LIST 1. Particulars of land sold or otherwise disposed of within the period from 1st July, 1920, to 30th June, 1921.**

Name of Purchaser	Postal Address of Purchaser	As per Form K (a)	
John Doe	Farmer, Kilcoy	Already sent	(a) A notice of sale on Form K must be furnished for each transaction. If already furnished, indicate same by inserting "already sent" in column provided, and if sent with this return, insert "herewith."

**Particulars of land bought or otherwise acquired within period from 1st July, 1920, to 30th June, 1921.**

Name of Vendor	Postal Address of Vendor	As per Form K (a)	
Estate of John Bull	Trustees Estate John Bull 38 Wickham Street, Brisbane.	Herewith	(a) A notice of purchase on Form K must be furnished for each transaction. If already furnished, indicate same by inserting "already sent" in column provided, and if sent with this return, insert "herewith."

**LIST 2. If additional improvements have been effected since 30th June, 1920, full details are required as under:—**

No. of Parcel	Area of Land			Description of each Separate Class of Improvements, and Value
	Ac.	Rd.	Per	
3	158	3	3	Fencing £50, Clearing £30, Ploughing £20
4	200	0	0	Ringbarking £60
5		2	0	Dwelling House £500, Fencing £50

**LIST 3. If any alterations in Local Authorities' values have been made since 30th June, 1920, particulars are required:—**

No. of Parcel	Area of Land			L. A. Value at 30th June, 1921	No. of Parcel	Area of Land			L. A. Value at 30th June, 1921
	Ac.	Rd.	Per.			Ac.	Rd.	Per.	
3	158	3	2	£500					
5		2	0	£120					
6		1	24	£80					



## CHAPTER VI.

**ASSESSMENTS, ASSESSMENT NOTICES, ETC.**

After a longer or shorter period of waiting, as the case may be, the taxpayer gets a notice from the office, rendering him an account of how much he is to pay. In other words his bill for Land Tax.

Assessment  
Notice

This amount is the payment in advance for the ensuing financial year. For the Act says, see Section 12, paragraph 1:—

Land Tax is  
Paid in  
Advance

“Land tax shall be charged on land as owned at midnight on the 30th day of June immediately preceding the financial year in and for which the tax is levied.”

That is to say, a person owning land as at midnight on the 30th day of June, 1920, is charged the tax for the financial year 1st July, 1920 to 30th June, 1921.

Sometimes a man buys land, say on the 29th day of June, and he thinks it unfair for him to pay tax on land owned for only one day. He thinks the other man has held the land up to that date, therefore he is escaping the full tax for that year. This would be correct if the tax were retrospective. But it does not look backward, it looks forward.

A popular superstition might well take its rise from this, viz., “It is unlucky to buy land about the 28th or 29th June, but it is lucky to buy on the 1st July.” The basis of the good luck in the latter case being a bonus in the shape of one year’s land tax. Of course, if the vendor is wise, he may make the purchaser shoulder the tax. Both vendor and purchaser should make a note of this.

Now, the first thing a taxpayer does when he gets his assessment notice, is to feverishly scan the details. In some cases, I suppose, the air becomes lurid and hot as soon as this has been done. The taxpayer feels that he would like to murder the whole of the Commissioner’s staff, and burn the taxation office to the ground. But what is he to do? Is he to pay it or no? And the answer is: “Yes, it must be paid, unless permission is obtained from the Commissioner to withhold payment until, if the assessment be erroneous, the matter in dispute is settled.”

It must be  
Paid  
Even if  
Appealed  
Against

The Act allows the taxpayer to object to the assessment, but it does not authorise him to hold back payment, otherwise, if it did, many people would delay payment on one frivolous pretext or another, and if this were carried on on a large scale, the revenue would be the poorer, as the Commissioner would be powerless to enforce collection. But it is distinctly said, that while an appeal is allowable,

“The fact that an appeal is pending shall not in the meantime interfere with or affect the assessment appealed from and land tax may be levied and recovered as if no appeal were pending.”—Section 29, Paragraph 1.

Permission  
to be  
Obtained for  
Withholding  
Payment

So that there is really no question about it. If the assessment is not paid, then after the lapse of the due date, a penalty of ten per cent. is added, and this becomes part of the tax and is recoverable in the same way. So, it is advisable to “Pay, Pay, Pay,” unless, as I have pointed out, you can get permission from the Commissioner to withhold payment. This is easily enough done if you have a reasonable basis for your complaint.

A short letter like this would no doubt effect the taxpayer's purpose admirably:—

Sir,

I find that I have been assessed on the value of land which I have sold (or which I do not own), and I shall be obliged if you will kindly amend my assessment and send me a fresh notice before the due date expires, so that I may be able to pay my tax without incurring a penalty for late payment. If there is a likelihood of any delay in adjusting the matter, kindly grant me an extension of time for payment without penalty.

Yours faithfully,

Unless you get the required permission you must pay the tax, and that promptly. But I think that a letter written as above could not fail to have a satisfactory effect if the complaint was reasonable.

But assuming that the taxpayer is satisfied with the “account rendered,” he should then make arrangements for the payment thereof before the due date, which is clearly indicated on the assessment notice.

Payments  
How Made

The payment may be made as the Regulations provide in the following manner:—

1. At the office of the Commissioner, at Brisbane.
2. By remittance in the usual ways, i.e., by cheques, to which exchange has been added, also by bank draft, postal notes, or money orders, payable at Brisbane.

3. Into any branch of the Commonwealth Bank in Queensland, to the credit of the Commissioner of Taxes, Brisbane. A duplicate deposit slip attached to the assessment notice should then be forwarded to the Commissioner, and this will be accepted as payment of such assessment.

4. To any Receiver of State taxes, who will give a receipt on the proper official form in acknowledgement of same. A receipt should not be accepted unless on the proper form, as it will not be recognised by the office at Brisbane.

It should be noted that if exchange is not added to country cheques, or if the postage dues are not prepaid or insufficiently paid, these amounts can be deducted from the sum paid by the taxpayer, and the balance only credited to his account. **Only the net amount received will be credited to the taxpayer's assessment**, due notice being given (generally on the official receipt) of any sums still owing.

Exchange  
on  
Cheques  
and  
Insufficient  
Postage

If a taxpayer cannot pay the full amount shewn on his assessment notice, he should make application to the Commissioner for permission to pay in instalments. If he has a reasonable basis for his inability to pay, he can almost be sure of getting extension of time for payment, subject, of course, to a reasonable amount being added on, by way of interest.

Permission  
Must  
be Obtained  
to Pay in  
Instalments

It is so easy a matter to make this application instead of letting the due date slip by, that taxpayers who are in a difficult financial position temporarily, have only themselves to blame if they are penalised.

Now, it is as well to give the assessment the "once over," as the Americans say, or in other words to give it a careful analysis.

Analysis of  
Assessment

There is first of all the question as to whether it is addressed to the proper person. This being so, it remains to ascertain whether the amounts charged under the different heads are correct. To enable taxpayers to do this, they must first understand what are the charges that are likely to be made. These are:—

1. Primary tax.
2. Tax on undeveloped land.
3. The Super tax.
4. Penalty for late lodgment of return.
5. Penalty for late payment of tax.

Primary  
Tax

1. The Primary Tax. This is a tax on the unimproved value of the land after allowing for the statutory deduction of £300. That is to say, John Smith has a piece of land worth £500. Then he is liable to be taxed only on the balance remaining after the amount of £300 has been deducted therefrom, viz, £200 which is the taxable value of his land. This deduction is the inalienable right of every taxpayer not being a Company or Absentee.

I have already dwelt upon the meaning of the word Absentee. In cases where there is any doubt as to whether any person is an absentee or not, the Commissioner has the power to make the necessary decision.

Taxpayers should note that absentees and Companies were, previously to 1920, entitled to be taxed on the total value of their land, if such value exceeded £300. By the Amending Act of 1920 this qualification has been removed, and absentees and Limited Companies are now liable to be taxed on the total sum of the unimproved value of each parcel of the land. Thus a Company owning land to the value of £250 was not taxed in 1919 or previous years. At present the tax on same would be £1 0s. 10d.

Now, Land Tax is a graduated tax. I will not say that it is a scientifically graduated tax, but it is graduated to a certain extent, i.e., it starts at the very low rate of  $\frac{1}{2}$ d. in the £ and goes on to the rate of 6d. in the £, or  $2\frac{1}{2}$  per cent. of the capital value of the land. The idea apparently at the back of this graduation being the ability of the person to pay, that is those with the most land should pay the most tax. I will not enter here or elsewhere into a discussion of the question as to whether land tax is depreciating the value of land in Queensland or otherwise, or whether it is having the effect of driving capital out of the country. It may be doing both or not. But that does not come within the scope of this little book, which aims to simplify the problems in connection with land tax that the taxpayer has to solve.

Table of  
Rates

The following is a table of the rates on which the primary tax is calculated:—

If the taxable value is

Less than £500	.. .. .	1d. in each and every £
£500 or over but is less than	£1,000, 1½d.	" " "
£1,000 or over but is less than	£2,000, 1¾d.	" " "
£2,000 or over but is less than	£2,500, 2d.	" " "
£2,500 or over but is less than	£3,000, 2¼d.	" " "

**SPECIMEN**  
**Assessment Notice.**

**QUEENSLAND.**

Form E.

Assessment No. 24636

File No. 24636

**NOTICE FOR PAYMENT OF STATE LAND TAX**

Due on Land Owned at Midnight on the 30th June, 1920.

Please Bring or Send  
This Notice  
When Making Payment.

To **RICHARD ROE,**  
Farmer, Nerang.

TAKE NOTICE that pursuant to the provisions of The Land Tax Acts you have been assessed as owner at the 30th June, 1920, for the purposes of Land Tax, as shown hereunder:—

	£	s.	d.
Unimproved Value of Land' .. .. . £2500			
Statutory Deduction .. .. . £ 300			
£2200 @ 2d.			
	18	6	8
Value of Undeveloped Land .. .. . £ 200 @ 2d.	1	13	4
Super Tax on .. .. . £ @ d.			
Penalty for Late Lodgment of Return, per cent. ..			
Penalty for Late Payment, 10 per cent. .. .. .			
<b>Total Amount Payable ..</b>	<b>£ 20</b>	<b>0</b>	<b>0</b>

The last day for payment of this amount without penalty is 30th October, 1920. After that date 10 per cent. additional tax must be paid.

Dated at Brisbane this first day of October, 1920.

H. D. BRENNAN, Commissioner of Taxes.

**Objection may be lodged against this Assessment up to 1st December, 1920, but notwithstanding any objection or appeal the full amount of the assessment must be paid within the time stated.**

Exchange must be added to cheques drawn on places outside Brisbane.

£3,000 or over but is less than £4,000,	2½d. in each and every £
£4,000 or over but is less than £5,000,	2¾d. " " "
£5,000 or over but is less than £10,000,	3d. " " "
£10,000 or over but is less than £20,000,	3½d. " " "
£20,000 or over but is less than £30,000,	4d. " " "
£30,000 or over but is less than £50,000,	4½d. " " "
£50,000 or over but is less than £60,000,	5d. " " "
£60,000 or over but is less than £75,000,	5½d. " " "
£75,000 or over .. .. .	6d. " " "

There has been a slight variation in these rates made by the Amending Act of 1920 which provides:—

Special Rates for Farmers, Graziers and Dairymen

“That if the taxable value of all the land owned by a taxpayer is less than seven hundred and fifty pounds, and all such land is used by him only for agricultural, dairying, or grazing purposes, or a combination of such purposes, the rate of tax shall be  
if the taxable value

Is less than £500, ½d. in each and every £.

Is £500 or over but is less than £750, 1d. in each and every £.

Having already dwelt at some length on the application of this section, I will not go into it again, but will content myself with reproducing it without further comment.

In this connection, I am appending a ready reckoner for the use of taxpayers, which will facilitate the calculation of the tax they will have to pay.

The method I would suggest in using it, is, first of all, ascertain what is the taxable value of your land by deducting the exemption of £300 from the total value. Then see in what column that figure is included. For example, a person has land to the value of £5960. To arrive at the taxable value he deducts £300, leaving £5,660. Then he finds this figure included in the column £5,000 to £10,000 at 3d. in the £. He puts down:

Use of Ready Reckoner

£5,000 equals	£62	10	0
£600 equals	£7	10	0
£60 equals	£0	15	0

Total Primary Tax ————— £70 15 0

Tax on Undeveloped Land. The reason and explanation of this additional tax I have already given (See Chapter IV). The Act lays down in Section 9, paragraph 2:—

Tax on Undeveloped Land

“And in addition . . . . .

On all undeveloped land . . . . .

In respect of the financial year beginning 1st July, 1915,  
Nil.

In respect of the financial year beginning 1st July, 1916,  
1d. in each and every £ of the taxable value.

In respect of the financial year beginning 1st July, 1917,  
1½d. in each and every £ of the taxable value.

In respect of each financial year thereafter, 2d. in each  
and every £ of the taxable value.”

You will observe that the Act says “in each and every £ of the taxable value,” that is, that an exemption was allowable for those years, not the full statutory exemption of £300 but a proportionate exemption. This was defined in the Amending Act of 1918:—

Exemption  
Previously  
Allowed

“Provided that the amount of exemption by way of deduction which shall be allowed in ascertaining the taxable value of undeveloped land shall bear the same proportion to the sum of three hundred pounds last hereinafter referred to, as the total value of all the undeveloped land bears to the total value of all the land held by the taxpayer.”

This can be explained best by a simple example. A taxpayer owned land valued at £600. One parcel of this land valued at £200 was undeveloped, that is, it did not carry on it improvements to the value of 25 per cent of its unimproved value. He was allowed £300 as the Statutory deduction in respect to the primary tax on the whole amount. Then as the proportion of the statutory exemption to the total value of the land held by him was one-half, the exemption allowable in respect to his undeveloped land would be one-half of £200, or £100.

Abolition of  
Exemption  
in  
Respect of  
Undeveloped  
Land

In 1920, the Act was further amended by doing away with the exemption altogether, so that now the owner of any undeveloped land has to pay tax on the full amount thereof.

This has made a very great deal of difference to some taxpayers. A man holds land to the value of £303. Of this £250 is the value of undeveloped land. Previously he would not have had to pay any tax, as it would not have been profitable to bill him for 3d. Now, however, he may be taxed thus:—

Value of Land	..	£303		
Less Exemption	..	£300		
Taxable Value	..	£3 at 1d.	..	£0 0 3
Undeveloped Land		£250 at 2d.	..	£2 1 8
				<hr/>
Total Tax	..	..	..	£2 1 11

So that this additional tax must now press very heavily upon the shoulders of taxpayers, much harder than it did in previous years. Moral—Get rid of all your undeveloped land as quickly as possible, or see that it is developed within the meaning of the Act. Further, be very careful to see that you make full allowance for improvements in your return. Read carefully what I have said in previous chapters on this subject.

**Super Tax.** This is evidently a war-time measure. It applies only to cases where the taxable value of land, i.e., after deducting the statutory exemption, is £2,500 or over. The rates of tax are as follows.—

£2,500 to £2,999, 1d. in each and every £  
 £3,000 to £3,999, 1½d. in each and every £  
 £4,000 and over, 2d. in each and every £

This tax came into operation for the first time in 1918, but it was retrospective in effect. Section 2 of the Amending Act of 1918 provides that:—

“In addition to the land tax provided by this Act land tax (called the super tax) shall be levied and paid for the financial year beginning on the first day of July, one thousand nine hundred and seventeen, and in and for each financial year thereafter during the continuance of the present war, and the financial year next succeeding the financial year in which Peace is proclaimed upon the unimproved value of lands the taxable value whereof is two thousand five hundred pounds or over at the rate as hereunder set out.”

As I have already set out the rates on the preceding page, there is no necessity to set them down again. The fact that I wish to dwell upon is that this tax will most probably be continued until June, 1923.

Mr. Lloyd George is reported to have said, in a cablegram published in the daily press, that the 1st September 1921 will be the date on which the War will be declared officially to have terminated, with the exception of Turkey. As the 1st September, 1921 is in the financial year 1921-22, i.e., which begins on 1st July, 1921 and closes on 30th June, 1922, the year next succeeding the financial year in which peace is proclaimed would appear to be the financial year beginning 1st July, 1922 and ending 30th June, 1923. It would appear, therefore, that the Super Tax would be continued at least until the close of that financial year. But, at present there does not seem to be any certainty about it as no official pronouncement has been given on the subject.

When does  
it Become  
Inoperative?



Penalty  
for Late  
Lodgment

4.—**Penalty for Late Lodgment of Return.** I have already dwelt on this question, at some length, in Chapter III. It is "up to the taxpayer" to see that there is no reason given for the imposition of this penalty.

Penalty  
for Late  
Payment

5.—**Penalty for Late Payment of Tax.** With regard to this, I would point out that the Act lays down, in Sections 32 and 33, that:

"(32).—Land tax for each year shall be due and payable as prescribed.

Not less than thirty days' notice shall be given by the Commissioner of the date on which the land tax will be payable.

(33).—Every person who fails to pay the amount payable by him in respect of land tax before the expiration of thirty days' after it has become due shall be liable by way of additional tax to a further amount of ten per centum on the amount of the tax:

Provided that the Commissioner may in any particular case for reasons which in his discretion he thinks sufficient, remit the additional tax or any part thereof."

With regard to Section 32, a notice is generally issued in the press fixing the date on which land tax is payable; this is merely a general notice and its effect in general is to enable the Commissioner to demand at any time thereafter the payment of Land Tax by any person owning land. Of course, where an assessment notice has not been received by any individual, he cannot be expected to know how much tax he has to pay, but it looks to me, as if the responsibility were placed on the taxpayer's shoulders, so that if he had not received any assessment notice he should inquire as to his liabilities from the Commissioner, and pay his tax before the date notified.

Practically this might only be enforced in cases where persons had failed to send in their returns at the proper time and where, therefore, it was not possible to issue the requisite assessment notices. Taking it on the whole, I think that in such a case, it cuts the ground from under a taxpayer's feet if he pleads that he did not receive an assessment notice and could not, therefore, pay his tax as he did not know the amount due.

Where returns are furnished, an assessment notice is issued to taxpayers bearing a specific date for payment. If a taxpayer cannot pay by that date, he should frankly state his case to the Commissioner and ask for leniency. We shall deal with applications for relief under Section 46 in the next chapter.

Arbitrary  
Assessments

**Arbitrary Assessments.** A matter of considerable interest to taxpayers is the arbitrary assessment. This is only another method of rousing the taxpayer to a sense

of his responsibilities and duties. It is only applied where a taxpayer fails to send in his annual return, and is a more lenient method of waking up the taxpayer than prosecution. The Commissioner is empowered to make assessments under the provisions of Section 19, where returns have not been furnished:—

- “If: (a) any taxpayer or person makes default in furnishing any return; or
- (b) The Commissioner has reason to believe that any person (though he may have furnished no return) is a taxpayer; or
- (c) The Commissioner is not satisfied with the return made by any taxpayer or person,

the Commissioner may make an assessment of the amount on which, in his judgment, land tax ought to be levied, and the taxpayer or person shall be liable to land tax thereon, excepting so far as he establishes, on appeal, that the assessment is excessive.”

The Arbitrary Assessment is a kind of punishment, as I have pointed out, but it is meant to be corrective and not retributive. If a taxpayer ever finds, on receiving his assessment, that his land has mysteriously gone up in value, he should put on his considering cap and ask himself whether he has duly lodged his annual return as by law required. If he has not done this, he has probably been assessed arbitrarily, and he should remedy his omission at once, and send in the return with an apology for the omission, and an explanation as to why he had delayed. This course of action will, if it does nothing else, save him from prosecution, and probably get his assessment reduced to its normal proportions.

**Tentative Assessments.** Sometimes a tentative assessment may be received by a taxpayer. This form of assessment is subject to revision afterwards, and it may be finalised on the same value or it may be increased or decreased as the exigencies of the case require. Usually, when a taxpayer gets a tentative assessment notice he may expect, later on, to get an amended notice, particularly if in the meantime his land has been inspected by the Departmental Valuer.

Tentative  
Assessments

Amended  
Assessments

**Amended Assessments.** Because a taxpayer gets his assessment notice and pays his tax, it does not follow, therefore, that his assessment cannot be revised..

It is provided under Subsection 1 of Section 20 that:

Where the Commissioner has assessed any person upon the return sent in by him, without making or obtaining any independent valuation, the Commissioner, so soon thereafter as is conveniently practicable, but not after the expiration of three years from the date of the assessment, if from valuations made or obtained by him, or other information in his possession he finds that the assessment ought to have been for a greater amount, may alter the assessment accordingly, as from the date when the assessment was made.

and it is also provided in Subsection 1 of Section 17 that:

The Commissioner may, if, as, and when he thinks fit, make or cause to be made valuations of any land.

And he is given wider powers still in Subsection 4 of Section 20; so that he can alter a taxpayer's assessment at any time, even twice or three times in the same year, so as to insure its completeness and accuracy. Probably this would never be done, but the power to do so, is there:

(4). In addition to and without prejudice to the other powers in this section contained, the Commissioner may at any time make all such alterations in or additions to any assessment as he thinks necessary in order to insure its completeness and accuracy, notwithstanding that land tax may have been paid in respect of the land included in the assessment.

But it should be noted that when a valuation of land has been made by a Department valuer, the Commissioner cannot go back for more than 3 years. If any assessment is more than three years old, the value on which that assessment is based cannot be increased.

2. Under Subsections 2 and 3 of Section 10, it is laid down that if a person omits particulars of any land from his returns, the Commissioner may re-assess him as from the date on which he became liable to pay Land Tax on the value of the land omitted, plus some very heavy penalties.

(2). Where the Commissioner has assessed any person, either on any return sent in by him or, in the absence of any return, and at any time thereafter finds that any land in respect of which that person was liable to pay land tax was not included in the assessment; he may add to and alter the assessment accordingly, as from the date when the assessment was made.

(3). In any such case the taxpayer shall, and notwithstanding that land tax may have been paid in respect of the land, be liable to pay twice the difference between any land tax that he has paid and the land tax which he ought to have paid if the assessment had been originally made as altered.

When dealing with the question of penalties in Chapter IV., I touched upon a case of this kind, so I would refer the reader back to that chapter for an illustration as to how this section would work out in actual practice. See the imaginary case of Mr. Jack Johnson which I have given there.

3. In Subsection 5 of Section 20, a provision has been made that is very much in the taxpayer's interests. It relates to any errors that may have been made in regard to assessments.

Revision  
of  
Erroneous  
Assessments

(5). If within three years after any land tax has been paid it is discovered that too much in amount has been paid, whether by reason of duplicate taxation or otherwise, the Commissioner upon being satisfied thereof shall alter the assessment accordingly and order the excess to be returned to the taxpayer entitled thereto.

Under this Section, if a taxpayer finds out that he has paid too much tax, for any reason, e.g., if both he and another person have paid land tax on the same land, for the same period, or if he has been assessed twice on the same land in the same year, then, if he writes to the Commissioner and points out the mistake, and the Commissioner is satisfied that such a mistake has been made, then he shall alter the assessment accordingly, and order a refund of the money overpaid to be made to the taxpayer.

The points to be noted in connection with this provision are as follows:—

- (a) The taxpayer is not entitled to a revision of his assessment if three years have elapsed since the date of payment.
- (b) The words "it is discovered," may be taken to mean, "brought to the notice of the Commissioner," for if a taxpayer discovers an error in his assessment, whether by reason of duplicate taxation or otherwise and does not advise the Commissioner, it is obvious that the Commissioner cannot do anything for him until he has first been apprized of the fact.

## CHAPTER VII.

## APPLICATIONS FOR RELIEF, OBJECTIONS, ETC.

Applications  
under  
Section 46

We come now to the consideration of applications for relief under Section 46.

In a land like ours, there are times, and not infrequently when the whole or part of the country is crying for rain. Times when the earth is parched, and the heavens are like brass, and the cattle and sheep are dying everywhere. Then men cannot make a living out of the land, much less pay land tax. Australia, in this respect, is a country which breaks the spirits of more strong men than, I suppose, does any other country in the world. Australia, in the matter of seasons, is more fickle than the goddess fortune. Some she smiles upon, others she dries and withers up, bone and sinew and muscle. To meet the need, therefore, of the man on the land, who suffers under such conditions, has this provision been inserted. This Section reads as follows:—

“In any case where it is shewn to the satisfaction of the Commissioner that a taxpayer liable to pay land tax has become insolvent, or has suffered such a loss that the exaction of the full amount of tax will entail serious hardship, or that, by reason of drought or adverse seasons or other adverse conditions, the returns from the land have been seriously impaired, the Commissioner may release such taxpayer wholly or in part from his liability and the Commissioner may make such entries and alterations in the assessment as are necessary for that purpose.”

As a preliminary remark, one may point out that this is a section which is only meant for the taxpayer who is really in serious difficulties. To the man who is in a state of temporary financial embarrassment for a month or two only, it does not apply. It only applies to those who are seriously financially hit for any reason, and then only if the exaction of the full amount of the tax would entail serious hardship. So it must be clearly shewn to the Commissioner that the person making the application for relief is really unable to pay his tax and that the exaction of the full amount, or even part thereof, would be to practically ruin him. Some there are, I suppose, who have gone down to ruin rather than make this application.

But if they have done so, it has been very foolish on their part, as this matter of relief when in difficulties has been expressly provided to meet such cases. It is, naturally, not in the best interests of the country to ruin our pioneers by squeezing the last penny out of them when they are "up against it." It would be like the policy of killing the goose that laid the golden egg. So that farmers and others should not hesitate to take advantage of this provision in their favour, as it is their right to do so when in circumstances necessitating such applications.

I would suggest a letter like the following, which could be altered to meet the requirements of the individual, where necessary:—

Sir,

Owing to the excessive drought in this district, I have suffered such extensive losses with regard to my stock and other property, that I am compelled to ask you to extend to me the privileges contained in Section 46 of the Land Tax Act of 1915, for an exemption from Land Tax for the financial year 1st July, 19— to 30th June, 19—

Specimen  
Letter  
for Relief  
from  
Tax under  
Sec. 46

I have had during this period the following losses:—

40 head of Cattle, worth	.. ..	£200
20 Calves, worth	.. ..	£10
15 Horses, worth	.. ..	£150

I have also had 30 acres of wheat planted, but this has proved a total failure, and my loss therefrom has been £ : :

Under the circumstances, therefore, as the exaction of such tax would entail very serious hardship to me I beg that you will give this application your favourable consideration.

My Income Tax Returns will bear out my statements with regard to my losses, and any further information I shall willingly furnish.

Yours faithfully,

It will not do, however, for a taxpayer to write to the Commissioner and state that he has had serious losses, etc., and then have his statements flatly contradicted by his Income Tax Returns. For example, if a man in his income tax return shews losses of ten head of cattle, but in his application for relief under Section 46, says that his losses were thirty head, which statement is to be believed? Such tactical blunders prejudice one's chances of success when the matter comes up for decision. Applicants should set out clearly and fully the nature of their losses.

Tactical  
Blunders  
in Applica-  
tion for  
Relief

Where a pastoral company is making the application, a balance sheet of profit and loss should be lodged with same. Where a private individual has to avail himself of

the privileges of this section, and has not furnished an income tax return previously, he should make out returns for at least the two years previous, on the proper forms and submit them with his application. This is absolutely necessary. Also applicants should see that their land tax returns have been duly lodged, and that they have furnished any information asked for by the office. It is of great importance to see that everything that should have been done has been done so as to get the matter expeditiously settled. Otherwise there are likely to be enquiries and further enquiries until the necessary information comes to hand, and in the meantime the taxpayer's soul is racked with wild anxiety.

As a matter of fact, exemptions from Land Tax under Section 46 for farmers and graziers in a small way, i.e., who have land to the value of £1280, are only necessary where they are not in receipt of an income the tax on which is equal to or greater than their Land Tax. For it is provided in the Income Tax Amendment Act of 1920, Section 4, and Section 3 of 1921,

Relief from  
Land  
Tax under  
Sections  
4 of  
Income Tax  
Amendment  
Act  
of 1920 and  
3 of 1921.

“That from the amount of the tax payable on the income of any taxpayer derived from any agricultural dairying or grazing pursuits carried on by him there may be deducted the amount of any land tax actually paid by the taxpayer in respect of the same year under any Act of Parliament of Queensland on land of which he is the owner for an estate of freehold and on which such agricultural, dairying or grazing pursuits are carried on. For the purpose of this provision grazing pursuits means the grazing of stock on freehold areas the unimproved value whereof does not in the aggregate exceed £1,280 and where both dairying and grazing pursuits are carried on by the taxpayer on the same lands and the greater part of the income is derived from such pursuits he shall be entitled to the deduction aforesaid as if dairying pursuits were only carried on by him.”

“Provided nevertheless that the maximum amount of land tax to be deducted from a taxpayer's income tax for any one year shall not exceed one hundred pounds.”

Divested of its legal phraseology and flavour, this means that any farmer (or grazier owning land up to the value of £1,280) can get the amount he has paid for land tax deducted from the amount he has to pay for income tax, provided that the amount paid for land tax does not exceed £100.

Thus, John Bull has land worth, say, £1,000, which he uses for farming purposes. He pays land tax thereon to the amount of £2 18s. 4d. His income tax amounts to £10, but instead of having to pay the full amount, he can claim to pay £10 less £2 18s. 4d., or £7 1s 8d. He thus, to all intents and purposes, is excused from paying land tax altogether.

If the land returned by him, is not all used for agricultural or grazing purposes, that is, supposing he has any town or city land, then he can only claim a proportion of his land tax as a deduction from his income tax.

The following example will illustrate what I mean:—

A taxpayer, who is a grazier, has £1,000 worth of land, but part of it being town or city land he is not entitled to be taxed on the lower rate, as in John Bull's case mentioned above. So his tax amounts to £4 7s. 6d. Now what amount can he claim to be deducted from his income tax? He has £200 worth of city land, which is one-fifth of the whole value of land held by him. The farm is worth £800, or four-fifths of the total amount. Then if he has paid the full tax of £4 7s. 6d. he can claim as a deduction from the total amount of his income tax four-fifths of £4 7s. 6d., or £3 10s.

The dairyman and farmer is in a better position still. The maximum of his holding is not limited to £1,280, and he can claim the tax paid thereon, up to £100, as a deduction from the amount payable for income tax, provided that his land is used solely for dairying, or for a combination of dairying and agricultural purposes or grazing, if the greater part of his income is derived from dairying.

Favourable  
Position of  
Dairymen  
under  
Section 4 of  
Income Tax  
Amendment  
Act of 1920  
and Section  
3 of 1921

It should be clearly noted that the deduction I have mentioned is not merely allowable from the income shewn in a taxpayer's income tax return, but from the amount of income tax payable by him.

**Notice of Objection.** If a taxpayer, after receiving his assessment notice, finds on examining it carefully that he has been charged with a greater amount of tax than he should pay, he is allowed by the Act to appeal against it. Under Section 27:—

Notice of  
Objection  
and Appeal

“Any taxpayer or person may within the prescribed time appeal to the Land Court against any assessment by the Commissioner with respect to his land, on the ground that he is not liable for the tax or any part thereof, or that the assessment is excessive.”

Formerly the appeal had to be made to the Supreme Court or a District Court, but this was altered by the Amending Act of 1920. The grounds given for appeal are two:—

- (a) On the ground that he is not liable for the tax or any part thereof.
- (b) That the assessment is excessive.



With regard to (a), the desired result can, I think, be achieved without going to the trouble of recording a formal objection against the assessment. A letter giving the necessary information would effect the taxpayer's purpose just as well. But to protect his interests he should write a letter like this:—

Sir,

With reference to my assessment notice for 30th June, 19—, I beg to point out that I have been erroneously assessed in the following respect: I have sold the greater part of my land as per Notice of Sale furnished to your office, and the balance is not taxable, being under £300 in value.

I am not lodging this as a formal notice of objection, but if it is necessary that a formal notice should be lodged, kindly advise me to that effect and in the meantime treat this as such to protect my interests.

Yours faithfully,

With regard to (b), I must point out here that there is a difference between a Notice of Objection, and a Notice of Appeal.

In the former case the matter is first put before the Commissioner for him to decide. He either allows or disallows the objection as in his wisdom he thinks fit. This decision is then communicated to the taxpayer. If the taxpayer is dissatisfied with the decision of the Commissioner, he may, within thirty days after the date of the written notice communicating the Commissioner's decision, appeal to the Land Court.

The Notice of Objection is made out on Form G. The Commissioner either allows such Objection wholly or in part, in which case Form H1 is used, or he disallows the Objection, in which case his decision is communicated to the taxpayer on Form H2.

The Notice of Appeal is made out on Form F. It should be made out in duplicate. One copy should be sent to the Registrar of the Land Court, Brisbane, and the other to the Commissioner of Taxes. The Notice to the Registrar must reach him within thirty days after the notified date on which Land Tax is payable (this date is always given on each assessment notice), or if an Objection has been lodged, within thirty days after the Notification of the Commissioner that he has disallowed such Objection or only partially allowed same.

The copy of the Notice of Appeal must reach the Commissioner not less than sixty days before the commencement of the sittings of the Court at which the Appeal is to be heard. This is no doubt intended to give the Commissioner a chance to investigate the matter fully and to

Specimen  
Letter re  
Erroneous  
Assessment

Notice of  
Objection

Notice of  
Appeal

prepare his side of the case. It also gives him the opportunity if he sees that the taxpayer has just grounds for making the appeal, to alter the assessment accordingly.

If the Commissioner alters the assessment in accordance with the requirements of the appellant, in other words, if he gives the taxpayer what he is contending for, then he must give notice of such alteration not less than fourteen days before the commencement of the sittings of the Court at which the appeal is to be heard, both to the appellant and to the Registrar of the Land Court. In which case, of course, the appeal is determined, and there is no need for any further action.

If the Commissioner allows the appeal in part, he must also notify the appellant and the Registrar of the Land Court that he has reduced the assessment, not less than fourteen days before the commencement of the sittings of the Court at which the appeal is to be heard.

The taxpayer then has to consider whether he will accept the reduced assessment, or whether he will fight it out. If he accepts the assessment as reduced, then he must give notice both to the Commissioner and the Registrar of the Land Court, within 7 days before the commencement of the sittings of the Court, that he has accepted the assessment as reduced. Failing the giving of such notice the case will go on, but with this difference, that the assessment as reduced shall be deemed to be the assessment appealed against. Unless a taxpayer is very sure of the strength of his case, it would be the wisest plan to accept the reduced assessment. Of course there are cases in which this would neither be wise nor practicable. But it is always best to avoid litigation where possible, and before a taxpayer decides to fight the matter out to the bitter end, he should give it some considerable thought and not act rashly. He may be sure of this, however, that where the Commissioner reduces an assessment to correspond either wholly or in part with the appellant's requirements, such action may be taken as an index to the strength or weakness of the taxpayer's position. I do not say that this is an infallible guide, but he may learn much by watching what action the Commissioner takes, for one may be sure that whatever is done by the Department is not done without giving the matter a fairly thorough investigation. Of course, I will not say that the Department is infallible. If it were so, then there would be no need of an Appeal Court to decide who is in the wrong, the taxpayer or the Commissioner.

A copy of the rules promulgated by the Members of the Land Court is given below for the guidance of taxpayers:—

## HAND-BOOK TO LAND TAX (State)

## RULES OF THE LAND COURT.

(under the provisions of "The Land Tax Act of 1915" as amended by "The Land Tax Act Amendment Act of 1920").

Rules of  
the  
Land Court

In pursuance of the powers conferred upon us by "The Land Tax Act of 1915," as amended by "The Land Tax Act Amendment Act of 1920," we, Francis Xavier Heeney, Patrick William Shannon, and Herbert Freemont Hardacre, Members of the Land Court, hereby make the following Rules for regulating the practice and procedure in relation to appeals against assessments of Land Tax.

1. An appeal to the Land Court shall be instituted by filing in the Office of the Registrar of such Court the Notice of Appeal referred to in Regulation 28 of "The Land Tax Regulations 1920," made under "The Land Tax Act of 1915" and its amendments. Such notice shall be delivered or transmitted to the Registrar so as to reach him within thirty days after the notified date on which the Land Tax is payable or within thirty days after the notification of the decision of the Commissioner on an objection under Regulation 30, as the case may be.

2. When giving notice of appeal the appellant shall supply particulars of the situation of the land in respect of which the assessment appealed against has been made. This shall be done by endorsement on the notice of appeal.

3. The Registrar shall give to all parties concerned not less than thirty days' notice of the time and place appointed by the Court for the hearing of the appeal.

4. Ten days at least before the commencement of the Sittings of the Court at which an appeal is to be heard, the Commissioner of Taxes shall lodge with the Registrar of the Court copies of all such documents in his possession as may be necessary for the hearing of the appeal.

5. Ten days at least before the commencement of the Sittings of the Court at which an appeal is to be heard, the Appellant shall lodge with the Registrar of the Court copies of all such documents in his possession as may be necessary for the hearing of the Appeal.

6. Subject to the above Rules the Rules of the Land Court and Land Appeal Court, respectively, for the time being in force shall apply to appeals against assessments of Land Tax so far as the same may be applicable to such appeals.

Dated at Brisbane this eighth day of October, 1920.

FRANCIS X. HEENEY,  
P. W. SHANNON,  
H. F. HARDACRE,

Members of the Land Court

Gov. Gaz., 13th November, 1920, page 1788.

The Regulations 28 and 30, referred to in the Rules of the Land Court, read as follows:—

**Part V.—APPEALS AGAINST LAND TAX.**

28. (1). The appeal which may be made by any taxpayer or person under section 27 of the Act must be made to the Land Court within thirty days after the notified date on which the land tax is payable, and at the time the appeal is made a copy of the notice of appeal must be sent by such taxpayer or person to the Commissioner.

Appeals  
Against  
Land Tax

(2) Copies of all notices of appeal against assessments shall be delivered to, or posted so that in the ordinary course of post they would be delivered to the Commissioner, not less than sixty days before the commencement of the sittings of the Court at which the appeal is to be heard.

(3) A notice of appeal shall be in Form F in the Schedule hereto.

(4) The Commissioner may, after receiving notice of appeal, alter the assessment in accordance with the requirements of such notice, and may, not less than fourteen days before the commencement of the sittings of the Court at which the appeal is to be heard, give notice of such alteration to the appellant and to the Registrar of the Land Court, and thereupon the appeal shall be determined.

(5) The Commissioner may, after receiving notice of appeal, reduce the assessment, and may, not less than fourteen days before the commencement of the sittings of the Court at which the appeal is to be heard, give notice of such reduction to the appellant, who may, not less than seven days before the commencement of the said sittings, give to the Commissioner and to the Registrar of the Land Court notice that he accepts the assessment as reduced, and thereupon the appeal shall be determined. If the appellant does not give such notice the assessment as reduced shall be deemed to be the assessment appealed against.

**Objections against Land Tax.**

30. (1) Where a taxpayer is dissatisfied with his assessment, but does not desire to appeal to the Land Court, he may, within thirty days after the notified date on which the land tax is payable, state his objections in writing to the Commissioner in Form G in the Schedule hereto. The objections shall be considered, and may be allowed, either wholly or in part, and the assessment may be altered or amended accordingly.

Objections  
Against  
Land Tax

(2) Written notice of the decision of the Commissioner upon such objections shall be given to the taxpayer in such of the Forms H1 or H2 in the Schedule hereto as is applicable. If the taxpayer is dissatisfied with the decision of the Commissioner, he may within thirty days after the due date of the written notice of such decision appeal to the Land Court, and the original assessment, as altered or amended by the said decision, shall be the assessment appealed against; in all other respects the matter shall proceed as an ordinary appeal against an assessment, provided that the grounds of appeal shall be limited to the grounds of objection.

Regulation 29 refers to Appeals, and it lays down two things distinctly:—

Restrictions  
Regarding  
Appeals

1. An appeal will not be allowed unless a copy thereof is sent to the Commissioner.

2. The taxpayer will be restricted at the hearing of the appeal to the grounds stated on the Notice of Appeal. The taxpayer should be careful therefore to set down as fully as possible the grounds on which he thinks his assessment should be reduced as afterthoughts are not allowable. The regulation reads as under:—

29. (1) No appeal shall be allowed in respect of which no copy of the notice of appeal has been forwarded within the period hereinbefore limited.

(2) The appellant shall be restricted on the hearing of any appeal to the grounds stated in the notice of appeal.

Formal  
Defects in  
Documents  
not to  
Vitiate

Regulation 31 refers to any formal defect in any document used by the Commissioner, such formal defects not being taken to vitiate same if they are in substance and effect in accordance with the Act and regulations. Regulation 32 gives the Commissioner the power to extend or abridge any of the periods of time referred to in connection with either appeals or objections. They are as follows:—

#### Formal defects not to vitiate.

31. No assessment, warrant, notice, authority, or proceeding which is or purports to be made, given or effected under the Act or Regulations shall be void or voidable for want of form, or be impeached or affected by reason of any mistake, defect, or omission therein, if it is in substance and effect in conformity with the Act or Regulations, and if the person or property concerned is indicated therein with reasonable sufficiency.

#### Time.

32. The Commissioner and an appellant may agree to abridge or extend any of the periods of time specified in this Part.

Extension  
of Time  
for  
Appeal

We come next to the question of costs, and presumably the taxpayer has considered this question, for in the words of Holy Writ, "What king, going to make war against another king, sitteth not down first, and considereth whether he be able with ten thousand to meet him that cometh against him with twenty thousand, or else, while the other is yet a great way off, he sendeth an ambassage and desireth conditions of peace."

The payment of costs having to be prepared for it is as well that the taxpayer should know who will have to pay same. In the original Act, the matter of costs was left to

the discretion of the Court. Now, however, the following provision is laid down in Subsection 2 of Section 10 of the Amending Act of 1920:—

“If the value of the land as finally fixed by the Court is the value at which it has been entered by the taxpayer in his land tax return or in any objection lodged by him, or is nearer to that value than to the value placed upon it by the Commissioner, costs shall be awarded against the Commissioner, otherwise costs shall be awarded against the taxpayer.”

The  
Payment  
of Costs

That is to say, if in the judgment of the Court, the value of the land is fixed at a sum which is nearer the taxpayer's value than it is to the valuation adopted by the Commissioner, the latter has to bear the costs. If on the other hand it is fixed at a sum nearer the Commissioner's valuation then the taxpayer has to bear the brunt. The following further information is given for the benefit of the taxpayer.

When an assessment has been made on the Local Authority's values, if the taxpayer has not previously appealed against such valuation, he is likely to have a difficult task before him if he appeals, as although in nine cases out of ten, the L.A. values are made for rating purposes and not always on a careful analysis of sales of land in the district, the fact that the taxpayer has accepted same without protest will undoubtedly tell against him. In some cases, however, the L.A. values are very reliable and the taxpayer will have to be careful as to his grounds of appeal or objection.

Appeal  
Against  
L. A. Values

Generally speaking, the taxpayer should get the following information together when he decides to object or appeal:—

Information  
for  
Objections  
or Appeals

1. Prices paid at sales for similar land in the neighbourhood. Get as many instances as you possibly can.
2. Give your own purchase price of the land, and state what factors should be taken into consideration as making for increase or depreciation of the value of the land since it came into your possession. Perhaps for sentimental or other reasons, inexperience, etc., you paid too much when purchasing. This should be clearly explained and insisted upon.
3. If your land has been put up for sale at auction and the bids are not satisfactory, being far below your reserve, you should state the amounts offered, and the amount of the reserve placed by you on the land.
4. Any other practical considerations, such as deterioration, growth of prickly pear or other noxious

weed or any practical and bona fide reason which in your opinion bears on the question should be fully and clearly stated.

It is of the greatest importance that you furnish the Commissioner with all the information at your disposal, wholly and unreservedly, for thus only can you hope to get the valuation of your land placed on a sound and equitable basis.

There are certain things which in this connection you cannot do with much hope of success:

What  
Cannot  
be  
Appealed  
Against

1. You can hardly appeal against your own unimproved value of your land, for on the front of Form B you make the following declaration:—

“I hereby declare that the list as shown on page 2 of this return contains a full and true account of all land held by me as at midnight on 30th June, 19—, that the descriptions of the said land, with areas and values are correct, and that the improvements as stated are actually in and upon the said land.”

In face of such a declaration you cannot justly complain, if the assessments are made out on your own valuation.

You can, however, if you have made a mistake or been misled write to the Commissioner and acquaint him with the fact, and at the same time explain how you came to make such a mistake. He may or may not make such an alteration in your assessment as you may desire. It will depend on the strength of your case. If he does not do so, you might then wait until the following year and then submit a return with the corrected values.

2. You cannot appeal against penalties. If, for instance, a taxpayer has been charged a penalty for late lodgment of return, and says that he posted same before the due date, the onus of proof that he did so will lie on his shoulders. On the other hand, say the Commissioner prosecuted a taxpayer for not furnishing a return under Subsection 8 of Section 58, his statement that he did not receive such a return would be sufficient:—

“On the hearing of a complaint for any offence against this Act, if it is alleged in the complaint that any return has not been received by the Commissioner, such allegation shall be prima-facie evidence that such return had not been furnished to the Commissioner.”

3. You should not appeal after the due date for lodgment of appeal has elapsed. If you lodge an appeal after the due date, it will be treated as invalid, and will not be considered.

## SPECIMEN OF FORM F.

Form F.

QUEENSLAND.

File No. 24636

"The Land Tax Act" (State).

### NOTICE OF APPEAL AGAINST ASSESSMENT.

I hereby give notice that I appeal to the Land Court against the Assessment No. 24636 made upon me for Land Tax, on land owned on 30th June, 1920, namely £15/17/8 on an unimproved value of £2250 upon the grounds hereunder mentioned.

Dated at Nerang, this fifteenth day of November, 1921.

Signature, RICHARD ROE

Postal Address, Farmer

Address for Service, Nerang

### Grounds of Appeal.

1. That the assessment is excessive (or otherwise) and should be altered in the following manner:—

That the unimproved value of parcels 2 and 3 of my 1919 return being the value of the lands described hereunder, should be assessed at £750 instead of £1000 as valued by a Government Valuer.

Parcel 2 Subdivision 64 of Portion 3 County Stanley, Parish Enoggera area 44 acres

Parcel 3 Subdivision 65 of Portion 3 County Stanley, Parish Enoggera area 54 acres

2. That I have had this land in the hands of my Agents for sale for the past twelve months, and would be willing to take £1000 for it inclusive of all improvements.

3. That similar land in the neighbourhood has sold for £10 per acre improved value and the improvements are worth £4 per acre.

### Note for Taxpayer.

1. This form should be made out in duplicate, and one copy sent to the Registrar of the Land Court, Brisbane, and the other to the Commissioner of Taxes Brisbane.

2. Under the rules of the Land Court, the situation of your land must be shewn on this form. This is very important.



## SPECIMEN OF FORM "G"

Form G.

QUEENSLAND.

File No. 24636

The Land Tax Act (State).

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### OBJECTION BY A TAXPAYER.

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The Commissioner of Taxes,  
Brisbane.

I hereby give you notice that I object to the Assessment No. 24636 made upon me for Land Tax on land owned on the 30th June, 1920, namely £20 on an unimproved value of £2500 upon the grounds hereunder mentioned.

Dated at Nerang this first day of October, 1920.

Signature, RICHARD ROE

Postal Address, Nerang.

#### Grounds of Objection Referred to.

1. That the Assessment is excessive and should be altered in the following manner:—That the unimproved value of parcels 2 and 3 of my 1919 return should be assessed at £750, instead of £1250 as valued by a Government Valuer.
2. That I have had this land in the hands of my agents for sale for the past twelve months, and would be willing to take £1000 for it inclusive of all improvements.
3. That similar land in the neighbourhood has sold for £10 per acre improved value and the improvements are worth £4 per acre.

# SPECIMEN OF FORM "H1"

Form H1.)

QUEENSLAND.

## THE LAND TAX ACT (STATE).

### Decision of Commissioner on Objection by Taxpayer allowing such Objection wholly or in part.

File No. 24636

Assessment No. 24636

Name of Taxpayer, RICHARD ROE

Postal Address, Farmer, Nerang

Unimproved Value as Assessed by Commissioner .. .. £2500

Unimproved Value as claimed by Taxpayer .. .. £2000

Unimproved Value as now decided by Commissioner .. £2250

**The Amended Assessment will be—**

		£	s.	d.		£	s.	d.
Unimproved Value of Land .. £2250								
Statutory Deduction .. £ 300								
£1950 @ 1½d.		14	4	4				
Value of Undeveloped Land .. £ 200								
Proportion of Statutory Deduction £Nil								
£ 200 @ 2d.		1	13	4		15	17	8
Super Tax on £———— @ d.								
Penalty for Late Lodgment of Return, per cent. ..								
Penalty for Late Payment, 10 per cent. .. ..								
Total Amount of Amended Assessment £						15	17	8

I hereby notify you that I have considered your objection and allowed it to the extent indicated above, and unless within thirty days from the date hereof you appeal to the Land Court as provided by the above Act and the regulations thereunder, such decision shall be deemed to stand, and the matter shall be deemed to be determined.

Dated at Brisbane this 31st day of October, 1921

To Mr. RICHARD ROE,  
Farmer,  
Nerang.

(Sd.) H. D. BRENNAN,  
Commissioner of Taxes.

## **SPECIMEN OF FORM "H.2"**

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Form H2

QUEENSLAND.

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The Land Tax Act (State).

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### **Decision of Commissioner on Objection by Taxpayer, Disallowing such Objection.**

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File no. 1872

Assessment No. 1872

Name of Taxpayer: JOHN DOE

Postal Address: Farmer, Kilcoy

Unimproved value as assessed by Commissioner, £5000

Unimproved value as claimed by Taxpayer, £3000

---

I hereby notify you that I have considered your objection, and that I do not allow it, and unless within thirty days from the date hereof you appeal to the Land Court, as provided by the above Act and the regulations thereunder, such decision shall be deemed to stand and the matter shall be deemed to be determined.

Dated at Brisbane, this 1st day of November, 1920.

(Sd.) H. D. BRENNAN,  
Commissioner of Taxes.

To Mr. JOHN DOE,  
Farmer, Kilroy.

## CHAPTER VIII.

CONFISCATION OF LAND, PROCEEDINGS FOR  
RECOVERY OF TAX, ETC.

Confiscation is the punishment which, like the fabled sword of Damocles, hangs by a single hair over the head of any taxpayer who fraudulently undervalues his land to the extent of 25 per cent. of its unimproved value, or more. Confiscation  
of Land

The position is that if a taxpayer so undervalues his land, the Commissioner has the power to apply to the Supreme Court for a declaration that the Crown is entitled to acquire the land in question, under the provisions of this Act. Confiscation  
with  
Compensation

The application shall be heard by a Judge of the Supreme Court, and the taxpayer is entitled to oppose same. If the Judge gives a decision against the taxpayer, then the taxpayer may appeal to the Full Court. If the taxpayer does not appeal to the Full Court, or the Full Court gives an adverse decision in the matter, and the decision is as follows:

- (1) That the land was undervalued to the extent of 25 per cent. of its unimproved value, and
- (2) The undervaluation was made with a view to evading taxation, then the Judge shall grant the application, and shall make such order as to costs as he thinks proper.

Thereupon, the Governor in Council may by proclamation in the Government Gazette resume such land, subject to all leases, mortgages and other charges then affecting the land.

The owner will receive in compensation for the land thus compulsorily taken over, the improved value of the land plus ten per cent. thereof as an allowance for compulsory dispossession. The improved value referred to, is made up of the unimproved value shewn by the owner in his return plus the value of improvements on a fair valuation.

After the land has been acquired by the Crown, the Governor in Council may authorise the use of the land

for any public purpose for which it is required, or if it is not required for any public purpose, may authorise the disposal of it as he thinks fit.

I do not think that there is any taxpayer in Queensland, who, knowing these facts, would willingly expose himself to such a grave penalty, though, even now, it is possible that there are some who, through ignorance of what may be in store for them, are sailing pretty close to the wind. For the information of taxpayers I append Part VI. of the Act, in full:

#### Part VI.—ACQUISITION OF LAND.

31. If the Commissioner is of opinion that the owner of any land has, in a return furnished under this Act, understated the unimproved value of the land, to the extent of twenty-five per centum or more, the following provisions shall apply:—

Provisions  
to Acquire  
Land  
Where  
Undervalued

- (a) The Commissioner may apply to the Supreme Court for a declaration that the Crown is entitled to acquire the land under this Act.
- (b) The application shall be heard by a Judge of the Supreme Court, from whose decision an appeal shall lie to the Full Court; and the owner of the land shall be entitled to be heard.
- (c) If the Judge or Full Court—
  - (i.) Is satisfied that the owner has understated the unimproved value of the land to the extent of twenty-five per centum or more; and
  - (ii.) Is not satisfied that the undervaluation was not made with a view to evading taxation, he shall make the declaration applied for and make such order as to costs as he thinks proper.
- (d) Thereupon the Governor in Council may acquire the land on behalf of the Crown; and for that purpose may, within a reasonable time, by proclamation, declare that the land is vested in the Crown, but subject to all leases, mortgages, and other charges affecting the land.
- (e) The effect of the proclamation shall be to vest the land in the Crown for the same estate or interest therein as the owner was entitled to at the date of the publication of the proclamation in the Gazette, but subject to all leases, mortgages, and other charges then affecting the land, and to entitle the owner to compensation therefor upon the basis of the improved value obtained by adding the \*fair value of improvements to the unimproved value stated in the return, together with the amount of ten per centum upon that improved value, by way of an allowance for compulsory dispossession.

\* Note.—For the meaning of 'fair value of improvements' see definition of 'Value of improvements' in Chapter I. and my remarks thereon.

(f) The provisions of "The Public Works Land Resumption Act of 1906"\* shall, so far as applicable, but subject to this Act, apply in relation to the land so acquired as if it had been acquired under that Act.

(g) The Governor in Council may authorise the use of the land for any public purpose for which it is required; or, if it is not required for any public purpose, may authorise the disposal of it as he thinks fit.

2. There is a further heavy penalty for deliberate under valuation of a taxpayer's land, viz., **CONFISCATION WITHOUT COMPENSATION**, or penalty up to £500 and treble the difference in tax. Under Part VI. compensation is allowed, but under Sections 49 to 51 there is no compensation allowed.

Confiscation  
Without  
Compensation

The Sections referred to are as follows:—

49. (1) Any person who, with intent to defraud, in any return understates the unimproved value of any land, shall be liable to a penalty not exceeding five hundred pounds, and also to an amount equal to treble the amount of the tax which would have been evaded if the value stated in the return had been accepted as the unimproved value of the land; or to forfeiture of the land undervalued or any part thereof.

Under  
valuation  
of Land

(2.) Where the value stated in the return is less, by twenty-five per centum or more, than the value as found by the adjudicating court, the value shall be presumed, in the absence of evidence to the contrary, to have been understated with intent to defraud.

50. Any person who by any wilful act, default, or neglect, or by any fraud, art, or contrivance whatever, evades or attempts to evade assessment or taxation, shall be liable to a penalty not exceeding five hundred pounds and treble the amount of the tax, payment whereof he has evaded or attempted to evade; or to forfeiture of the land in respect of which the offence was committed, or any part thereof.

Evading  
Taxation

51. (1.) Where, on the conviction of any person under either of the last two preceding sections, the penalty of forfeiture of any of his land has been imposed, the Governor in Council may, by proclamation, declare that the estate or interest of that person in the land is forfeited to His Majesty.

Forfeiture  
of  
Land for  
Fraudulent  
Evasions,  
&c.

(2.) The proclamation shall have the same effect as a proclamation under Part VI. of this Act, but the taxpayer shall not be entitled to any compensation.

The taxpayer is, however, protected in this respect, that action must be taken against him in regard to any offence committed by him within six months next after the date on which the offence committed comes under the

notice of the Commissioner. See Section 56, which provides as follows:—

Offences under this Act may be Prosecuted Within Six Months

Notwithstanding anything in any Act to the contrary, any complaint for any offence committed or penalty incurred under this Act may be brought, heard, and determined at any time within six months next after the date when the fact that the offence was committed or the penalty was incurred came to the knowledge of the Commissioner.

A somewhat similar time limit applies where action is taken by a taxpayer against the Commissioner or any officer or person employed under this Act in the execution of his duty. This is provided for in Section 57:—

Actions against Officers

No action for anything done or omitted to be done by the Commissioner, or any officer or person appointed or employed under this Act, in the execution of his duty shall be brought, unless the same is commenced within six months after the act or omission complained of was done or omitted to be done; and no such action shall be commenced until one month's previous notice in writing thereof, and of the cause thereof, has been delivered to the defendant by the party intending to commence such action.

If any taxpayer during his lifetime omitted, whether intentionally or not, to make full and complete returns, then the following Section shall apply:—

Provision when full Tax not paid during lifetime

36. The following provisions shall apply in any case where, whether intentionally or not, a taxpayer escapes full taxation in his lifetime by reason of not having duly made full and complete returns:—

- (a) The Commissioner shall have the same powers and remedies against the executors and administrators of the taxpayer in respect of the estate of the taxpayer as he would have had against the taxpayer in his lifetime.
- (b) The executors and administrators shall make such returns as the Commissioner requires for the purpose of a full assessment.
- (c) The assessment shall be at the rates payable in respect of the years for which the tax ought to have been paid, and the amount payable shall (where the taxpayer's default was intentional)\* be treble the amount of the difference between the tax so assessed and the amount actually paid by the taxpayer, and shall be a first charge on all the taxpayer's estate in the hands of the executors and administrators.
- (d) No lapse of time shall prevent the operation of this section, and the Commissioner may take all such proceedings and exercise all such powers and remedies for the purpose of giving effect to this section and recovering the treble tax as in the case of ordinary assessments and taxation.

The points to be noted by the executors and administrators of the Estate are:—

- (1) The Commissioner has the same powers and remedies against them in respect of the Estate, as he would have had against the taxpayer in his lifetime.
- (2) They are liable to make any returns asked for by the Commissioner.
- (3) When it has been proved that the omission has been intentional, treble the amount of the difference between the tax so assessed, and the amount originally charged will have to be paid.
- (4) The amount of the tax will be a first charge on all the taxpayer's estate in their hands.
- (5) No lapse of time shall bar the operation of this Section.

### RECOVERY OF TAX.

3. It should never be necessary for a taxpayer to be proceeded against for recovery of tax. If he is in financial difficulties, he should apply for relief under the provisions of Section 46 of the Act, or he can apply for an extension of time for payment, or he can apply for permission to pay in instalments. If he has a good case, he will not experience much difficulty in coming to some satisfactory arrangement about the matter. If he thinks he is being assessed wrongly, then he can write to the Commissioner and state his grievance. His complaint will receive due attention. But all these things should be done when he first receives his assessment notice. He should not wait for a summons to be issued to start getting excited about the matter. However, should he be so unfortunate as to be proceeded against for the recovery of tax, then he should note the following matters:—

Recovery  
of Tax

(1). He shall not be competent to question the correctness of the assessment register, i.e., the amount of the assessment. As soon as any assessment is made, it has, under Subsection 2 of Section 18, to be entered in the assessment register; and under Subsection 3 of the same Section, notice of such assessment is given to the taxpayer. Further, under Subsection 4 of Section 58, it is provided that:—

Correctness  
of  
Assessment  
Cannot be  
Questioned



The production of any assessment-register or book, or of any document under the hand of the Commissioner purporting to be a copy of or extract from any such register or book, shall be conclusive evidence of the making of the assessment, and, except as hereinafter mentioned, shall be conclusive evidence that the amount and all the particulars of such assessment appearing in such register, book, or document are absolutely correct:

Provided that in any proceedings on appeal the same shall be prima-facie evidence only of the matters aforesaid.

It will be noted that in proceedings for recovery of tax, the production of the assessment register, etc., shall be conclusive evidence that the amount and all the particulars of such assessment are absolutely correct. Whereas, in proceedings on appeal, they are only looked upon as prima facie evidence. Prima facie (on the first aspect) evidence, is evidence which will prevail if not rebutted or disproved.

The reason why the taxpayer cannot question the correctness of the assessment register is because he has had ample time to object to his assessment by the due date given on the assessment notice. Or even if he had failed for some valid reason to record a formal objection, he could have written to the Commissioner and explained matters.

It is not a light matter to place difficulties in the way of collection of tax by the Commissioner. So that the taxpayer places himself in an unenviable position from which he will find it difficult to extricate himself. But even at this eleventh hour, if he has a good case, he can possibly get a stay of proceedings if he goes to the clerk of Petty Sessions and lays the whole matter before him, and asks for a representation on his behalf to be made to the Commissioner. But if such stay of proceedings is granted, it is possible that the offending party will have to bear the costs of court, which is only fair and equitable when one considers that the Department has been put to much unnecessary expense in the matter.

(2). He cannot take shelter under any Statute of Limitations. In the case of an ordinary debt, a certain period is fixed, within which, if at all, proceedings must be taken to enforce the rights of the creditor, or else the right of action is lost, though the debt is not thereby extinguished. In regard to Land Tax, the right of action is never lost. Subsection 6 of Section 34 lays down that:

No statute of limitations now or hereafter in force shall bar or affect any action, proceeding, or remedy for the recovery of land tax.

No  
Statute of  
Limitations

(3). When a summons is served for the recovery of Land Tax, the defendant is entitled to have the following information conveyed to him in the particulars of demand:—

Information  
in  
Particulars  
of  
Demand

A description of the land on which the said tax is due.

The amount sought to be recovered.

The date or dates on which the tax became due.

Such other information as the Commissioner may think necessary in order to fully inform the defendant of the nature of the claim.

(4). If he is going to defend, then at least six clear days before the day appointed for the hearing of the case, he should file a written statement of his defence, such statement to be verified on oath by him or on his behalf, with the clerk of the court in which the summons is returnable. If he does not do this, the Court will not allow him to make a defence when the case is heard, but will make an order for the amount claimed without the necessity of the Commissioner or anyone on his behalf appearing in Court, or proving the liability of the defendant and the non-payment of land tax.

How to  
Defend  
Case

(5). Under Subsection 11 of Section 58:

The onus of proof that any land is exempt from or not liable to payment of land tax, or is subject or entitled to any deduction, shall lie on the person claiming the benefit of such exemption, non-liability, or deduction.

Taxpayer  
to prove  
Exemption  
from Tax

From the information given above, the taxpayer will be able to take such steps as are necessary for his defence, in case he has been wrongly summonsed. I append the whole of Subsection 4 of Section 34, dealing with the proceedings in a Court of Petty Sessions:—

With respect to proceedings in a Court of Petty Sessions for the recovery of land tax, the following provisions shall have effect:—

Procedure  
in  
Petty  
Sessions

(i.) When a summons for the recovery of land tax is issued and served, then, unless at least six clear days before the day appointed for the hearing a statement in writing verified on oath by or on behalf of the defendant, showing a defence on the merits, is delivered to the clerk of the Court in which the summons is returnable, the Court shall make an order for

the amount claimed without allowing any defence, and without the necessity of the Commissioner or any one on his behalf appearing in court or proving the liability of the defendant and the non-payment of land tax;

(ii.) In all such cases the summons shall be served upon the defendant at least fourteen days before the day appointed for the hearing;

(iii.) It shall be sufficient in any such proceeding if the particulars of demand state in respect of what land such tax is payable, the amount sought to be recovered, and the date or dates on which the same was payable, together with such further and other particulars as the Commissioner thinks necessary to fully inform the defendant of the nature of the demand;

(iv.) An order made when either party does not appear may be set aside upon such terms as to costs, or otherwise as the Court in which application is made to set aside the same thinks fit, and in such case the Court may hear and determine the proceedings in respect of which such order was made.

6. In conclusion, where any Regulations in connection with the Land Tax Act of 1915, have been referred to, attention is drawn to the fact that the Governor in Council may, from time to time, issue such regulations, and they become binding on taxpayers as soon as they are published in the Government Gazette, and must be looked upon as part of the Act as from the date of publication, and must receive due observance.

Conclusion

With these words I make my bow to the reader, and trust that the perusal of this little book will prove to his personal advantage in many ways, as I am certain that the information contained herein could not be obtained elsewhere, except at very much greater cost and trouble.

FINIS.

# G. S. Hutton & Macfarlane,

PUBLIC ACCOUNTANTS.  
AUDITORS.  
CREDITORS' TRUSTEES.  
AND  
TAXATION SPECIALISTS.

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UNION TRUSTEES CHAMBERS,  
398-400 QUEEN STREET,  
BRISBANE.

Telephone: Central 70 (3 lines)

**READY RECKONER.**  
**Taxable Value, £1 to £3,999.**

	£1 to £499 at 1d.	£500 to £999 at 1½d.	£1000 to £1999 at 1½d.	£2000 to £2499 at 2d.	£2500 to £2999 at 2½d.	£3000 to £3999 at 2½d.
	£ s. d.	£ s. d.	£ s. d.	£ s. d.	£ s. d.	£ s. d.
1	1	1½	1½	2	2½	2½
2	2	3	3½	4	4½	5
3	3	4½	5½	6	6½	7½
4	4	6	7	8	9	10
5	5	7½	8½	10	11½	1 0½
6	6	9	10½	1 0	1 1½	1 3
7	7	10½	1 0½	1 2	1 3½	1 5½
8	8	1 0	1 2	1 4	1 6	1 8
9	9	1 1½	1 3½	1 6	1 8½	1 10½
10	10	1 3	1 5½	1 8	1 10½	2 1
20	1 8	2 6	2 11	3 4	3 9	4 2
30	2 6	3 9	4 4½	5 0	5 7½	6 3
40	3 4	5 0	5 10	6 8	7 6	8 4
50	4 2	6 3	7 3½	8 4	9 4½	10 5
60	5 0	7 6	8 9	10 0	11 3	12 6
70	5 10	8 9	10 2½	11 8	13 1½	14 7
80	6 8	10 0	11 8	13 4	15 0	16 8
90	7 6	11 3	13 1½	15 0	16 10½	18 9
100	8 4		14 7	16 8		
200	16 8		1 9 2			
300	1 5 0		2 3 9			
400	1 13 4		2 18 4			
499	2 1 7		3 12 9½			
500		3 2 6	3 12 11			
600		3 15 0	4 7 6			
700		4 7 6	5 2 1			
800		5 0 0	5 16 8			
900		5 12 6	6 11 3			
999		6 4 10½	7 5 8½			
1000			7 5 10			
1999			14 11 6½			
2000				16 13 4		
2100				17 10 0		
2200				18 6 8		
2300				19 3 4		
2400				20 0 0		
2499				20 16 6		
2500					23 8 9	
2600					24 7 6	
2700					25 6 3	
2800					26 5 0	
2900					27 3 9	
2999					28 2 3½	
3000						31 5 0
3100						32 5 10
3200						33 6 8
3300						34 7 6
3400						35 8 4
3500						36 9 2
3600						37 10 0
3700						38 10 10
3800						39 11 8
3900						40 12 6
3999						41 13 1½

**LADY RECKONER. Taxable Value. £4,000 to £100,000.**

£4000 to £4999 at 2d.	£5000 to £5999 at 3d.	£10000 to £19999 at 3½d.	£20000 to £29999 at 4d.	£30000 to £49999 at 4½d.	£50000 to £59999 at 5d.	£60000 to £74999 at 5½d.	£75,000 and over at 6d.
f s. d.	f s. d.	f s. d.	f s. d.	f s. d.	f s. d.	f s. d.	f s. d.
23	3	3½	4	4½	5	5½	6
5½	6	7	8	9	10	11	1 0
8½	9	10½	1 0	1 1½	1 3	1 4½	1 6
11	1 0	1 2	1 4	1 6	1 8	1 10	2 0
1 12	1 3	1 5½	1 8	1 10½	2 1	2 3½	2 6
1 4½	1 6	1 9	2 0	2 3	2 6	2 9	3 0
1 7½	1 9	2 0½	2 4	2 7½	2 11	3 2½	3 6
1 10	2 0	2 4	2 8	3 0	3 4	3 8	4 0
2 02	2 3	2 7½	3 0	3 4½	3 9	4 1½	4 6
2 3½	2 6	2 11	3 4	3 9	4 2	4 7	5 0
4 7	5 0	5 10	6 8	7 6	8 4	9 2	10 0
6 10½	7 6	8 9	10 0	11 3	12 6	13 9	15 0
9 2	10 0	11 8	13 4	15 0	16 8	18 4	1 0 0
11 5½	12 6	14 7	16 8	18 9	1 0 10	1 2 11	1 5 0
13 9	15 0	17 6	1 0 0	1 2 6	1 5 0	1 7 6	1 10 0
16 0½	17 6	1 0 5	1 3 4	1 6 3	1 9 2	1 12 1	1 15 0
18 4	1 0 0	1 3 4	1 6 8	1 10 0	1 13 4	1 16 8	2 0 0
1 0 7½	1 2 6	1 6 3	1 10 0	1 13 9	1 17 6	2 1 3	2 5 0
1 2 11	1 5 0	1 9 2	1 13 4	1 17 6	2 1 8	2 5 10	2 10 0
2 5 10	2 10 0	2 18 4	3 6 8	3 15 0	4 3 4	4 11 8	5 0 0
3 8 9	3 15 0	4 7 6	5 0 0	5 12 6	6 5 0	6 17 6	7 10 0
4 11 8	5 0 0	5 16 8	6 13 4	7 10 0	8 6 8	9 3 4	10 0 0
5 14 7	6 5 0	7 5 10	8 6 8	9 7 6	10 8 4	11 9 2	12 10 0
6 17 6	7 10 0	8 15 0	10 0 0	11 5 0	12 10 0	13 15 0	15 0 0
8 0 5	8 15 0	10 4 2	11 13 4	13 2 6	14 11 8	16 0 10	17 10 0
9 3 4	10 0 0	11 13 4	13 6 8	15 0 0	16 13 4	18 6 8	20 0 0
10 6 3	11 5 0	13 2 6	15 0 0	16 17 6	18 15 0	20 12 6	22 10 0
11 8 11½				18 14 7½	20 16 3	22 17 10½	24 19 6
				18 15 0	20 16 8	22 18 4	25 0 0
				37 10 0	41 13 4	45 16 8	50 0 0
				56 5 0	62 10 0	68 15 0	75 0 0
45 16 8				75 0 0	83 6 8	91 13 4	100 0 0
	62 10 0			93 15 0	104 3 4	114 11 8	125 0 0
	75 0 0			112 10 0	125 0 0	137 10 0	150 0 0
	87 10 0			131 5 0	145 16 8	160 8 4	175 0 0
	100 0 0			150 0 0	166 13 4	183 6 8	200 0 0
	112 10 0			168 15 0	187 10 0	206 5 0	225 0 0
	124 19 9			187 9 7½	208 6 3	229 2 10½	249 19 6
		145 16 8		187 10 0		229 3 4	250 0 0
		160 8 4		206 5 0		252 1 8	275 0 0
		175 0 0		225 0 0		275 0 0	300 0 0
		189 11 8		243 15 0		297 18 4	325 0 0
		204 3 4		262 10 0		320 16 8	350 0 0
		218 15 0		281 5 0			375 0 0
		233 6 8		300 0 0			400 0 0
		247 18 4		318 15 0			425 0 0
		262 10 0		337 10 0			450 0 0
		277 1 8		356 5 0			475 0 0
		291 13 0½		374 9 7½			499 19 6
			333 6 8				500 0 0
			350 0 0				525 0 0
			366 13 4				550 0 0
			383 6 8				575 0 0
			400 0 0				600 0 0
			416 13 4				625 0 0
			433 6 8				650 0 0
			450 0 0				675 0 0
			466 13 4				700 0 0
			483 6 8				725 0 0
			499 19 8				749 19 6
				562 10 0			750 0 0
					1041 13 4		1250 0 0
						1375 0 0	1500 0 0

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# Local Government Law and Finance

*By*

C. E. CHUTER

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*December, 1920*

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## PREFACE.

When this paper was read before the Accountants and Secretaries' Educational Society, it was not anticipated that it would be published, except in the ordinary way to members of the Society. The statements made in the paper as actually read are contained in this publication. They have now been extended, and the tables upon which the statements were based are included. Moreover, events have happened since, as, for instance, the publication of the Report of the Royal Commission on Sewerage, affording information which hitherto was not available. Hence it is that the paper has reached its present dimensions.

In preparing the paper, I had in mind more particularly Local Government in cities and towns. The statements can, however, in a more or less degree, be applied also to country local government, although it would be difficult to obtain agreement on this point. Nevertheless, the reasons which make it necessary to apply local government in Brisbane in accordance with the basic principles of local government, namely—community and locality, apply also in the country.

At the present time there are well-defined districts divided up into several local governing units, with the result that each separate unit is unable to equip itself properly to

carry on the functions. This, in turn, not only involves a great wastage in overhead expenses, and a fruitful field of contention, but also requires the small Local Authority to seek the assistance of the State, not only financially, but in other ways. For instance, the small Local Authority is unable to employ engineers or surveyors to survey and locate roads, and has to seek the assistance of the State. The delays are almost interminable, and are a serious impediment to development.

How, then, can Local Government in the country be applied so that the Local Authority shall be in a position to equip itself to do its work? There is no royal answer to this question, but it is obvious that it can only be done by having larger areas. This applies particularly to the more closely settled districts. Last year a proposal was made to "district" local government in the Bundaberg District. This proposal involved the abolition of the City of Bundaberg (the Bundaberg City Council was in agreement), and the Shires in the district for which Bundaberg is the natural port, that is, practically the watershed of the Burnett River. The proposal was not given effect to, but it is gaining favour in the district. A Greater Local Authority of this sort should have control of the river and harbour works, and subject to certain qualifications, all the means of communication to the port. It is submitted that this would be true local government and true decentralisation.

At the present time there is a movement, which seems to be gathering force, to create additional States. The movement might now be described as a movement to create Provinces, as in Canada, that is to say, that a greater number of Provinces will take the place of States. There will thus still remain three branches of Government, namely—the Union or Commonwealth Government, Province with powers delegated to it by the Union or Commonwealth Parliament, and Local Government with powers delegated to it by the Province. The question, which presents itself, is whether Australia can afford three branches of Government, or whether it would not be more economical to have

only two branches, that is, the Union Government, and the Greater Local Authorities, based upon districts, with greater powers—taxation and other powers—and a clear demarcation between the powers of the two branches; that is to say, that the Local Authority be left to its own field of taxation and generally be not subject to meddling interference from the Central Government.

During the last few weeks, Councillor S. Fulford, of the Devon County Council, and an Alderman of the Urban Area of Northam, within the County of Devon, visited Queensland. From information supplied by Mr. Fulford, the chart in Appendix VIII. was drawn. By reference to the chart will be seen the functions of Local Government in England. The chart is, however, not exactly complete, because Local Governments may provide any service, and municipal control of trams, light, &c., is extensive, but it illustrates the relation of Local Government in the whole government of the country. In a sense there are three branches of government, namely—Central, County, and Local Government subject to the County. The Greater Cities are, however, not subject to the Counties, and have all the powers of the Counties. What is called Greater London occupies an area of 694 square miles, with a population of approximately 7,500,000, that is to say, within a radius of 15 miles of Westminster Bridge there is a population exceeding the population of Australasia. The London County Council governs 115 square miles, with a population of 4,500,000, and within it there are 27 Municipal Boroughs subject to the County, and the historic City of London, which is one square mile in area, not subject to the County. The remaining part of Greater London is under Counties, &c. There are no allowances or fees of any sort to Chairmen or Councillors in England. The service must be honourable service.

Rates, which are paid by the householder, are based upon two-thirds of the rent paid for the dwelling or premises. It will thus be seen that taxation is spread generally throughout the community. The total present taxa-

tion in the County of Devon, County and dependent Local Governments, including poor law, education, police, &c., amounts to 17/- in the £. Thus in respect of a workman's dwelling, with a floor measurement of 800 to 900 square feet, the pre-war rental of which was from 3/6 to 4/- a week, and present rental of from 5/3 to 6/- a week, the rate is from £7 to £8 a year. The dwelling would, therefore, cost the householder in rent and taxation approximately £20 a year; or 8/- a week. A householder occupying a dwelling with a rental value of £40 a year (such a dwelling would be fairly substantial and occupied by persons in receipt of an income of from £4 to £5 a week, which is equivalent, according to Mr. Fulford, to an income of from £6 to £7/10/- a week here), would pay, in rent £40, and Local Government taxes approximately £23, in all £63 a year. Workmen's dwellings are built in terraces of six, in two stories, under rigid building and cleansing regulations. There is, of course, great economy in land, a terrace of six dwellings occupying approximately 48 perches.

Almost daily something new appears. For instance, in the Brisbane "Courier," of the 7th instant, there appeared a reference to the financing of the Water Supply and Sewerage Board, and it was therein stated that there was reason to suppose that the Commonwealth Bank will be prepared to issue a loan in London for £1,000,000, and that terms at least equal to those of the Melbourne Board might be expected. This announcement passes, it would seem, unheeded. Yet it is an announcement of singular importance to the people of Brisbane. The Melbourne loan was issued at 99, bearing 6½ per cent. interest. The interest charge will, therefore, be £65,000 per annum, and presumably, some provision will require to be made to redeem the loan. If, then, this announcement is read in conjunction with the remarks which follow in this paper, it will be seen that it presages a material increase in Local Government taxation in Brisbane, sooner or later.

It also recently appeared in the Press, that a deputation, consisting of the Mayor and Aldermen of the City of



Brisbane, had waited upon the President of the Metropolitan Water Supply and Sewerage Board, to explain, or it might almost be said to request, permission to build, the proposed concrete roads. The incongruity of the situation passed quite unnoticed.

The Main Roads Board is an Authority constituted (appointed) to carry out a particular work, and the history of the Metropolitan Water Supply and Sewerage Board may become its history, and, if the Editor of "Liberty and Progress" (Melbourne) can be relied upon, the history of the Main Roads Board of Victoria has already overtaken the history of the Sewerage Board, for in the issue of December last, he says that the Victorian Board has constructed such lengths of main roads through some of the Municipalities of Victoria (meaning also Shires) that they cannot maintain them, let alone pay their half-share of the capital cost, or in other words, that the Board has constructed roads in some localities beyond the ability of the community to pay for them. Herein is an instance of the fundamental difference between Central control and Local control. The latter has to consider the economic question (according to its ability), for it has to tax itself.

The provision of good roads is a big problem. Its immensity may be gauged by a statement which appeared in the Report of the Roads and Transport Congress, London (1919), wherein an estimate, made in 1914, of the cost to bring the roads of England, Wales and Scotland up to the standard of modern traffic is given at approximately £300,000,000.

The original planning of some of the cities and towns in Queensland has made the provision of services almost an impossibility. For instance, take the case of the City of Bundaberg. The original plan of this city comprised 1½ square miles, and of this area more than 60 per cent. was absorbed in streets and reserves. This is not an isolated case. The town of Coolangatta is of recent origin. This town was laid out with chain and a half roads and portions half an acre in area.

It may be suggested that the first work of the Greater Brisbane will be the appointment of a competent authority to conduct a civic survey of the Metropolitan area, that is, an authority which will be able to take stock of the position. The paper written by Mr. Nelson, and referred to herein, is the only attempt that has been made in this direction with regard to Brisbane.

The subject matter of this paper is so wide that one is tempted to branch off into many avenues, but there must be some limitation. In its preparation I have had the valuable assistance of some of my colleagues in the department, principally Messrs. R. H. Robinson and R. Dickinson. In point of fact, the paper may be said to have been prepared in collaboration. We claim no merit for the paper, other than it presents the case in a manner and opens up a view-point that possibly has not been attempted before in this State, and that it is a presentation of facts. Allowing for the variations of methods in the different States, it is claimed that the tables present the comparisons fairly and without exaggeration.

C. E. CHUTER,  
Home Secretary's Dept., Brisbane.

11th July, 1921.

# Local Government Law and Finance

A Paper read by Mr. C. E. Chuter, Chief Clerk,  
Home Secretary's Department, before the members  
of the Accountants and Secretaries' Educational  
Society, Brisbane, on Wednesday, 8th December, 1920.  
(Revised and Enlarged.)

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NOTE.—In this paper, the following meanings are to be attached to  
the following terms:—

"Local Government Proper" and "Local Authority" mean the Local  
Authority constituted under the Local Authorities Acts.

"Local Government" includes all local government.

"The Acts" mean "The Local Authorities Acts, 1902-1920." (Con-  
solidated.)

The sections quoted or referred to are sections of "The Local Au-  
thorities Acts, 1902-1920." (Consolidated.)

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The title of this Paper: "Local Government Law and Finance"—to the casual mind may imply an analysis of the financial provisions of Local Government laws of Queensland, their operation in practice, and the principles underlying them. I have, however, endeavoured to treat the subject on broad principles, and present certain aspects which generally are not known or considered.

It is said that finance is the test of good government. Finance may also be said to be the foundation upon which the whole edifice of government rests. Means must be provided for giving effect to the functions of government, and if those means are not sufficient, or in their application oppressive or not properly distributed, functions of government will be carried out inefficiently or even not carried out at all. Particularly does this apply to local government.

In order to understand local government finance it is necessary, firstly, to become acquainted with the functions and purposes of local government, and I have treated this question in the first part of the paper. In some countries, certain functions are carried on as governmental or local

government functions; in others these same functions are carried on by private companies or by individuals. In the latter countries, those functions, e.g., tramways and lighting (and even water supply) have been recognised by law as local government functions. Enactments of the legislature may recognise that certain functions are functions of local government, but the powers (charter or constitution) of the governing body at its inception may be hedged round with limitations, financial or otherwise, which were intended, in some cases, at least, to act as safeguards. Further, the constitution of the governing body may be so unnatural as to make difficult the carrying on of its functions. These limitations are not only legislative, but geographical. Therefore, before we can measure local government in Queensland by the test of its finance, we must understand its functions, the purposes and elements of such functions, the incidence of taxation in relation to functions; the relation of functions and powers of the local government to those of the central government, the conditions under which the governing body is created or placed by legislative or central administrative action, and the restrictions and limitations on local government—legislative, administrative, and geographical (which as a rule, is caused by administrative action).

## FUNCTIONS OF LOCAL GOVERNMENT GENERALLY.

It is a comparatively simple matter to ascertain the functions of local government as they are regarded in Queensland or Australia, and the conditions of local government. They may be ascertained by an examination of the Statutes of the State, and of the administration of such Statutes; but to understand the principles of local government, the functions proper to local government, and the principles of local government taxation and finance, we are required to give consideration to a very complex subject. I cannot claim to be able to conduct you through an examination of this subject. The best I can do is to interpret, as well as I can, the work of others, aided by my experience, and, therefore, will quote briefly from the work of a very able writer. These quotations will make a very convenient preface to this paper.

Mr. Laurance Gomme, then Statistician to the London County Council, and author of several works on Local Government, delivered a series of lectures at the London School of Economics in the year 1897. These lectures were published later under the title of "Principles of Local Government," and were designed to set forth the lines along which the principles of local government should be studied. Mr. Gomme, in his Introduction, says:—

**"At present, principles of local government are not, in this country, considered at all. There is a vague sort of idea that local government is a good thing for Parliament to occupy itself with, but there is no serious attempt to consider it as a subject which is governed by principles and not by fancy, which should not therefore be left to the sudden energy of Parliaments desiring to be busy with something new."**

Mr. Gomme was referring to local government in England and Wales, where there are, approximately, 25,000 of varying types, a large number of which had taxing and borrowing powers. It was this state of things which led Chambers in "Local Government in England," to write:—

**“There is neither co-ordination nor sub-ordination among the numerical authorities which regulate our local affairs. Each authority appears to be unacquainted with the existence, or, at least, with the work of others. . . . Local Government in this country may fitly be described as consisting of a chaos of areas, a chaos of authorities, and a chaos of rates.”**

It can be established that these indictments are true of Queensland, even within our limited sphere and history.

In the chapter on the functions of local government, Mr. Gomme makes some statements to which I should like to refer. He points out that no great authority had attempted to determine the principles of local government as distinct from the principles of government in general, and says that “it is quite easy to say . . . . that the proper functions of local government are just those functions which are . . . . imposed upon or granted to localities by the State.” This statement of the case, he claims, “only avoids the real question and does not answer it, because there is the anterior question—what functions should the State take over itself, and what should it leave to the private individual?”

After discussing the actions of Governments with regard to certain subjects (including water supply, light, trams, &c.) he sets out a definition of his own, and says: “As a general conception of the definition, the functions proper to local government may be said to consist of those functions properly under Government control, and which, on account of their local interest and value, and of the limited range of benefits conferred by them, are best administered by or entrusted to Local Government.”

It may be noticed that, in these statements, the doctrine that some functions are better left to the individual is accepted. There are, of course, persons who hold that all functions are functions of government, and of those persons there are some who regard all functions as local government functions, that is, that we should resolve ourselves into communities, and that there should not be any State. There are some who believe in the other extreme. However, we can leave this aspect of the question alone, because the State has not yet determined that all functions are functions of government. Taking the position as we find it, that some functions are Governmental functions (central and local) and others left to the individual, we are confronted with another question. “What are the proper functions of government?” It is not my purpose to answer this question which Mr. Gomme merely discusses in its re-

lation to the proper functions of local government. He refers to "distinct pieces of evidence" on the subject:—(1) "The economic evidence that every new function imposed upon or granted to local government is a withdrawal from the sphere of private action"; and (2) "the historical evidence that every function undertaken by private enterprise is a withdrawal from the sphere of local government." He, however, accepted the economic standard, because it is based upon the doctrine of "general utility," and concluded his discussion with the statement that "the primary test of whether a particular service is properly a function of local governments depends, not upon whether it can be made remunerative to private capital but upon whether it is a service of general utility that its efficiency or abandonment would cause damage to the community," and he qualified this test by the statement that "No locality can afford to allow water supply, markets, cemeteries, fire insurance, lighting, locomotion, drainage, sanitation, education, or fire protection to be absolutely non-existent."

#### **The Relation of Local Government to "Locality" and "general utility."**

Mr. Gomme finished his lectures with a series of conclusions which were:—

- (1) That a locality is formed by the common interests of the community;
- (2) That all the inhabitants of the locality—Londoners, Yorkshiremen, Liverpudlians, and the rest—are the community of the locality;
- (3) That locality, formed in the manner stated, is the foundation of local government;
- (4) That the elected council is the responsible executive body, acting on behalf of, and not in substitution of, the communities;
- (5) That the benefit of the communities is the object and result of local government;
- (6) That the services administered, and proper to be administered, are services of general utility;
- (7) That the value of the services enures primarily to the owners of property;
- (8) That the cost of services is met by taxation which represents the amount of benefit conferred, not the amount of burden imposed; and

- (9) That the burden of taxation only arises when the amount paid as taxation is in excess of the amount of benefit conferred; the burden of taxation being the excess payment, not the total amount paid.

Mr. Gomme did not intend that his conclusions should be accepted as final principles, but as preliminaries making a convenient stepping-stone for a further consideration of the subject. This seems to be a very modest statement of his work, and I venture to say that his conclusions enable us to gather the fundamental principles underlying local government.

Although diffident in attempting to discuss these conclusions, I would like to direct attention to the terms "locality" and "general utility," and the words "benefit" and "burden." I wish at this stage to make some reference to the terms "locality" and "general utility."

#### Locality.

If we substitute for the words—"Londoners," "Yorkshiremen," the words "Brisbaneites," "men of the Logan and Albert," we gather his meaning of locality. The Brisbaneites are the community of a locality or City known as Brisbane; and if you were asked to define the locality, your answer would be "The Metropolitan Area of Brisbane." Again, if asked—"Are the people living on opposite sides of Victoria Park, or on opposite sides of the River, or all of us in this hall, members of different communities?" you would answer "No." Yet we find Brisbane arbitrarily divided up into nineteen local governing areas, as if Brisbane comprised nineteen localities and nineteen different communities, to say nothing of other forms of local government. What is the locality of the Logan and Albert inhabitants? Is it not the watershed of the Logan and Albert? The area of this watershed does not exceed 2,000 square miles. Yet we find it arbitrarily divided up into twelve local governing areas, with glaring inequalities. These factors have a harmful influence on the economy—finance—of local government.

#### General Utility.

Gomme chooses for us Bentham's definition of the doctrine of general utility (Treatise on the Theory of Government), which is as follows:—

**"The public good ought to be the object of the legislator; general utility ought to be the foundation of his reasonings. To know the true good of the com-**



**munity is what constitutes the science of legislation; the art consists in finding the means to realise that good."**

In Queensland every local function, which could answer to the test of general utility, has been imposed upon, or granted, either partially or wholly, to some form of local government; and of those functions granted to, but not imposed upon, local government, the legislature has recognised that these are functions of local government by the provision made for objection by the local government, or provision for the local government to take them over. We may instance tramways, lighting, &c., although we do not find this provision in the Gas Acts.

The position may be summarised as follows:—

- (a) That in our present conception of Government, functions proper to government are recognised to be functions of general utility;
- (b) That of the functions of general utility, those which are of common interest and benefit to localities are properly the functions of local government; and
- (c) That the cost of carrying on such functions is defrayed by some form of taxation.

## FUNCTIONS OF LOCAL GOVERNMENT IN QUEENSLAND.

We have now to examine the laws of the State to ascertain the functions of local government. This examination will reveal that some functions are partly administered by the State, and partly by local governments, while others, e.g., education, hospitals, charities, poor relief, housing, food inspection, which are administered in other countries by local government, are administered in this State by the Central Government. There are, of course, functions in some localities administered by local governments, and in others left to private enterprise. This latter, however, is only because local governments have failed to exercise them.

The history of each country has an influence in these matters, and, as previously pointed out, so has legislation and central administration. It has been asserted that in Great Britain, historical data established that the State derived its functions from the communities or local governments; in other words, that the State was created by the surrender of functions by local governments to the State.

Originally the Colonies were separate governments. From time to time they delegated some of their functions to a subsidiary form of local government. The Colonies then surrendered functions to the Commonwealth, and came to be known as States, and by their surrender of functions really became a form of local government within the Commonwealth, although, of course, retaining their sovereign rights. They retained their power to delegate functions to subsidiary forms of government. The position thus is, that the States surrendered functions to the Commonwealth, and can surrender other functions, and of those which they retained to themselves, some of them, wholly or partly, are delegated to a subsidiary form of government, which they can add to or take away at will.

It may be of interest to notice that Queensland and Victoria have applied Local Government to the whole of their States, while New South Wales and South Australia

have applied it to part only. In Queensland, local governments legislate by By-law within the ambit of their powers; in New South Wales the legislation is done for them by the Central Department by ordinance. Thus Queensland has a truer form of local government.

We find that Parliament of this State has declared the following to be the functions of local government:—

1. Road, bridges, ferries, &c.; sewerage, drainage.
2. Water supply.
3. Harbours, river-works, wharfage, jetties, &c., canals, locks.
4. Light and power.
5. Transit—tramways, omnibuses.
6. Agricultural drainage.
7. Markets, shops, offices, slaughter-houses.
8. Pests, noxious weeds.
9. Public safety and convenience; fire protection; impounding.
10. Traffic.
11. Public conveniences—baths, wash-houses, lavatories, &c.; public telephones.
12. Recreation — gymnasiums, parks, recreation grounds, halls, music.
13. Social—suppression of brothels; public decency; hospitals.
14. Education—Schools of Art, Technical Institutes, Museums, Libraries, Art Galleries, experimental farms.
15. Public Health—Town Planning, housing and amenity; opening new roads; building, provision and regulation of housing; demolition; statues, fountains, clocks, tree-planting.

These functions may be classified as follows:—

- (a) Functions, which have been imposed upon or granted to local government proper, and the exercise of which is the business or obligation of local government proper, namely:—roads, bridges, ferries, sewerage, drainage, pests (partly), noxious weeds, safety and convenience, impounding, convenience, recreation, health, town planning; and functions in respect of which other forms of Authority may be provided (and usually provid-

- ed) but in respect of certain localities have not been provided, namely:—water, wharfage, light, power, tramways, traffic, housing;
- (b) Functions, for the carrying on of which separate authorities may be (and usually are) created, namely:—Water (Water Boards or Authorities), Sewerage (Brisbane), Harbours (State or Harbour Boards), Cemeteries (trusts), Hospitals (committee), Fire Protection (boards), Education (State), Housing (State), Pure Food (State);
  - (c) Functions which, with a few exceptions, have been left to the individual, namely:—wharfage, light, power, tramways, slaughter-houses;
  - (d) Functions which are partly exercised by State and partly by local government, namely:—pests—animal and plant—and health;
  - (e) Functions which are partly exercised by State in some localities, and by some form of local government in other localities, namely:—harbours, traffic.

All the functions mentioned are recognised as functions of local government proper, in that they are to be found in the Local Authorities Acts and Health Acts, the two together being its charter of powers.

It would at first appear that the Local Authority has unfettered discretion in the exercise of the functions mentioned. Under the heading of "General Powers and Jurisdiction" in the Local Authorities Acts, it is charged with the construction, maintenance, management and control of all roads, bridges, ferries, wharves, jetties, and other necessary public works. Then, under Section 59, it is authorised to take, purchase, or otherwise provide land and buildings in respect of the matters mentioned and provide same with all necessary work, appliances, machinery, &c., and afford the use thereof to the inhabitants or any other person on such conditions, either without fee or charge, or such reasonable charges as the Local Authority may by By-law prescribe. These provisions make it appear that the State has given complete powers to the local authority and unfettered freedom to exercise them. Closer investigation, however, will show that this is not the case. The powers of the Local Authority are contained within the Statutes imposing or granting them. Thus the general powers are governed by other provisions, which so limit or restrict the exercise of the general powers as to make the exercise of some of them impracticable, if not impossible.

Now the gravamen of Mr. Gomme's charge is that Parliament, in legislating or creating authority to carry on a particular function, has never considered whether any particular function is a function of local government or not. It has simply legislated in respect of a particular function, and set up some form of authority to exercise it without regard to locality or existing authority.

This charge is true of Queensland. For instance, consider the case of harbour or river works. The Local Authority may deepen or widen a river. The exercise of this power is subject, firstly, to approval of the Governor in Council; secondly, to the Navigation Act, which brings in some control, if not absolute control, by the Marine Board; and, thirdly, to the Harbour Boards Act. The power would also be limited by the Rights in Water Conservation Act. In the Harbour Boards Act, it will be found that Harbour Works, legislatively, have been regarded as being, in the first degree, a quasi local government function, that is, a function to be exercised by a form of local government (Harbour Boards) independent of the Local Authority; in the second degree, a State function; and in the third degree, a function of either the Local Authority or private enterprise. The Local Authority, so far as it is legislatively recognised, is on no better footing than private enterprise, and there is a provision which says that if a Harbour Board is not constituted, the function devolves upon the State, but that it is not obligatory for the State to perform the function. Originally Harbour Boards were partly elective by payers of harbour dues, and partly non-elective. Now, with exceptions, they are elected in the same electorate as the Local Authority, so that a Harbour Board, in effect, is now a union of several areas of jurisdiction of the Local Authority, acting independently of the Local Authority.

We will now pass to the subject of Water Supply. Under the Acts, the Local Authority may provide water supply. It has, however, never been allowed to do so, except in minor cases. The history of the Brisbane water supply is interesting. Originally, it was to have been a function of the old Municipality, but ultimately the State took away the control and handed it over to a Board, on the ground that the Municipality could not give security for its liabilities. What, it may be asked, is the security of the Water Supply and Sewerage Board? Is it not the taxing sources of the community of Brisbane—the sources of the Local Authority? In 1891 the Water Authorities Act was passed. This measure provided for the constitution of Water Authorities, in the following manner—(a) if the Area of the Water Area were co-extensive with the Area

of the Local Authority, the Local Authority should be the water Authority; or, if not, (b) the Local Authorities, whose Areas or parts of whose Areas were included in the Water Area, should be the Water Authority. Thus, notwithstanding that the Area of the Local Authority was co-extensive with the Area of water supply, a separate authority had to be constituted, with elaborate legislative provisions, and the position to-day is that if a Water Authority, which is the Local Authority, were to be abolished, and the function of Water Supply handed back to the Local Authority, legislation would be required. The reason given for this enactment was the fancied difficulty where the Area of supply was not co-extensive with the Area of Local Authority, that is, the locality had developed, and the simple and proper course was an extension of the Area of the Local Authority to include the developed locality—an administrative act. The purposes of Water Supply are at least threefold, namely—domestic use, sanitary, and fire protection. Water supply is under the Water Authority, sanitation under the Local Authority, and fire protection under Boards controlled by distinct law, which regards the last-named as partly a State, a private, and a local authority function.

Electric lighting is in the same position as Water Supply. The Local Authority would seem to have unfettered power to supply light and power, but such power is limited by the Electric Light and Power Act (or by administrative act it is so construed), and in fact it is in no better position than the individual. Both are required to apply for an Authorising Order, and the only superiority which the Local Authority enjoys is that it may object to the grant of the Order to the individual. If the Local Authority be constituted the Electric Authority, the Order fixes its powers and obligations, even to the keeping of accounts and disposal of funds, which in some degree differ from the provisions of the Acts. Thus, the Local Authority as an Electric Authority practically becomes a distinct authority.

There are now no limitations with regard to the supply of gas, but, with regard to hydraulic power, the Local Authority must seek authority under the Rights in Water Conservation Act. The Local Authority or any person may apply for an Order under the Tramways Acts, and it may construct a tramway under the Local Authorities Acts, but action under the latter Acts was, until recently, dependent upon the initiative of land-owners.

Town Planning powers are negligible and the limitations which exist, practically, make the Local Authority powerless. It cannot close a road. It may provide a new road at the expense of its community, yet if in a re-plan-

ning scheme it became necessary to close that road, it could not do so without seeking approval of the State. Further, if it desired to re-plan or re-build a part of its locality, it must go to the State, because it has no independent powers of resumption, and the whole work could be stopped by another authority (at the instance of a single person), with no financial responsibility, refusing to issue a Proclamation of Resumption.

**Authorities in this State which have been Created to Exercise Local Government Functions Illustrating  
“Multiplicity of Authority.”**

They comprise:—

- (1) Local Governments proper—Local Authorities;
- (2) Water Authorities, which may be either the Local Authority or a combination of Local Authorities, or separate authorities, under the Water Authorities Acts;
- (3) Metropolitan Water Supply and Sewerage Board, with all the powers of the Local Authority under the Local Authorities and Health Acts, relating to water and sewerage, but granted by special enactment;
- (4) Harbour Boards, which are separate and independent bodies elected by the same electorate as Local Authorities;
- (5) Electric Authorities, which is the Local Authority, exercising powers under the Electric Light and Power Act and authorising Order;
- (6) Bore Trusts—Water Supply Boards, under the Rights in Water Conservation Act;
- (7) Pest Boards, under special Acts;
- (8) Trusts (Reserves, Cemeteries, &c.);
- (9) Hospital Committees;
- (10) Joint Boards, constituted under the Local Authorities Acts, or Health Acts for particular purposes;
- (11) Bridge Boards under Special Acts;
- (12) Fire Brigade Boards;
- (13) Corporations in Sugar Works' Areas;
- (14) Soldier Settlements; and
- (15) Proposed Tramway Commissions.

It is not proposed to go further into the constitution of these Authorities, except the Local Authority. Each of them is exercising functions in the same locality which could be exercised by one Authority. Each, more or less, has to provide its own administrative machinery to carry on the function.

Here is multiplicity of authority, and added to this there is the arbitrary division of localities into separate local governing areas—the combination of the two producing what Chambers described as the “chaos of areas,” “chaos of authority,” and “chaos of rates.” Further, there is the multiplicity of the Central Authority in State Departments—Local Government, Health, Main Roads Board, and other Departments, the proposed Valuation Department, new Health Authorities (Commonwealth), and Town Planning Commissions. There must, of course, be a Central Authority to establish the relations between the two branches of Government.



## CONSTITUTION OF LOCAL AUTHORITIES.

Authorities constituted under the Local Authorities Acts only are dealt with. From the outset, Parliament delegated to the Governor in Council power to constitute and define the Area of jurisdiction. In the early Acts, the power was limited by conditions. These conditions remain, more or less, in the Acts of other States and New Zealand. For instance, in Victoria and New Zealand, a maximum area is fixed for a Municipality, and new Authorities are constituted on petition. This petition provision formed part of our early Acts, but was repealed in 1902, and now the power to create or alter or abolish vests entirely in the Governor in Council. The alteration was made because the Local Government Commission found that Local Authorities were being multiplied under the influence of the petition.

Brisbane affords the best illustration of arbitrary division. Originally it was a single municipality, including Kangaroo Point and South Brisbane. In 1865 disaffection arose by the growing conditions throwing the representation out of plumb (the municipality was divided into wards), and the remedy agitated for was the break-up of the Municipality into several Municipalities. The then member for Brisbane, Mr. Pugh, who, I think, was also an Alderman for the Kangaroo Point Ward, brought in a Bill, which was passed, to re-distribute representation, to prevent, as he put it, the "Municipality from being broken up into petty Municipalities." At a later date, the late Sir Samuel Griffith, then Mr. Griffith, and Premier of Queensland, passed the Act of 1878. This measure had for its object two things—firstly, to provide power to compel the institution of local government by localities which had refrained from adopting it, preferring to let the State pay for their services; and, secondly, to extend, compulsorily, the Municipality of Brisbane. Shortly after, the late Sir Thomas McIlwraith passed the Divisional Boards Act of 1879. This Act did not in any way affect the Act of 1878, but apparently the Authority responsible for applying the Act of 1879 forgot the expressed object of the Act of 1878, and instead of compul-

only extending the Municipality of Brisbane, divided the Metropolitan Area outside the Municipality (which still comprised South Brisbane) into Divisional Board Areas. Then followed the break-away of South Brisbane. It is said that the agitation was commenced by a disappointed aspirant for mayoral honours. The Municipality of South Brisbane was constituted, not because a majority petitioned for it, but because the petition praying for separation contained a greater number of names than the counter-petition. The residents of Kangaroo Point, however, objected to be included in the Municipality of South Brisbane, hence they are still a part of the City of Brisbane. Later the Divisional Board Areas were broken up into still smaller areas, until to-day there are nineteen Local Authorities in the Metropolitan Area, a Water and Sewerage Board, several Fire Brigade Boards, and other services in the hands of companies. Each Authority must have rights and powers over roads, and it can only be conjectured what the cost has been to Brisbane through the lack of a co-ordinate policy.

The Divisional Boards Act of 1879 was intended to extend Local Government to the country. Early in 1880, Divisional Boards were created throughout Queensland. The distribution of governing areas seems to have been based upon no principle at all. One example will suffice. It would seem that the census district was adopted. The township of Bundaberg, an area of  $1\frac{1}{2}$  square miles, with a population of 700, happened to be a subdivision of a census district, and it accordingly was made a Divisional Board Area.

In later years the indiscriminate multiplying of local governments ceased. All our Cities outside Brisbane have been "greaterised," and, in the process, a number of authorities abolished.

This brief sketch will illustrate some causes of our present conditions. The lack of consideration of principles of policy left a legacy of endless contention and dispute, very complex in its nature, which in some cases has taken years to settle.

#### **Exercise of Powers by the Local Authority, and Relation of the Local Authority to the State.**

Speaking generally, the exercise by the Local Authority of its powers, duties, obligations, and authorities rests within its discretion. There is no authority which can compel it to exercise its power or carry out its duty, except the force of public opinion, or the Courts of Law. Every act of the Local Authority is, however, subject to the veto of

the State, i.e., the Governor-in-Council. Every By-law is subject to his approval, and every resolution may be rescinded. The power of veto is in the nature of what is generally known as "constitutional checks." It is, however, destructive and not constructive, in that if the Governor-in-Council refuses approval to a By-law, or rescinds a resolution, he cannot substitute another. (Under the financial provisions the Home Secretary may, on petition, amend or vary a resolution.)

The generality of this statement must, however, be qualified by a reference to the over-riding powers of the Commissioner of Public Health. He can make Regulations, and require the Local Authority to execute them and in case of emergency or default, or omission, exercise and undertake any or all of the powers of the Local Authority at its expense.

## FINANCIAL POWERS.

It has been my object to define the Principles of local government, and to set out the functions of government which have been declared to be functions of local government in this State. Parliament can add to or take away such functions, but although none of those enumerated has by express enactment been taken away from the Local Authority, some have, in effect, by the creation of separate authority, to exercise such functions. The illustrations given show the tendency to create authority without regard to locality (the Metropolitan Area being the most important illustration). The result of it all is multiplicity of authority, division of authority, and overlapping of authority; and notwithstanding the disabilities mentioned and the limitations in the grant of powers, the functions of the Local Authority are vitally important.

We can now examine the financial powers. The examination further illustrates that the basis of taxation in respect of particular functions seems to have been adopted without consideration of the elements of such functions. The conclusion will be that local government finance could be simplified.

### Sources of Revenue.

The sources of revenue rest on powers of taxation, direct and indirect. These powers are to be found in Part XII. of the Acts, also in the power to make By-laws, and in the Health Acts. The Local Authority also has powers of borrowing, and the security for its loans rests on its ability to tax. The borrowing powers are governed also by the Local Works Loans Acts, and, in some cases, by special Loan Acts. The powers of the quasi Local Authorities are to be found in the Statutes or instruments, by the authority of which they are constituted. Some of these Authorities, e.g., Fire Brigade Boards, Joint Boards, have no power of taxation.

The powers of taxation of the Local Authority, or rating as it is termed, are to be found in Section 232 and following sections.

Section 232 provides that rates may be of two kinds—General and Special. These rates are taxes levied on the value of rateable land, that is, what is deemed to be the unimproved value of land. All land is rateable, except Crown lands, and lands used for certain purposes. The principles for determining the unimproved value are set out in Section 218.

#### Rates or Taxes.

The following are the rates:—

- (1) General Rate, limited to 1/- in the £, intended for general purposes. This Rate must be levied each year, unless the Local Authority is excused, and be not less than ¼d. in the £;
- (2) Special Rates for particular purposes—sewerage or drainage; light and power; watering, cleansing, and lighting roads; parks, gardens, baths, wash-houses, libraries and recreation; noxious weeds; pests; alignment of roads; omnibus services (Section 236);
- (3) Separate Special Rate for work declared to be for the special benefit of a particular part of the Area (Section 237);
- (4) Special Health Rate (Section 240);
- (5) Cleansing Rate or Charge (Sections 241 and 242);
- (6) Special Water Rate (Section 244);
- (7) Special Loan Rate (Section 246);
- (8) Special Tramway Rate in Tramway Area for payment of interest and redemption of loans (Section 335);
- (9) Special Agricultural Drainage Loan Rate (Section 364);
- (10) Charges, dues, tolls, fares, license fees, etc.

The Tramway, Agricultural Drainage loan rates, and Cleansing Rate (or charge) are compulsory. The Special Loan Rate, if the law be interpreted literally, also is compulsory, but in practice it is not held to be so, except in the case of a benefited area. Further, the provision making it so seems to be in direct conflict with other provisions of the Acts (Sections 289, 290, and 338), relating to the keeping of accounts in respect of certain undertakings.

### **Local Government Finance Based, in the Main, on Taxation of Land—Charges.**

All the taxes mentioned, excepting the cleansing charge, the water rate, if some other basis be adopted other than a tax on land, and the charges, &c., are taxes on unimproved value of land. Therefore, the basis of local government finance in the main is taxation on land. But it can also be shown that largely the services of local government could be met by charges, that is, by a form of taxation on the user or consumer. This appears if reference again be made to Section 59, from which it will be seen that the Local Authority may provide land, buildings, &c., for almost any purpose or work, and afford the use thereof to the inhabitants of the Area or any persons on such conditions, either without fee or charge, or for such reasonable fees or charges as the Local Authority may prescribe by By-law. Construing this Section by itself, it would seem that all services (even roads) could be paid for by some form of charge on the user, and not by taxation on land. It, however, cannot be so construed, because there is the provision which requires that a General Rate must be levied each year, and the compulsory Special Rates. But the General Rate need not be more than the minimum prescribed, and therefore subject to this limitation, and the other provisions mentioned, all services could be paid for by charges, and not taxes on land. On the other hand, all services can be paid for out of the proceeds of a tax on land, and with the exception of compulsory special rates, one tax could be levied to cover all services.

### **Borrowing Powers.**

An important part of the financial powers is the power to borrow, which is governed by Sections 296 to 312; 325 to 330 (Tramways); 359 and 360 (Agricultural Drainage) of the Local Authorities Acts, and Section 237 of the Health Acts.

The Local Authority may borrow in two ways (a) from the State, and (b) by means of debentures, and it is the State which determines whether money may be borrowed or not, in that the Treasurer must approve in either case. Local Authorities thus have not independent borrowing powers, as they have in other countries.

Borrowing is also subject to a prescribed procedure, and a mistake in procedure generally leads to proceedings *de novo*. The loan must be advertised, a poll may be demanded, and three resolutions of adoption and confirmation must be passed. Application is then made to the Treas-

urer, who may cause inquiries to be made and in the end the loan may be deferred. From the time that a work is proposed and until it is financed, months, and sometimes years, elapse.

Local Authorities have not been encouraged to borrow by debentures, but a change in policy has been made recently.

They may borrow temporarily by way of overdraft, which must not exceed an amount equal to the ordinary revenue for the year last past, but for this purpose, cleansing charges are excluded. Overdrafts have now become perpetual deficits.

Borrowings from the Treasury must not exceed five times the ordinary revenue. Loans for water supply, light and power (subject to the qualification that revenue is actually being produced and to the extent that it is being produced), tramways, and agricultural drainage, are not taken into consideration in calculating such limit. There is no limit to the power of borrowing by debentures, which method has only so far been availed of in larger cities.

Orders authorising the sale of debentures require the provision of sinking funds, or fixed payments, usually half-yearly.

#### **Accounts of Local Authorities.**

##### **Ordinary Revenue.**

Section 214, which is an important section, defines "Ordinary Revenue" to mean (a) "Rates" (not being Special Rates of Tramway Rate), "ferry dues, market charges, and other dues, fees and charges and rents;" (b) "moneys received under any grant or appropriation;" and (c) "all other moneys received, not being the proceeds of a loan."

##### **Local Fund.**

Section 215 provides that all moneys whatsoever received not being:—

- (a) A loan;
- (b) revenue derived from light or power undertakings;
- (c) waterworks;
- (d) tramways; or
- (e) moneys received on trust

must, in the Bank of the Local Authority, be carried to a fund to be called the Town Fund, or City Fund, or Shire Fund. This Fund is the "Local Fund" (Section 7), and the moneys, expressly required not to be paid into the Local

Fund, must be paid into separate accounts in the Bank. This at once implies that separate accounts must be kept in respect of such moneys.

Subsection 2 of Section 215 provides that the Local Fund shall be applied to the payment of expenses incurred in carrying the Local Authorities Acts into execution, and in doing and performing any acts and things which the Local Authority is by these Acts or any other Act (Health Act, for example) empowered or required to do or perform, unless there is express provision charging such expenses to any particular Fund or Account. This provision clearly and definitely declares and limits the functions of the Local Authority to the duties, powers, obligations, and authorities imposed by the Local Authorities Acts, or any other Acts, and the doing and performing of these express duties, powers, obligations, and authorities is a charge against the Local Fund, except those which the law expressly requires shall be paid for by special taxation, or by way of charges in some cases. These functions are to be ascertained by reference to the powers to levy special and separate special rates, and governing the keeping of accounts.

#### Separate Accounts.

Clearly the Local Fund is to be applied to all purposes, except those charged to a particular Fund or Account. On turning to other sections we find that separate accounts must be kept in respect of moneys received from—

##### 1. Separate or Special Rates. (Section 288.)

Proceeds, after paying share of office expenses, must be devoted to purposes for which they are levied;

##### 2. Light or Power Undertakings. (Section 289.)

The charges against this Fund are in this order—

- (a) Interest and redemption;
- (b) working expenses, and reserve for depreciation and extensions;
- (c) if there is a surplus after providing for (a) and (b), such surplus must—
  - (i) Until the loan liability is paid off, be paid to Treasurer, or if the loan were raised by debentures, to a sinking fund;
  - (ii) thereafter it must either—
    - (a) be applied to a Reserve Fund invested in Government securities until the fund



amounts to one-tenth of the aggregate capital expenditure, to provide for deficiencies, or meet any extraordinary claim or demand. If the fund is reduced at any time, it must be restored to the prescribed limit; or

(b) be paid into the Local Fund.

If the surplus in any year exceeds 10 per cent. of capital expenditure, the price must be reduced.

### 3. Water Supply (Section 290.)

The charges against this Fund are in this order—

- (a) Working expenses;
- (b) Interest and redemption of loans.

Any surplus may be applied to the cost of maintenance, repair and extensions, or reduction of loans, but no part can be paid to the Local Fund. The provisions of the Water Authorities Act are substantially the same.

### 4. Loans. (Section 291.)

A separate account must be kept in the Bank in respect of every loan, which must be applied to the purpose for which it is borrowed.

### 5. Tramways. (Section 338.)

The charges against this fund are in this order—

- (a) Interest and redemption;
- (b) Working expenses and maintenance.

Any surplus must—

- (i) until loan liability is paid off, be paid to Treasurer, or in the case of debentures, to a sinking fund;
- (ii) be applied to repayment of rates; (Compulsory Tramways Rates, which must be levied to meet interest and redemption and intended as a betterment tax—Section 335.)
- (iii) be paid to the Local Fund (or Common Fund of the Joint Local Authority, which amounts to the same thing) in “relief of rates.”

### Rules Made by the Auditor-General.

There are also Rules made by the Auditor-General. These Rules are mostly instructional as to the keeping of Accounts (the form of some are prescribed), and in some cases an interpretation of the law. There is one Rule to which reference might be made, and it is Rule 3. This Rule says that the Local Authority may, in addition to the Banking Accounts required by Section 215, by resolution direct that separate Banking Accounts be kept in respect of any works or services which are charged against the Local Fund. This Rule is, I think, in conflict with Section 215. Be this as it may, it purports to give authority for the keeping of additional separate accounts.

### Object of Separate Accounts.

The declared object of requiring separate accounts to be kept in respect of special and separate rates is to ensure that the moneys are devoted to the purposes for which they are raised. With the exception of undertakings, for which charges may be made, the other purposes for which special rates may be levied (or most of them) are purposes which must be paid for by taxation of the land. A Special Rate, except a separate special rate, must be levied equally over the whole area or division, and, therefore, it is, in effect, an addition to the General Rate. It may be that it was originally intended as an expedient to defeat the limitation placed upon the General Rate. The Brisbane and Toowoomba City Councils levy only one rate (excepting the cleansing charge), and pay for all services out of the Local Fund, including interest and redemption of loans. Separate rates may only be levied in a benefited area, that is, a part of an area declared to be specially benefited by the work. A benefited area more often than not is merely an expedient, and, in some cases, the Local Authority uses the benefited area provision to impose the cost of a particular work on a section of the community when it should be a charge on the whole community.

### Divisional Accounts.

By Section 292, separate accounts must, in divided areas, also be kept in respect of divisions. This is not merely an Accountancy provision, but a requirement, and its effect is to make Divisions or Wards smaller local governing entities within a larger Area, or, to put it in another way, a divided area is really a Federation of smaller areas. General rates need not be the same in each divi-

sion, and there are cases where the rates are greater in one division than in another, sometimes up to 100 per cent. Section 292 is the means by which financial separation is attained. General rates received in each division must be credited to the account of that division. Then Ordinary Revenue, that is, the revenue which is paid into the Local Fund (other than general rates), must be credited to the divisional accounts in such proportion as the Local Authority directs. This apportionment may be on a rateable value basis, but not necessarily. It follows that expenditure on divisional works must be debited to the accounts of the respective divisions; office expenditure, and general work, which is considered to be of "equally distributed benefit" to the whole Area, must be apportioned to the divisions on a rateable value basis, and works held to be of "unequal benefit" to some or all the divisions, may be apportioned in such proportion as the Local Authority determines. Provision is made for an appeal to the Minister from the decisions of the Local Authority.

Section 292 is clear and definite, but there seems to be difficulty in understanding the section even by Local Auditors. Its operation gives rise to contention and dispute. Financial separation has a disintegrating influence. The City of Brisbane defeats the section by declaring all expenditure to be of "equally distributed benefit" to the whole City. It may be worthy of notice that New South Wales will not have divisions for financial purposes, and New Zealand attempted to abolish them.

## STRUCTURE OF LOCAL GOVERNMENT FINANCE.

It is now proposed to discuss, in general terms, the structure of local government finance. This is not an easy matter. Almost every statement needs some qualification, due, in some measure, to the fact that the law is altered, and new provisions are not co-ordinated with the existing structure. For instance, the provision requiring the levy of compulsory loan rates, which, literally interpreted, requires the levy of a special loan rate to pay interest and redemption in respect of every loan. It has been found, in practice, to be impracticable. The annual payment may be so small as to require a small fraction of a penny rate to meet the payment. Again, the provisions relating to separate accounts for undertakings, seems to intend that interest and redemption should be met out of moneys received from the undertaking, except in the case of trams.

The Special Loan Rate provision is, then, in conflict with the provisions relating to the accounts of undertakings, and, in practice, it has had to be construed that it is not compulsory. The enactment of the special loan rate provision had its origin in the fact that some Local Authorities were at one time not too serious in meeting their obligations to the Treasury. This may be traced to an atmosphere of dependence on the Central Government, which, in turn, was due to log-rolling in connection with roads and bridges grants, and subsidy. In passing, it may be mentioned that subsidy was originally intended as an inducement to communities to accept local government, and was only to be paid in a descending scale for fifteen years. It had no relation to principles.

We have seen the several forms of taxation which the Local Authority has power to levy, and the directions of the law with regard to the keeping of accounts; the two together completing the the structure of local government finance.

### Common Fund or Pool.

The use of the words "General Rate" seems to connote the whole principle of Local Government, assuming

that local government is based upon community and locality. The Local Fund then might be described as the Common Fund or Pool.

Except in the City of Brisbane and perhaps one or two other Local Authorities, all general functions are not met out of the Common Fund. Special Rates are levied, particularly for drainage, lighting (roads), parks, noxious weeds, and health. Many and varied reasons may be advanced for the levying of special rates, and the circumstances of particular cases may compel their levy. In some cases it has been due to the statutory limit of the General Rate, but, in the main, it will be found that it is due to the absence of a proper conception of the principles of local government, a civic spirit or a sense of communal responsibility.

#### **Certain Functions Separated from General Functions.**

It might be asked, why is it that the law requires that cleansing, water, light, power, and tramways should in the finances of local government, be separated from the general functions? The answer, which appears, is that these undertakings supply a service or commodity to the user or consumer. This answer does not, however, take into consideration all the elements of the function, and this aspect of the matter might be investigated.

#### **Cleansing.**

First take cleansing, which must be paid for by a special rate, levied in respect of the actual occupation of land, and in respect of which the Local Authority undertakes or contracts to cleanse, upon the basis of the unimproved value of such land, or upon such other basis the Local Authority may determine. The idea underlying this tax seems to be that a cleansing service only benefits land in actual occupation, and that no benefit accrues to unoccupied land. There is the alternative charge, which may be made against the actual occupant. So, if the alternative be adopted, the elements of cleansing apparently change, in that cleansing now becomes a service to persons, and has no relation to land.

It is not incorrect to say, that the foundation of "preventive medicine," in other words "public health," rests on sanitation. Cleansing is, of course, a part of "public health" work, yet the rest of "public health" work must be paid for by an equal tax on all land in the locality or area of the Local Authority. Take, for instance, infectious disease. In combating an outbreak, it is necessary to iso-

late and detain persons compulsorily in the interests of the community, and it would, therefore, be inequitable that such persons should be made to pay the cost of their isolation. Consequently, this part of "public health" is not met by a charge against the person, or by a tax on land in occupation only, but by a tax on all land in the Area of the Local Authority.

So then we have this position, that "public health" is met partly by

- (a) a charge against the person, or
- (b) a tax on land in occupation only;

and partly by—

- (c) a tax on all land.

What difference is there in the elements of cleansing in different places, as must be presumed to be the case, if different bases of taxation are adopted, as they are? The answer must be that there cannot be any change, that the elements of cleansing cannot change, and that cleansing is in its main purpose a preventive measure against infectious disease, an essential part of "public health" work. Why, then, can the incidence of taxation have relation to land in one case, and to the person in another? If it be conceded that land taxation is the true source of local government taxation, and it generally is now becoming to be so recognised, it must also be conceded that cleansing should be met by a tax on land, and not by a charge on the person. On the other hand, it will be claimed that persons who have their premises cleansed do receive a service, and that persons "outside" the service do not. So does the person, who is compulsorily detained in the Isolation Hospital, so that these things are only matters of degree. This, then, brings us to another question, why has the cleansing tax been limited to lands in actual occupation? The reason which actuated this limitation is obvious, and it is this, that because of the scattered settlement of our Cities and Towns, cleansing can only, in the economic sense, partially be established. This answer goes to the root of the economy of local government, and this answer, presumably, must also be accepted as the reason why that part of public health work represented by cleansing operations has been made a tax on part of the land and the rest of health work a tax on all land.

If reference be made to Tables II. and III. (pages 45 & 46), it will be seen how the application of the cleansing charge operates. The case of the City of Brisbane may be taken. The tax on land to produce the funds to carry on cleansing is 1d. (Table II.). The cleansing charge is fixed

at so much per service, and if reference be made to Table III., it will be seen that this charge in respect of a property, the unimproved value of the land in which is £100, is equivalent to a tax on such unimproved value of 4½d.; and in respect of a property, the value of the land in which is £500, 1d.; and decreases as the value increases. But warehouses, hotels, &c., require more than one service, and it will be seen that the charges made in respect of such premises are equivalent to an average tax of 1½d. The average stated in the Table is, however, really greater than the true average, but, for the purposes of Table III., it was desired not to understate the position. So it will be seen that the operation of the charge has been really to create an inequality of taxation, when the basic elements of the function of cleansing are considered.

#### Water Supply.

The next case is the "water rate or charge." By Section 244 of the Local Authorities Acts, the "Local Authority may make or levy a special water rate upon all rateable land within three hundred feet of the middle of the roads in which water mains are laid down from which the owners or occupiers are entitled . . . to obtain a supply of water to the land. Such water rate may be assessed according to the value of the land, or on any other scale or principle of calculation which the Local Authority from time to time determines." The provisions of the Water Authorities Acts are generally the same. The Water Supply and Sewerage Act requires that water rates (and sewerage rates, be it also noted) may be made and levied in respect of all lands, whether actually occupied or not, within certain distances of water mains or sewers. The Board may define the basis upon which to assess the rates, but it is expressly directed that the rate in respect of vacant land shall be less than on occupied land.

From Section 244 of the Local Authorities Acts it might be concluded that the water rate is to be a tax on land, but apparently not necessarily on unimproved value of land, and, in practice, the water rate is based upon floor measurement. But not so by the Water Supply and Sewerage Board, which levies its water rate on the unimproved value of the land.

It is difficult to ascertain the principles underlying the water supply provisions of the Local Authorities Acts or the Water Authorities Acts, or the reason why there should, in the case of the Water Supply and Sewerage Act, be a differential rate as between occupied and unoccupied lands.

Let us first examine the position under the Local Authorities Acts and Water Authorities Acts. If the rate is on any basis other than unimproved value of land, it amounts to a charge for a commodity supplied. Or it might be looked at in another way, that is, not being a tax on the unimproved value of land, it is not a tax on land and has no relation to land, but a form of taxation on improvements. This view, however, cannot be maintained. If it is made a tax on the unimproved value of land, it apparently has to be an equal tax on all land, occupied or not, within 300 feet of water mains.

But, under the Water Supply and Sewerage Act, if the tax is levied on unimproved value of land, it has to be less in the case of vacant land.

Why the difference? It cannot be sustained that different principles should operate in different places. The answer is simple. The Local Authorities Acts are administered by one Central Department, the Water Authorities Act by another Department, and the Water Supply and Sewerage Act by a third Department. The Water Supply and Sewerage Act was drafted, without any consideration of or relation to the Local Authorities Act or Water Authorities Act, and, in point of fact, was copied from elsewhere. But there is a still more remarkable difference. We have seen that the Water Supply and Sewerage Board is empowered to define the basis of assessment of water rate which shall be made and levied on all lands within 300 feet of mains, with the express requirement that the rate shall be differential as between occupied and vacant land. The Board has, of course, obeyed the requirement mentioned, but, presumably, in exercising its power to define the basis of assessment, has created a differential tax which is highest on the lowest-valued land, and lowest on the highest-valued land. On £100 it exceeds 10d., and on £10,000 it is 1d. That is, the tax is ten times greater in the former than in the latter. The principles upon which this tax is based are not discernible. The Board has a fixed consumption of water, and makes a charge in respect of water consumed in excess. The charges paid by trading and industrial concerns may be held to bring the total taxation up to equality, but this cannot be, as the consumption must vary. It has also been stated that the Board has been influenced by the fact that values in most of the suburban areas are on the average 50 per cent. under value. This factor, which creates a grave and base inequality in taxation, and to our discredit does exist, does not, however, supply a sufficient reason for such remarkable differentiation in taxation—a differentiation which



seems in absolute negation to the principle enunciated in the English law, and expressed in the term, "according to a fair and equal pound rate." And particularly do these things become apparent to us when we consider the elements of the function of water supply and its relation to other functions.

Water supply represents more than a commodity for personal use. It is an essential factor in public health and fire protection. Sewerage is dependent upon water supply, and is an essential and important part of public health. Here is a curious mixture. Public health is, as we have seen, partly a charge against all land in the Area of the Local Authority, and partly a charge against part of the land in occupation only, or a charge against persons. Water supply may be a tax on part of the land, and a differential tax at that, but not actually based on the value of the land, and if not so based, such tax must be held to have no relation to land, and consequently the water also has no relation to land. Fire protection is under the control of a quasi local government, the funds of which are provided, to the extent of two-sevenths, by a tax on all land (Local Authority's contribution), to the extent of three-sevenths, by a tax on improvements on the land and other forms of property (through fire insurance premiums), and to the extent of two-sevenths by the State which is made up of taxes from all sources levied over the whole State. Fire protection is essentially a function of local government, and if it were under the control of the Local Authority, the cost would be met by a tax on land.

Sewerage takes the place of a part of cleansing. Cleansing, as we have seen, is met by a charge against the actual occupant (as a rule), or, if not, by a tax on land in actual occupation. Under the Water Supply and Sewerage Act, sewerage is to be met by a tax on part of the land (that is within certain distances of sewers), but a differential tax must be levied in respect of occupied and unoccupied lands. If, however, sewerage is carried out by the Local Authority under the Local Authorities Acts, it is met by an equal tax on all land in the Area, whether occupied or not.

It would be useless to trace the origin of the medley of notions or fancies, which seem to have surrounded water supply, but it might well be asked why should the consumer of water for domestic, trading, and industrial purposes, be required to pay the whole cost of water supply? Assuming that the proper basis of local government taxation is land, there seems to be no reason why all land should not be taxed for water supply. The other elements of water supply, i.e., health and fire protection—may be demon-

strated to be properly charges against all land—in fact, in some cases, as has appeared, they are, and these factors alone establish the claim that the consumer should not at least be required to pay the whole cost. Water supply could properly be a charge against all land in the area or locality of the Local Authority.

This discussion does not enter into the benefit or enhancement which accrues to property in a locality in which water supply has been established, whether such property is actually served with water or not; the inequalities in taxation which arise by lands only immediately served by water being made to pay for the cost of establishment; and the just share of the capital cost, which lands, which are subsequently served, escape.

#### **Light and Power.**

The Local Authority cannot undertake the supply of electric light unless it obtains an authorising Order under the Electric Light and Power Act. By Section 236 of the Local Authorities Acts, it is empowered to levy special rates for constructing and maintaining works for light and power, and by Section 289 is required to keep a separate and distinct account of all moneys raised by such special rates and all moneys received from such undertaking. The authorising Orders do not contain any reference to separate rates, but they do contain a direction that any deficiency in income in any year, when not answered out of the reserve fund, shall be charged upon and payable out of the rate, if any, levied for electricity purposes. The Local Authority could not establish an undertaking out of the proceeds of a special rate. It must borrow the capital, but the works could be maintained by a special rate and/or by charges. Under the Orders it is contemplated that the works would be maintained by charges, and any deficiency made up by a special tax on land. Thus, the cost of light and power may be met by a tax on land (in the area of supply), or partly by a tax on land and partly by a charge to the consumer, or wholly by a charge against the consumer with provision to pay the surplus (profits) after certain things have been provided for, into the Local Fund. If the cost of the undertaking is met by a special rate, and such rate is levied in the "area of supply," which would generally happen, and the surplus carried to the Local Fund, we can have the surplus of a special tax levied in a limited area, carried to the Local Fund, which belongs to the whole Area. In the case of at least three suburban Local Authorities, interest and redemption has had to be provided for by a tax on land, and maintenance by a charge to the consumer.

The provisions relating to accounts suggest that the authors contemplated putting light and power undertakings in the same category as business undertakings. Interest and redemption on capital is the first charge, and maintenance and working expenses and the setting aside of a sum for depreciation and renewal "or extension of the undertaking," are second charges, and later on surpluses may be paid to the Local Fund, and the consumer could, therefore, be made to provide a fund for extension, and also a surplus to relieve the rates of non-consumers. Commercially, it may be sound finance to provide a reserve for extension of business, but it is inequitable in a community undertaking, because it, in effect, creates an inequality of taxation. This aspect of the case suggests a powerful argument for functions of the nature under discussion to be exercised by the Local Authority. But it by no means is the most powerful argument, as an endeavour will later be made to demonstrate.

#### Tramways.

Tramways may be constructed under the Tramways Act (administered by the Railways), or under the Local Authorities Acts (administered by the Home Secretary). The Tramways Act does not contain any direction with regard to the keeping of accounts or disposal of funds. The Local Authorities Acts must then be resorted to, but the Tramways provisions of the Local Authorities Acts apply only to Tramways constructed under that Act. Therefore, the general provisions with regard to accounts, apply, and the receipts from the Tramway should be paid into the Local Fund, but, in practice, the Tramway provisions of the Local Authorities Acts are followed. Tramways constructed under the Tramways Act are in the same position as Electric Light, in that any deficit would require to be met out of the Local Fund (or a special Loan Rate might be levied.)

We may, however, confine ourselves to the Local Authorities Acts. Section 331 requires that as soon as a Tramway has been constituted, the Local Authority shall appoint a Valuer "to value the several rateable lands in the Tramway Area, including in such value the amount of enhancement of value which the Tramway when constructed will effect, or, in the case of purchase, has effected, on such rateable lands." This section is rather neat. It would appear that "enhancement" only accrues when the Local Authority establishes the service. Be this as it may, here we are supposed to have the "betterment principle" in taxation, but it really is not so, as is shown in a later paragraph.

Section 335 requires the Local Authority compulsorily to levy a "sufficient" special tax on the enhanced, or new value (not the amount of enhancement) to pay interest and redemption on loans. These rates, and all moneys earned by the Tramway, must be paid into a separate account, and the order of the charges against this account are set out in Sections 338 and 339. The order is, firstly, interest and redemption, secondly, maintenance and provision and maintenance of plant, rolling stock, &c. Surpluses must first be applied to the further redemption of loans until they are redeemed, then they must be applied to repay the special "betterment" tax, and lastly may be paid into the Local Fund "in relief of rates." These provisions also seem to present a curious mixture. If there is an enhancement or "betterment," why repay "betterment" rates? Summed up, the position amounts to this, that the user ultimately would pay the whole cost of the Tramway, and the Tramway or "Betterment Area" disappears.

Thus the cost may be met partly by a tax on land, and partly by a charge on the user. There is nothing in the law to prevent the cost being met wholly by a tax on land, and if we consider the relation of transit to housing and health and roads, a case could be established that a Tramway could properly be provided and carried on by a tax on land. Our localities are not, however, developed on model lines.

#### **Betterment Tax.**

The principle of betterment is introduced into our law, in the provisions relating to benefited areas, and the Agricultural Drainage Special Rate.

In this State, with its far-flung settlement (in City, Town, and Country), there are extraordinary circumstances, and the benefited area provisions have been used to enable people in the outposts to be taxed separately to provide a service, which should have been paid for out of the Common Fund, but in respect of which, circumstances did not justify the provision of the service out of the Common Fund, having regard to the economical aspect and the general good of the whole community. However, this use of the provisions is not "betterment." It is expediency. A true application of the betterment principle is in the case of the opening of a new road to serve particular lands, and the whole benefit of the road accrues to the lands to be served by such new road. The benefited area provision is the only provision, which can be applied, to enable special taxation to be levied on the land to which accrues the benefit. There are, of course, cases where benefit not

only accrues to particular lands, but also to the community, and in such case the charge is against the Common Fund.

The Tramway Special rates, in their original conception, were meant to be an application of the betterment principle. However, if the user is made to pay the whole cost in fares, the principle of betterment disappears. If, on the other hand, the special tax is levied, and the Tramway Area corresponds to the locality, there is no betterment tax. But let us assume that a Tramway Area is defined, and that it comprises part only of the Area of the Local Authority. If the lands in the Tramway Area are enhanced in value, as the presumption of the law is that they will be so enhanced (and as undoubtedly they would be), such lands are required to be re-valued (and they should be, whether the law required it or not), such enhanced value would become the value upon which all taxes would be levied. Thus it becomes apparent that the special Tramway rate is no more a "betterment" tax than the water rate or light and power rate or loan rate is a betterment tax.

The Agricultural Drainage Rate is, however, a betterment tax. Lands in the watershed must be re-valued, and the tax apportioned upon the several improved rateable lands in proportion to the amount of improvement. This is an application of the betterment principle. If an individual drains his land, he gets the whole betterment in enhanced values. The Merrimac Estate, the lands in which were transformed from practically waste land into highly productive lands, is a case in point. Therefore, the owners of improved land should pay the cost of the work where the Local Authority performs it.

#### Relief of Rates.

Revenues received from services or works mentioned in Section 59, other than light, power, tramways and water supply, are part of the Local Fund, and if the revenue exceeds expenditure, the surplus is necessarily in "relief of rates. Surplus in Tramways and Light and Power may go "in relief of rates," but not cleansing or water supply.

The principle "in relief of rates" is one upon which there is difference of opinion. In New South Wales, the profits of what are called, in the law of that State, "trading undertakings" (generally, elsewhere, called "public utilities," as distinct from "trading"), which are defined to include light and power, ferries, but not water or tramways, cannot be transferred to the General Fund; in fact, not only does the New South Wales law definitely direct this, but

also declares the principle that the Local Authority "shall endeavour so to conduct each trading undertaking that without loss being incurred, the service, product, or commodity of the undertaking may be supplied to the consumer as cheaply as possible." Trading undertakings have, however, to pay rates. In New Zealand, profits of public utilities, including water, may be applied "in relief of rates."

Advocates of municipal control of utilities claim that profits can go "in relief of rates," and there are advocates who say that the utilities should not make profit.

While existing conditions remain, the application of the principle may easily create inequality of taxation. Let us take an illustration. In one suburban Local Authority there are 1,900 dwellings. Practically the whole Area has been reticulated for electric light. The Council estimates that 500 dwellings will be connected, that is, less than 50 per cent. Thus the 500 consumers will have to pay the cost of reticulating, maintain the undertaking, provide reserves for extensions, etc. If, then, they are also to provide profits to go "in relief of rates," the position presents all the elements of inequality in taxation. In the first place the value of the non-consumer's land is enhanced by the provision of the undertaking; and, in the second place, the consumer is required to pay a charge to secure a profit to go "in relief of rates" of the non-consumer.

#### Elements of Taxation.

We can now pass to a brief mention of the elements of existing forms of local taxation. Gomme sets them out as follows:

- (1) According to benefit (that is, where the charge made to the user or consumer is just sufficient to meet the cost of the service).
- (2) Indirectly upon the consumer (wharfage dues, &c.).
- (3) Directly upon assessed rates (direct tax—land tax—on the community).
- (4) Partly according to benefit, and partly indirectly upon the consumer (that is, where the charge for the service—light, or trams, for instance, is more than sufficient to meet the cost of the service, and the surplus is applied "in relief of rates").
- (5) Partly according to benefit, and partly directly upon assessed rates (that is, where the charge for the service is insufficient to meet the cost of the service).

Brisbane Ferries may be taken as a case to illustrate. Last year the receipts were less by 50 per cent. than expenditure. Therefore, the ferries were paid for by (a) a direct tax on the consumer; and (b) a direct tax on the community. If, on the other hand, receipts had exceeded expenditure, the cost would have been met by (a) a direct tax on the consumer to the extent of the cost of the service; and (b) an indirect tax on the consumer to the extent of the surplus.

#### Benefit and Burden.

Gomme in his principles says:—

- (8) That the cost of services is met by taxation which represents the amount of benefit conferred, not the amount of burden imposed; and
- (9) That the burden of taxation only arises when the amount paid as taxation is in excess of the amount of benefit conferred; the burden of taxation being the excess payment, not the total amount paid.

That is to say, taxation should not be in excess of the means necessary to provide the service. Thus, if a service is provided for by a charge on the user or consumer, such charge should only be sufficient to provide the service; that is, a tax according to benefit. Anything in excess represents a burden imposed. These principles seem to be definitely incorporated in the provision of the New South Wales law referred to under the heading "In relief of rates."

Another illustration of the imposition of "burden" may be seen in the case of a work or service, the benefits of which are spread over a period, as, for instance, a bridge. Local Authorities have provided these works out of current taxation, that is, the taxation of one year; whereas if the cost of the work were to be paid for according to benefit, it should have been spread over the period of benefit, and to the extent that it is not, a burden is imposed. As borrowing is the only means by which the payment for benefits over a period can be attained, borrowing becomes an essential factor in local government finance.

Of course, Mr. Gomme found himself in English conditions, where services may be said to have been provided. In Queensland they largely have yet to be provided, and from the very nature of our conditions we have to consider "ability to pay."

In the Queensland law, we find the use of terms, such as "equally distributed benefit," and "unequal benefit."

The words "equally distributed benefit," are to be found in the provisions relating to divisional accounts, and also in the provisions relating to the apportionment of liability for joint works. "Equally distributed benefit" means "equal taxation." "Unequal benefit" means differential taxation. If the Metropolitan Area of Brisbane were governed by one Authority, the Victoria Bridge would no doubt be regarded as being of "equally distributed benefit" to that Area, whereas under the existing arbitrary conditions it is declared to be of "unequal benefit," to the extent that the benefit to the South Side is declared to be twice that of the North Side. The Breakfast Creek Bridge has been declared to be of "unequal benefit" to the City of Brisbane and the Town of Hamilton, to the extent that the tax required to be paid in the Town of Hamilton to meet that Local Authority's half-share of the liability, is fourteen times greater than in the City of Brisbane, and the tax in Clayfield (Shire of Toombul) is nil. The real effective difference in taxation is, however, about 7 to 1, due to the fact that values in the City of Brisbane approximate true values, whereas in the Town of Hamilton the values are approximately half true values.

#### **Simplification of Local Government Finance.**

With multiplicity of authority, division of localities into arbitrary areas, further re-division of these areas into wards and divisions, and benefited areas, which also, in some cases, are subdivided for differential taxing, creating a large number of taxing units with the variety of taxes and charges, and inequalities, it seems a misuse of a term to speak of structure in local government finance. It is manifest that the position could be simplified. (See Appendix I., illustrating position in Metropolitan Area. There are 59 wards and divisions, which, together with benefited areas, and special rates, represent 180 separate taxes. As wards and divisions have separate representation, and separate accounts, they are, in effect, small Local Authorities within a large area. Thus the Metropolitan Area may be said to be divided up into 59 governing units.)

My purpose in introducing this discussion under the heading of "Structure of Local Government Finance," was to illustrate this aspect of the matter. Under ideal circumstances, all services might perhaps be provided out of one tax. If this were possible of attainment, the finance of local government would be simple indeed. It is generally becoming accepted that land taxation is the legitimate field of local government. This is based on the fact that the pro-



vision of works and services—development—has a close relation to, and immediately enhances the value of, land. If, then, land taxation is the true source from which the funds to pay for local government services must be drawn, theoretically there is no reason why all services, including water, light, and trams, should not be provided out of the common fund. Already, as we have seen, the law has given sanction to the capital cost of providing services, including trams, being made a charge on land, indeed, in the case of trams, it really is in the first instance compulsory, and does not prevent the cost of carrying them on being also made a charge on land. But circumstances are not ideal, nor are they identical, and in practice there are other factors to be considered. In the first place, the Council can only carry out the wishes of its community; secondly, some services are compulsorily imposed, while there is no compulsion in the use of others; and, thirdly, there is the economic aspect, the provision of the service as cheaply as possible. And if services were “free” (this is the term used in connection with services which are paid for by a community tax), there may be no limit to use or consumption.

## LOCAL GOVERNMENT FINANCE AS IT IS.

In measuring the success or otherwise of local government as we see it, we must consider a number of factors, the more important of which have been referred to in this Paper. I will not re-capitulate them. I wish, however, to stress that the Local Authority has not had financial independence, and therefore unfettered responsibility. And apart from what may be called a proper application of local government, and over-riding authorities, there are other factors. For instance, the Mayor is the Chief Executive Officer, and up till now his tenure of office has been yearly, making continuity of policy impossible. Coupled with this, loan proposals are, firstly, subject to rejection at a poll; and, secondly, to a veto of a higher authority, making the carrying of such proposals a protracted and burdensome undertaking, to such extent, that power has had to be taken to take away the veto of ratepayers (now electors) in connection with loans for health purposes. (In New South Wales this veto has also had to be taken away, not only with regard to health, but certain other services.)

Thus the Local Authority has been so fettered in a fundamental part of its finance, that, with few exceptions, local government has been mainly carried on by taxation. This necessarily has imposed, and is now imposing, a burden on the community, and, at the same time, it has had to deprive itself of improvements and services which it might otherwise have enjoyed.

How can we test the result of local government finance in this State? We know, or can know, our own conditions, and the financial measures by which these conditions have been created. One test we can apply, and that is an examination of the results in other places. It would be an undertaking to deal with Queensland as a whole. Therefore, in the few observations which will follow, I propose to devote myself to local government in the metropolitan area of Brisbane.

It may be well to preface these observations with the statement that the economy of local government depends on prime factors, the most important of which is the density

and distribution of population—settlement, and the powers of the Local Authority to deal with this factor. These

[TABLE I]  
Mostly 1918 Figures

CITY	Area in Square Miles	Population	Average Density		No. of L.A. in Area
			Per. s. mile	Per. acre	
LONDON COUNTY COUNCIL	118	4,522,961	38,330	60	29*
BIRMINGHAM	68	840,202	12,356	19	1
NOTTINGHAM	17	258,942	15,291	24	1
TOOWOOMBA (Queensland)	17½	25,000	1,430	2	1
CHICAGO §	184	2,393,325	13,001	20	22
BALTIMORE	30	573,590	19,320	30	1
LOS ANGELES	106	438,914	4,141	6	1
BRISBANE (Greater)	say 300	200,000	667	1	19†
ADELAIDE (Greater)	280	217,571	777	1.2	24‡
SYDNEY (Greater)	284	819,080	2,884	4.5	54‡
MELBOURNE (Greater)	109	653,530	5,996	9	20‡
WELLINGTON (Greater) N.Z.	36	95,204	2,645	4	10‡

\*Including London County Council, City Corporation, and 27 Municipal Boroughs in the Area of the London County Council.

†Excluding Water and Sewerage Board, Fire Boards, and Harbour Boards.

‡Excluding Harbour Board.

|| It is proposed to "greaterise" Baltimore by adding an adjoining area of 50 square miles to the City, to enable it to control its growth and development.

§It is proposed to "greaterise" Chicago, on same plan as proposed Greater Brisbane, that is, to unify control of all Local Government services in one Authority.

powers are necessarily Town Planning powers, which even at the present time are negligible, and, under existing conditions, the grant of such powers to the majority of Local

Authorities in the Metropolitan Area would practically be futile, because they could not provide the necessary skilled services to give effect to them, and, more than that, it would be uneconomical to do so. If the Local Government of Brisbane had been vested in one Authority, and that Authority had been required to exercise all the generally accepted functions of local government, including transit, light, water and sewerage (or even had vested in them the power to grant and condition the franchises to the private companies), all the problems confronting the separate authorities would necessarily have confronted the single authority, and the question of the density and distribution of population in Brisbane would have been a prime factor in determining the economy in the provision of such services. It would then have been manifest that the Local Authority should have had powers to control the development and growth of the City. The preceding Table, I., will serve to illustrate this point. (Some of the Cities mentioned are, of course, overcrowded. There is, however, a great difference between the state of overcrowdedness in some of the cities and the sparseness of population in Brisbane.)

It has been stated that Brisbane is the most widely and **unevenly** distributed city in the world, and investigation seems to demonstrate the statement. The comparison with Adelaide, for instance, by no means illustrates the true comparison with Brisbane, as will be seen later, and neither does it with regard to Wellington. In point of fact, the population of Wellington is settled in a comparatively small area, and the density is probably from 20,000 to 25,000 to the square mile.

The next Table, II., affords an interesting study.

The next Table, III., is designed to show present taxation in Brisbane, South Brisbane, and Ithaca. All the taxes are upon land (water on land within 300 feet of mains), except cleansing. The tax required to be levied on all lands (not occupied lands only), that is on the total unimproved value in each case, to produce the revenue received from cleansing charges, has been calculated. The table demonstrates a still more remarkable disparity in taxation as compared with Wellington. It also discloses a remarkable differentiation in taxation, not only between the Local Authorities, but also in respect of land in each case.

Tables II. and III. need no explanation or elaboration to disclose their significance. Immediately will arise the question: What are the causes? Some of the causes have already been indicated, but at a later stage an endeavour will be made to investigate the cumulative causes. At this

[TABLE II]

Local Authority	Area	Popula- tion	A'vge density		Unimproved Value	T A X A T I O N											
			Per. Sq. Mile	per. acre		1903/4			1916/17			1918/19					
						General	Water	Total	General	Water	Clean'g	Total	General	Water	Clean'g	Total	
WELLINGTON (N.Z.)	15	1916 73,305	4,887	7.6	£11,205,411 (Of central por- tion original City of Wellington and correspond- ing in Area to present City of Brisbane.) £ 9,566,532	† 2½d.	† 1d	3½d	† 2	† 2½d	...	3½d	2½d	† 2½d	...	3½d	
BRISBANE	5½	1918 39,368			7,810,013	2d.	1½d	3½d	5d	2½d	3d*	8½d	6½d	4½d	1d *	1/0½d	
SOUTH BRISBANE	4½	39,578			1,483,153	3d.	1½d	4½d	7½d	2½d	2½d*	1/0½d	10½d	4½d	2½d*	1/6½d	
ITHACA	4½	21,500			563,012	2½d.	1½d	4½d	6½d	2½d	2½d*	11½d	11½d	4½d	8½d*	1/7½d	
	14½	100,446	6,700	10.5	£ 9,851,178												

†Includes cleansing and sewerage, but excludes Hospital Rate.

‡Rating in Wellington is on the unimproved value, but the Water Rate is on annual value (rental value, that is, a rate on land and improvements). Water Rate in Brisbane is on unimproved value of land. Therefore, for comparative purposes, the rate on unimproved value, equivalent to rate on annual value, is given for Wellington.

|| Water Rate in Brisbane is a differential rate; therefore, for comparative purposes, the average rate has been calculated by ascertaining the rate required on total unimproved value of all lands to produce an amount equal to estimated collections of Metropolitan Water Supply and Sewerage Board (1921). The average rate is greater, because lands within 300 feet of mains only are rated.

\*In each case a cleansing charge is made, but for comparative purposes the average rate has been calculated as in case of water. The average rate is greater, because the cleansing charge is made on the actual occupant only.

It has also to be noted that rates in Brisbane are subject to a discount for prompt payment, so that allowance has to be made for the discount.

[TABLE III]

Land Valued at	QUEENSLAND 21)								(1918-19)			
	Local Authority	RATES				LAND TAX			Grand Total	Well'gton Local Authority Rates	Land Tax	Grand Total
		General and Special	Water	Cleansing *	Total	Federal †	State * †	Total				
£100	BRISBANE	6½d	Approx. 10½d	4¾d	s. d. 1 9 <sup>7</sup> / <sub>8</sub>	—	—	—	s. d. 1 9 <sup>7</sup> / <sub>8</sub>	3½d	—	3½d
£300		6½d	6½d	1¾d	1 2 <sup>7</sup> / <sub>10</sub>	—	—	—	1 2 <sup>7</sup> / <sub>10</sub>		—	3½d
£500		6½d	5½d	1d	1 0 <sup>7</sup> / <sub>10</sub>	—	½d*	½d	1 0 <sup>7</sup> / <sub>10</sub>		—	3½d
£1,000		6½d	3½d	¾d	10½	—	10½d*	7 <sup>1</sup> / <sub>10</sub> d	11½		—	4½d
£10,000		6½d	1d	1½d	9	¾d	5d	5¾d	1 2½		2d	5½d
£20,000		6½d	¾d	1½d	8¾	1¾d	6d	7¾d	1 4½		2½	6d
£60,000	6½d	¾d	1½d	8¾	4 <sup>7</sup> / <sub>10</sub> d	7d	11 <sup>7</sup> / <sub>10</sub> d	1 7 <sup>7</sup> / <sub>10</sub>	4½	7¾d		
£100	SOUTH BRISBANE	10¾d	10½d	4¾d	2 1¾	—	—	—	2 1¾	3½d	—	3½d
£300		10¾d	6½d	1¾d	1 6 <sup>1</sup> / <sub>10</sub>	—	—	—	1 6 <sup>1</sup> / <sub>10</sub>		—	3½d
£500		10¾d	5½d	1d	1 4 <sup>7</sup> / <sub>10</sub>	—	½d	½d	1 5 <sup>7</sup> / <sub>10</sub>		—	3½d
£1,000		10¾d	3½d	¾d	1 2½	—	1 <sup>1</sup> / <sub>10</sub> d	1 <sup>1</sup> / <sub>10</sub> d	1 3 <sup>7</sup> / <sub>10</sub>		¾d	4½d
£10,000		10¾d	1d	1½	1 1½	¾d	5d	5¾d	1 7		2d	5½d
£100	ITHACA	11½d	10½d	4½d	2 1¾	—	—	—	2 1¾	3½d	—	3½d
£310		11½d	6½d	1¾d	1 6 <sup>7</sup> / <sub>10</sub>	—	—	—	1 6 <sup>7</sup> / <sub>10</sub>		—	3½d
£500		11½d	5½d	1d	1 5 <sup>7</sup> / <sub>10</sub>	—	½d	½d	1 5 <sup>7</sup> / <sub>10</sub>		—	3½d
£1,000		11½d	3½d	¾d	1 3½	—	7 <sup>1</sup> / <sub>10</sub> d	7 <sup>1</sup> / <sub>10</sub> d	1 3 <sup>7</sup> / <sub>10</sub>		¾d	4½d
£10,000		11½d	1d	1¾d	1 1¾	¾d	5d	5¾d	1 7½		2d	5½d

\*The rate of tax is 1d., but an exemption of £300 is allowed.

†In calculating rates of land taxes, the nearest small fraction has been taken to avoid large fractions.

|| The cleansing charges are £2/4/0 per service for Brisbane, £2/2/0 for South Brisbane, and £1/15/0 for Ithaca, less discount. The rate on the unimproved value has been calculated on a sum of £2 for Brisbane and South Brisbane, and £1/15/0 for Ithaca. As business premises, hotels, boarding-houses, &c., have more than one service, the rate based on one service would not accurately state the position, so that rates were calculated in respect of some of them on the actual amounts paid in 1920. These rates ranged from 1d. in the £ up to 1.64d., so that, for comparative purposes, an average of 1½d. has been given for properties in which the value of lands range from £10,000 to £60,000. Complete investigation would show that this average is conservatively stated.

stage it is merely desired to direct attention to the significance of the Tables, and this significance becomes more pointed still if we investigate the results attained in Wellington. In this connection, let the City of Wellington Year Book (1916-17) speak. As is now known, Wellington is a greater city as compared with the City of Brisbane, and controls water, sewerage, electric light and power, trams, abattoirs, cemeteries, crematorium, fire protection, zoo, parks, and botanical gardens and recreation grounds, public baths (2), seaside resort (in area 650 acres, which the city owns in freehold), and public libraries (3). Amongst other things, the Year Book claims that Wellington is the most perfectly-drained city in Australasia, and has the most comprehensive water system. It has the best wood-paved streets in the Dominion, and was the first to instal electricity for public street lighting, and for general household lighting and heating, and perhaps has the largest number of private residences supplied with electricity for these purposes than any other city in Australasia. The city and environs has the longest (28 miles) seashore roadway in Australasia.

It should be noted that the taxation mentioned in Tables II. and III. represent taxation on the unimproved value of land. The following Table, IV., affords an interesting comparison with four suburban Local Authorities in Melbourne, where taxation is on annual value.

The next Table, V., compares Local Government (direct) and Land Taxation (State and Federal) in the Capital Cities of Sydney, Melbourne, Adelaide, and Brisbane. In Sydney the tax is on unimproved value of land, but in the Cities of Melbourne and Adelaide it is on annual value, so the equivalent tax on unimproved value of land is given, and the unimproved value has been taken at half the capital value, as stated in the note to Table IV. As a matter of fact, in the case of Sydney, the unimproved value of land is equal to approximately 40 per cent. of the capital value. This is, of course, due to the fact that the area available in Sydney for business purposes is much less and more circumscribed by natural features than in Melbourne. In the case of Melbourne, the proportion is half (as stated by the Government Statist), while in Adelaide, instead of being less than half, it is more likely to be greater than half. The calculations, therefore, accurately compare the position, and this table is, it is submitted, a revelation. It will be seen that taxation in Brisbane is twice as great as in the City of Sydney, in some cases, three times, and in other cases between two and three times greater than in the City of Melbourne, and between two and three times greater than in the City of Adelaide.

NOTE.—The rate is on the Annual Value. The Government Statist of Victoria states that only 58 per cent. of revenue for 1919-20 was derived from rates. The actual rate levied is given, and the equivalent rate on unimproved value. It may be contended that Government subsidy relieved rates, but Government subsidy and receipts from licenses of all-sorts only amounted to 8 per cent. of the total. Revenue from electric light schemes accounted for 14 per cent. The balance is made up from fees, market dues, contributions, and other sources. Deducting electric light, the proportion of rates approximates 70 per cent. The proportion in the City of Brisbane for 1920 was 80 per cent. However, for comparative purposes, the rates required to produce the total revenue is also given, and the equivalent rate on unimproved value. In this connection, Tables II. and III. should be compared.

[TABLE IV]

Local Authority	Total Revenue 1918-19	Unimproved rateable value *	Actual Rates Levied		Rates to produce Total Revenue		Other Rates etc. equivalent Water & Sewerage 3	Total Unim'ved Rate 1 & 3	Total Unim'ved Rate 2 & 3
			Unimproved value (equivalent) 1	Annual Value	Annual Value	Unimproved Value Equivalent 2			
BRUNSWICK	£ 62,821	£ 3,201,990	3d	2 4	d 3.1	d 4 <sup>7</sup> / <sub>10</sub>	2 <sup>7</sup> / <sub>10</sub> d	5 <sup>7</sup> / <sub>10</sub>	7 <sup>2</sup> / <sub>8</sub>
FITZROY	39,100	3,283,884	2 <sup>1</sup> / <sub>2</sub> d	1 8	2.2	2 <sup>2</sup> / <sub>10</sub>	2 <sup>7</sup> / <sub>10</sub> d	4 <sup>3</sup> / <sub>10</sub>	5 <sup>3</sup> / <sub>8</sub>
FOOTSCRAY	62,356	2,640,020	3d	2 4	4.9	5 <sup>7</sup> / <sub>10</sub>	2 <sup>7</sup> / <sub>10</sub> d	5 <sup>7</sup> / <sub>10</sub>	8 <sup>3</sup> / <sub>8</sub>
St. KILDA	65,723	3,045,072	3d	2 0	2.7	5 <sup>1</sup> / <sub>10</sub>	2 <sup>7</sup> / <sub>10</sub> d	5 <sup>7</sup> / <sub>10</sub>	7 <sup>2</sup> / <sub>8</sub>

\*Based on the average stated by the Government Statist, Victoria. The proportion of the value of land to Capital Value varies in areas according to whether the Area is business and industrial, partly business and industrial and partly residential, or residential. In the latter, the proportion of the value of land to the Capital Value is less than in the other cases. In residential areas, the proportion is also greater in areas containing greater proportions of unoccupied land. The average proportion of the unimproved value of land to Capital Value for the whole of the Cities and Boroughs in Victoria is half. The same result appears in New Zealand.

|| Calculated on total receipts from water and sewerage rates and charges.



TABLE V.

Capital City	Land Valued Unimproved at	R A T E S			L A N D T A X			Grand Total
		Unimproved or Equivalent	Water and Sewerage	Total	Federal	State	Total	
SYDNEY (1919)	£ 500	4½	2 <sup>3</sup> / <sub>10</sub>	6 <sup>11</sup> / <sub>10</sub>	—	—	—	6 <sup>11</sup> / <sub>10</sub>
	1,000	4½	2 <sup>3</sup> / <sub>10</sub>	6 <sup>11</sup> / <sub>10</sub>	—	—	—	6 <sup>11</sup> / <sub>10</sub>
	10,000	4½	2 <sup>3</sup> / <sub>10</sub>	6 <sup>11</sup> / <sub>10</sub>	2	—	2	7 <sup>3</sup> / <sub>10</sub>
	20,000	4½	2 <sup>3</sup> / <sub>10</sub>	6 <sup>11</sup> / <sub>10</sub>	1½	—	1½	8 <sup>3</sup> / <sub>10</sub>
	60,000	4½	2 <sup>3</sup> / <sub>10</sub>	6 <sup>11</sup> / <sub>10</sub>	4 <sup>3</sup> / <sub>10</sub>	—	4 <sup>3</sup> / <sub>10</sub>	10 <sup>7</sup> / <sub>10</sub>
MELBOURNE <sup>1</sup> (1919)	500	1½	2½	4	—	½	½	4½
	1,000	1½	2½	4	—	½	½	4½
	10,000	1½	2½	4	2	1½	1½	5½
	20,000	1½	2½	4	1½	1½	2 <sup>1</sup> / <sub>10</sub>	6 <sup>1</sup> / <sub>10</sub>
	60,000	1½	2½	4	4 <sup>3</sup> / <sub>10</sub>	1½	4½	8½
ADELAIDE ... (1913-19)	500	2½	2	4½	—	½	½	5
	1,000	2½	2	4½	—	½	½	5
	10,000	2½	2	4½	2	1½	1½	6
	20,000	2½	2	4½	1½	1	2½	7
	60,000	2½	2	4½	4 <sup>3</sup> / <sub>10</sub>	1	5 <sup>3</sup> / <sub>10</sub>	9½
BRISBANE ... (1921)	500	7½*	5½†	1 0 <sup>7</sup> / <sub>10</sub>	—	½	½	1 0 <sup>8</sup> / <sub>10</sub>
	1,000	7 *	3½†	10½	—	5 <sup>1</sup> / <sub>10</sub>	7 <sup>1</sup> / <sub>10</sub>	11½
	10,000	8 *	1 †	8 <sup>3</sup> / <sub>10</sub>	2	5	5½	1 2½
	20,000	8 *	2†	8 <sup>3</sup> / <sub>10</sub>	1½	6	7½	1 4½
	60,000	8 *	2†	8 <sup>3</sup> / <sub>10</sub>	4 <sup>3</sup> / <sub>10</sub>	7	11 <sup>3</sup> / <sub>10</sub>	1 7 <sup>7</sup> / <sub>10</sub>

\*Includes Cleansing. See Notes to Table III.

†Water only.

|| Rates of Land Taxes have been calculated on full value of land in each case, that is to say—on a property valued at £10,000 there is an exemption of £5,000 in the case of Federal Land Tax, leaving a taxable value of £5,000. Amount of Tax payable on £5,000 is £31/13/3. Rate of Tax on £10,000 equals 2d. in the £, as stated in Table.

Now it may be contended that the Cities of Sydney, Melbourne and Adelaide enjoy sources of revenue which the City of Brisbane does not enjoy. This is true, more particularly as regards the Cities of Melbourne and Adelaide. So that this information may be available, a Table showing a number of particulars, including area, population, capital values, annual values (where available), unimproved values, total revenues (excluding electric lighting), and, in the case of Wellington, also trams, and amounts received from rates is shown in Appendix II. Adelaide and Wellington receive a subsidy from the Government which, in the case of the former, amounted to 7 per cent. of the total revenue, while in the latter the total amount was only £500. Adelaide, Melbourne and Wellington receive revenue from liquor licenses, but in each case it only amounts to a small proportion of the whole. The proportion of direct taxation to total revenue in the case of Brisbane was 80 per cent. In Adelaide it was approximately 70 per cent. Melbourne receives revenue from services such as abattoirs (fees, &c., and sale of manure), destructor, &c., and in respect of which there are correspondingly expenditures. It would also appear that Melbourne rates get some relief from the electric light undertaking, so that when allowance is made for these things, the proportion of direct taxation to total revenue left for services carried on by Brisbane, approximates 70 per cent. In the case of Sydney, the proportion also approximates 70 per cent. It is manifest then that the contention cannot be maintained. The figures given for each City are taken from the statistics of each State, and the Wellington figures are for the last year available. In each case they are at least one year behind Brisbane, but this fact alters the position to a very slight degree, except perhaps in the case of Sydney, but even here it is certain that the relative position for 1920 was not altered to any appreciable degree (if published statements can be accepted it would appear that the position of Sydney will undergo a change).

A study of Appendix II., will prove to be interesting. For instance, the unimproved value of lands in the Cities of Brisbane, Adelaide, and Wellington (see also Table II.), afford an interesting comparison, especially when the populations of the Metropolitan Areas are taken in account. The populations of Brisbane and Adelaide are stated by Knibbs to be 189,576 and 256,660, respectively, while the population of Metropolitan Wellington is 95,000. What then, accounts for the difference? In New Zealand all valuations are made by a Central Bureau, and, as may be expected, the valuations are years behind, while in Brisbane they are right up to

date. This, then does not account for the difference. Population of the Metropolitan City seems to have no relation to values, as is evidenced by the values of Adelaide, which has the largest population. The explanation would seem to lie in commercial importance. (Wellington claims that it has the best wharf accommodation in Australasia.) And another factor seems to be that on account of natural features, the business section of the city has necessarily had to be compacted. These factors seem to be further exemplified by comparing Sydney and Melbourne, the populations of which are stated to be 828,700 and 743,000, respectively. There seems to be no doubt that Sydney is the more important commercially, and the factor of circumscribed area certainly operates as between Sydney and Melbourne. However, the great difference between the Metropolitan populations of Adelaide and Brisbane would provide an interesting investigation of causes.

It would be idle to compare taxation per head of population in the Local Governing Areas of the Cities of Sydney, Melbourne, Adelaide, and Brisbane. This comparison is, therefore, made in the Metropolitan Areas in the following Table, VI.:—

[TABLE VI]  
Total Rates Received (Metropolitan Areas)

	Year	Area in square miles	Population	Amount	Amount per Head
SYDNEY... ..	1917	150	762,480	£1,124,596†	£1 9 6
MELBOURNE ...	1919-20	109	693,670	£783,524†	£1 2 7
ADELAIDE ...	1918-19	280	258,211	£230,797	£0 18 0
BRISBANE ..	1920	465*	202,000	£489,402	£2 8 5

\*Includes whole of Shires of Yeerongpilly and Moggill, in area 230 square miles.

†Rates levied—rates received is generally less.

|| Population is given for areas of Local Authorities confined in Metropolitan Areas as shown by statistics.

Table VI. further illustrates the great disparity in taxation. If the Metropolitan Area of Brisbane were reduced to, say, the Area returned for Sydney or Melbourne, the amount per head for Brisbane would be increased materially. The same would, of course, apply to Adelaide, but not to anything like the same extent.

As has previously been stated, the Tables which have been presented do not require any explanation or elaboration. They depict the position with alarming clearness. Let the position, however, be presented in another way, by seeing how much was extracted from the taxpayers. In order to illustrate the position, the Cities of Brisbane and South Brisbane, and Town of Ithaca have been taken and compared with Wellington, the area of which is practically identical with the three Local Authorities mentioned. The position then may be stated as follows:—

**Total amount collected by direct taxation:—**

WELLINGTON (1918-19) including water, sewerage, and hospital . . . . .	£	181,848
(Equal to £2/9/6 per head of population.)		
BRISBANE (1920) . . . . .	£210,054	
SOUTH BRISBANE (1920) . . . . .	76,060	
ITHACA (1920) . . . . .	28,432	
	<u>314,546</u>	
Add water rates estimated to have been collected in Brisbane, South Brisbane, and Ithaca (Total for Metropolitan Area (1920) £217,000)	140,000	<u>454,546</u>
(Equal to £4/10/- per head of population.)		

or 150 per cent. more, and if the amounts collected in land tax were stated (in respect of which there are no visible services), it seems apparent that the difference between Brisbane and Wellington would be greatly increased. (See Table III.)

Now, the rates in Brisbane, South Brisbane, and Ithaca have again been increased for 1921, as also has the water rate. Taking the estimates of the several Councils, we find that the rates for this year were estimated to produce the following amounts:—

BRISBANE . . . . .	£238,314	
SOUTH BRISBANE . . . . .	98,874	
ITHACA . . . . .	34,837	
	<u>372,025</u>	
Add water (estimated) . . . . .	160,000	<u>£532,025</u>
(Equal to £5/6/-, (or an increase over last year amounting to 16/-), per head of population.)		

Stating the average amount per head of population is not a fair statement, as between the Cities of Brisbane and South Brisbane and Town of Ithaca, and it is not intended to mean that the amount represents the amount raised per head of population in the two last-mentioned—it would be meaningless to do so—but the average amount given does represent a fair basis for comparison between the City of Wellington on the one hand, and Brisbane, South Brisbane and Ithaca joined together, on the other hand. The comparison becomes all the more remarkable when it is considered that the population of the three Local Authorities mentioned is one-third greater than that of Wellington. And it will dispose of any contention that may be raised that the average tax paid in Wellington would be greater than in the areas of Brisbane, by virtue of the fact that the unimproved value of Wellington is greater, although the difference here only amounts to less than 15 per cent.

It may be claimed that the estimated collections, and collections estimated to be collected from Water Rates are over-stated. They are more likely to be under-stated, because the unimproved value of the three areas mentioned represent approximately 70 per cent. of the unimproved value of the Metropolitan Area, while considerable areas of outside districts are not served by water, and water rates are only levied on land within 300 feet of water mains.

#### Prospective Taxation.

##### Sewerage.

We thus see that Local Government taxation for this year is estimated to produce £532,025. To this should be added the Land Tax, which is stated at £110,000, and the operation of the so-called undeveloped Land Tax will probably materially increase this amount. But we have not reached the limit of taxation, for in two years, the sewerage rate will operate. An estimate of what this will be might be attempted.

The Report of the Royal Commissioner contains information which enables an estimate to be attempted which hitherto could only be guessed. In the remarks which follow, the pages referred to are pages in the recent Royal Commissioner's Report on Sewerage.

Mr. Audit Inspector Ross stated that total cost of sewerage operations at 31st December, 1920, inclusive of capitalised interest, was . . . . . £1,426,004

Mr. Manchester stated to the Royal Commissioner (Mr. Oliver) that the total cost, exclusive of capitalised interest, was, at the same date . . . . . 1,284,273

(Page 24.)                                  Difference . . . . £141,731

The difference can easily be accounted for by capitalised interest.

On Page 26, Mr. Oliver states that he is of opinion that "it will take another £500,000 to complete the work yet to be done, including the 7,000 feet of effluent and main sewers, the remaining reticulation, and the pump shaft to pump the sewage into the high level sewer at Shaft 33A, and all this should be finished inside two years, if funds are readily forthcoming."

On the same page, it is mentioned that "Mr. Manchester says that another £100,000 will complete everything for connecting up the reticulation, and a further £300,000 will pay for the reticulation. He thinks the whole scheme will be complete in eighteen months."

It would appear then that the "whole scheme" should be completed for about £2,000,000. But the point, which is not precisely stated, is, what is the "whole scheme," and what area is to be seweraged or is embraced in the "whole scheme"? It is necessary to be precise on this point, to make any estimate of taxation of any value.

Pages 2 to 8, contain Mr. Ross's Report to the Auditor-General. On Page 3 appears a table setting out the lengths of sewers and reticulation constructed, under construction, and not yet started, at the 31st December, 1920. On Page 23, appears a table furnished to Mr. Oliver by Mr. Thom, Engineer, Sewerage and Drainage, headed: "Main sewers constructed and under construction, 31st December, 1920." From these two tables the following table is appended:—

	Mr. Thom.	Mr. Ross.
	Feet.	Feet.
Main Sewers:—		
Constructed	73,601	65,389
Under Construction	8,635	33,736
Not Yet Constructed	12,435	50,887
	<u>94,671</u>	<u>150,012</u>
Reticulation:—		
Constructed		4,924
Under Construction		7,589
		<u>12,513</u>

Now, it will be seen that Mr. Thom says that 8,635 feet of sewers were, at the 31st December, 1920, under construction, and 12,435 feet, not yet started, or a total of 21,070 feet. Mr. Oliver, whose report is dated June, 1921, says that 7,000 feet of effluent and other sewers are "yet to be done." Thus it would appear that 14,070 feet have been constructed since the 31st December, 1920 (and also additional reticulation). Mr. Oliver does not state the total cost up to the date of his report, so that, if his estimate is merely added on to the expenditure up to 31st December, 1920, expenditure over a considerable period, obviously, will be excluded.

If the table be again referred to, it will be seen that there is a big difference between Mr. Thom's length of sewers and Mr. Ross' figures, and this difference at once creates a doubt as to what the position really is. Further investigation is necessary.

On Page 2, there appear estimates in connection with two schemes: A "for present requirements"; and B "For future requirements." The two estimates are set out, side by side, as follows:—

	A £	B £
Main Sewers	535,826	535,826
Subsidiary Main Sewers	66,050	90,373
Reticulation	580,516	716,700
H. C. Branches	58,047	111,920
Treatment Works and Plant	135,933	213,345
	£1,376,372	£1,668,164

It will be noticed that there is no difference in the estimates for main sewers, but there is a difference in each of the other items, indicating that Scheme A embraced the area of reticulation to serve present requirements or population (1912), in the part of the district of the Board which would be served by the main sewers in Schemes A and B, and that Scheme B embraced the increased reticulation, &c., or perhaps the maximum reticulation, which will become necessary in that part of the district as population increased.

The Water Supply & Sewerage Act defines the district in respect of which the Board was created to dispose of sewage. However, the sparseness of population in the outlying portions of the district, namely, Shires of Sherwood, Balmoral, Toombul (greater part), Coorparoo (greater part), and Stephens (greater part), made it apparent that a sewerage scheme was impracticable in respect of those

parts. Hence, a scheme of sewers was designed, excluding the outlying parts. This scheme provided for a main sewer on the North side of the river from Luggage Point to Toowong Creek, that is, to just beyond the Toowong Railway Station, and six branch main sewers, branching off both sides of the main sewer at Eagle Farm Road (Kedron Brook sewer), Booroodabin Bowling Green (Breakfast Ck. sewer), corner of James and Ann Streets, Valley, and crossing the river at New Farm to Norman Park at Norman Creek, and then connecting two branches, following the valley of Norman Creek, and the other skirting the river round Kangaroo Point (called the Norman Creek main sewer), Brisbane City Sewer, South Brisbane main sewer (branching from the main sewer in River Road, opposite Davies Park, and then connecting up with one sewer skirting the river downwards to River Road, Kangaroo Point, and the other skirting the river upwards round West End, Milton main drain, Western Creek main (Toowong branch).

Of these sewers, according to Mr. Oliver's Report, 7,000 feet of the main and effluent sewers (that is, the main sewer from Luggage Point to Toowong Creek) have yet to be completed. The Norman Creek sewer, junctioning the main sewer at the corner of James and Ann Streets, and crossing the river to Norman Park, and for a distance of 109 chains up the Valley to Norman Creek, has been completed (leaving a portion uncompleted), and what appears to be part of the Brisbane City sewer has also been made. The explanation of the difference in Mr. Thom's and Mr. Ross' figures, therefore, now becomes apparent.

At the 31st December, 1920, according to Mr. Thom's Table, sewers have been completed as follows:—

	feet.	feet.
Main Sewer—completed . . . . .	51,589	
to be constructed . . . . .		21,070
Norman Creek Sewer—completed (including syphon across River) . . . . .	18,395	
to be constructed . . . . .		3,945
Brisbane City Sewer—completed . . . . . (Alice and Albert Streets)	3,617	
to be constructed . . . . .		not known
Total completed . . . . .	<u>73,601</u>	
At same date, according to Mr. Ross:—		
Completed and to be constructed . . . . .	<u>150,012</u>	
Leaving to be constructed . . . . .		<u>76,411</u>

It will be observed, then, that according to Mr. Thom's Table 21,070 feet of the main sewer remained to be con-



structed at 31st December, 1920, and, apparently, 14,070 feet had been completed between that date and Mr. Oliver's Report, leaving 7,000 feet still to be completed. So that, apparently, both Mr. Oliver's and Mr. Manchester's estimates of £500,000 and £400,000, respectively, to complete the work yet to be done," and "will complete everything," refer only to the completion of the main sewer and the reticulation necessary to connect with that sewer and the incomplete Norman Creek and, perhaps, Brisbane City sewers.

The position, then, may be stated thus:—

(1) Expenditure to 31/12/20 (73,601 feet sewer) £1,426,004 (Including Capitalised Interest.)	
(2) Add cost to complete 76,411 feet of sewers at £6 per foot (see Mr. Thom's Table for costs, Page 23) . . . . .	458,446
(3) Add original estimated cost of reticulation (1912), £580,516, less expenditure on reticulation to 30/12/20, £15,451 (page 22), included in (1) . . . . .	565,065
(4) Add original estimated cost of subsidiary sewers (1912), £66,050, less cost of Alice and Albert Streets, at 31/12/20, £30,354, included in (1), (the length of this sewer is, however, included in length completed)	35,696
(5) Add original estimated cost of house connection branches . . . . .	58,047
(6) Add Capitalised Interest from 1/1/21, to expiry of period of two years, say . . . . .	150,000
<b>Total . . . . .</b>	<b>*£2,693,278</b>

NOTES.—(2) Mr. Manchester stated that the total expenditure (exclusive of capitalised interest), to 31st December, 1920, was £1,284,273. Deducting expenditure on surveys, treatment works, expenditure on abandoned works, syphon across river, and reticulation expenditure, in all £332,055, leaving £952,218 for actual work of constructing sewers, gives a cost of £13 per foot. Therefore, £6 a foot is a low rate.

(3) According to Mr. Ross, only 4.924 feet of reticulation had been completed to 31/12/20, and 7.589 feet under construction. In the Melbourne scheme, the length of reticulation equals 88 per cent. of the total length of sewers, reticulation, &c. If reticulation will bear the same proportion here, there will be 1,071,514 feet of reticulation, which at, say, £1 a foot, will cost £1,000,000. (See cost of reticulation to 31/12/20.) As the mileage of roads increases with the greater density of population, it would not seem that reticulation will bear the same proportion in the Brisbane Scheme.

(3), (4), and (5) These estimates were made in 1912, so it seems safe to assume that actual cost will exceed those estimates.

\*This amount does not include some items mentioned by Mr. Oliver, for instance, Pump Shaft, from low to high level sewer, and completion of Treatment Works.

If the above statement is a fair method of stating the position, which it is believed it is, it would seem that there is ground for assuming that the completion of the scheme "For Present Requirements," will cost, perhaps, £3,000,000, or more. But this is not all, for house connections have to be considered. This is the responsibility of the property owner, but there is reason to believe (judging by the experience of some Local Authorities), that the cost will be so heavy that the house connections will require to be made a community charge, that is, the work will require to be done by the Board, and the cost met by loans, which must become a charge against the scheme. The scheme "For Present Requirements," was estimated to serve 23,442 tenements (1912). This number no doubt has increased, and let it be assumed that it has increased to 25,000, and that cost of house connections will be £30 (it has been stated that it will be £60), this cost will amount to £750,000, and if the statement referred to be correct, £1,500,000. Taking these facts into consideration, there seems a prospect that the scheme "For Present Requirements," may cost a sum exceeding £4,000,000.

As has been stated, in making an estimate of taxation which must be levied, it is important to know precisely what is meant by "to complete the work yet to be done." (Mr. Oliver), "and complete everything" (Mr. Manchester). It seems now to be fairly shown that what was meant by Mr. Oliver and Mr. Manchester, is merely the completion of the main sewer, plus some reticulation into that sewer, and the Norman Creek sewer, as far as it is finished, and, possibly, the Brisbane City sewer. This, then, cuts out a very considerable area, including the greater part of the City of South Brisbane, parts of the City of Brisbane (Kangaroo Point and parts of the north side of the river), part of the Town of Hamilton, Town of Windsor, Town of Ithaca, and part of Town of Toowong, which was provided for in the scheme "For Present Requirements" to be sewerred. It will be seen, therefore, the population to be served immediately will be limited. But the more important aspect of the matter is that if the area immediately sewerred is limited, so will the land which can immediately be taxed be limited, and it is further limited also by the fact that only lands within 300 feet of reticulation can be taxed. It is estimated that the value of land in the area proposed to be sewerred, "For Present Requirements," is, approximately, £10,000,000. The value of land, which may immediately be taxable, probably would not exceed £7,500,000. This, it will be seen, raises a very important consideration in the matter.

We may now proceed to estimate the tax, and in the first case, let it be assumed that Mr. Oliver's estimate of £500,000, "to complete the work yet to be done," will finish the scheme "For Present Requirements," in two years. The position may then be stated thus:—

Expenditure to 31/12/20 (including capitalised interest) . . . . .	£1,426,004
Expenditure to June, 1921 . . . . .	?
Cost to complete scheme . . . . .	500,000
Add Capitalised Interest for 2 years; say . . . .	100,000

Total . . . . £2,026,004

Or, say, £2,000,000.

The annual charge will, therefore be:—

(a) Interest and redemption on loan of £2,000,000 for 50 years, at 5 per cent. . . . .	£110,000
(b) Working expenses, as estimated in 1912 . . . . .	24,527
	£134,527

Rate required to produce this amount on £10,000,000 is 3.2d. in the £.

But if, as seems to be the case, the scheme "For Present Requirements" will not be completed, and it is assumed that the value of taxable land immediately sewered is £7,500,000, the rate will be 4.3d.

And if, as appears to be the case, the scheme "For Present Requirements" will not be completed for another £500,000, and that the scheme will cost £3,000,000, as there is reasonable ground for believing will be the case, the annual charge will therefore be:—

(a) Interest and redemption on loan of £3,000,000 for 50 years, at 5 per cent. . . . .	£165,000
(b) Working expenses as estimated in 1912 . . . .	24,527
	£189,527

Rate required to produce this amount on £10,000,000 is 4.5d. in the £.

So it will be seen that the sewerage rate might be anything from 3.2d. to 4.5d. It is, however, safe to assume that the working expenses estimated in 1912 will be exceeded, and it may further be stated that the above calculations do not make provision for interest and redemption on loans for house connections, if the Board is compelled to make them a community charge.

So that there is a prospect of the rate reaching 6d. in the £, and if the tax is to be differential, as in the case of water, the tax on the smaller valued properties will be greater still, probably increasing taxation in South Brisbane and Ithaca on land valued at £100 to nearly 3/- in the £.

If reference be again made to Tables II. and III., the real significance and magnitude of the tax will be realised.

It may not be uninteresting at this stage to make a few comparisons. The City of Wellington Year Book claims that that City, with its area of 15 square miles, is the most perfectly drained in Australasia, but it has 88 miles of sewers. The scheme "For Present Requirements" is to sewer a part of Brisbane, 25 to 30 square miles in area, and the mileage of sewers is 28½ miles (150,012 feet), but the mileage of subsidiary sewers is unknown. The Melbourne scheme embraces an area exceeding 100 square miles, with 163 miles of main sewers, 24 miles of rising mains and out-fall sewers. The total cost of the Melbourne scheme to 1919/20, was £6,850,000. It looks as though our scheme of 28½ miles of sewers with its subsidiary sewers and reticulation, will cost not less than £3,000,000. Average cost of sewers in Melbourne (the largest of which are practically twice as large as in Brisbane), was £14,000 per mile; the average cost of ours to date (that is, after deducting cost of abandoned works, surveys, syphon across river, reticulation and treatment works), is £68,000 per mile. The average cost of reticulation in Melbourne was £2,600 per mile; the average cost of the small length constructed and under construction (31/12/20) (Page 3), at the estimated cost, £21,989, is £9,240. The population served by the Melbourne scheme to 1919/20 was 730,000; the population estimated in 1912 to be served by the Brisbane scheme was 113,000, probably 130,000 now.

#### Hospitals.

For many years now, there has been a general disposition to transfer the control of Hospitals to the Local Authority. Hospitals are a local governing function, and the Local Government Association of New South Wales propounded a scheme for taking over control of hospitals. So that, with the possibility of hospitals passing to the control of the Local Authority, the added burden which this would entail may be stated. It is estimated that under the new conditions brought into being by the Arbitration Court Award, the annual cost of the four public hospitals in the Metropolitan Area will be £150,000. To this must be added

the annual charge, which will inevitably accrue by reason of the need for increasing and improving existing hospital provision (the cost of which has not been ascertained), and the added working expenses which also must necessarily follow, and might conceivably increase the cost to £200,000, or more. This charge will, of course, be spread over the whole of the Metropolitan Area, and would entail additional direct taxation from 2d. to 4d. in the £.

### Summary.

The position may be summarised as follows:—

Estimated Receipts for 1921 (Brisbane, South Brisbane & Ithaca & Water Rates) . . . . .	£532,025	
Land Tax in same Areas (estimated)	110,000	
		642,025
Taxation in Prospect:—		
Sewerage, in two years . . . . .	134,527*	
Difference in Annual Charge upon Sewerage Loans—£2,000,000 and £3,000,000 . . . . .	55,000*	
Annual Charge for Town Hall Loan (approx.) . . . . .	37,000	
Annual Charge for Proposed Concrete Roads' Loan (approx.) . . . . .	19,000	
		245,527
†Hospital Tax, say . . . . .	200,000	
		£1,087,552
Unimproved Value of Land . . . . .	£9,851,178	

\*These amounts do not include the Annual Charge for House Connection Loans.

†The whole of this may not, of course, come on to the Local Authority, if a scheme similar to the New Zealand scheme is adopted. Such a scheme, however, only creates more Authorities, and, therefore, likely to be expensive. Moreover, the charge will be over the whole Metropolitan Area.

It will thus be seen that taxation is in prospect of absorbing the whole rental value in Brisbane, and if Local Government taxation, Water Rates, increase as they have done in the last few years, it will not need the addition of a Hospital Tax to absorb the rental value.

This illustration (Table VII.), shows the actual increase in one case in South Brisbane:—

TABLE VII.

Situated in Side Street, off Logan Road. Present Owner  
Purchased House and Land for £320, in 1910.

Area of Land, 48 perches.

Income of Owner - - - - - £20 per month.

Land Valued by Local Authority in 1916 at £234.

Land Valued by Local Authority in 1921 at £280.

## RATES PAID.

Year	City	Percentage Increase	Water	Percentage Increase	Total	Percentage Increase
	£ s. d.		£ s. d.		£ s. d.	
1916	*8 14 3		3 1 8		11 15 11	
1917	8 17 3		3 6 8		12 3 11	
1918	9 19 8		3 8 2		13 7 10	
1919	11 4 6		3 12 2		14 16 8	
1920	13 6 2		5 11 2	Approx.	19 7 4	
1921	14 12 10	68%	7 7 10	140%	22 0 8†	87%

Amount taken from actual Rate Notices.

\*Includes Cleansing Charge.

†Equal to a tax of 1/7d. in the £ on improved value—not annual value. If reference be made to Table III., it will be seen that the rate given there on land valued at £300 is 1/6 11/20d. in the £, proving the accuracy of the Table.

## Causes and a Remedy.

We have seen, then, Local Government Finance as it is. In using the term, "Local Government Finance," care must be taken, in reading the Tables, to separate the finance of Local Government proper (the Local Authorities), the Water Supply and Sewerage Board, and the effect of the land taxes, but the three taken together represent the taxation which is, or should be, considered to be the taxation in respect of local development.

Why is it that there is such a wide disparity between Brisbane and the other Capital Cities mentioned in the Tables? In Appendix III., the taxation levied in each of the areas comprised, or partly comprised, in the proposed Greater Brisbane is given, from which it will be seen that there also has been great increase in taxation since 1904. This question may be answered if what appears to be the causes for the favourable position of Wellington be stated, as follows:—

- (1) Compactness of settlement, compelled by the natural conditions of Wellington;

- (2) Single Control of roads and utilities required to be provided on, over, or under roads (water, sewerage, light, transit), which enabled a single co-ordinated policy;
- (3) Financial Freedom—power to borrow independently, and wise exercise of that power;
- (4) Natural Advantages;
- (5) Civic Spirit of the Citizens;
- (6) Control of Sources of Revenue, which Local Authorities here do not enjoy. This is, however, only a minor cause.

Causes (1), (2) partially, (3) to a more or less degree; and (4) have operated also with regard to Sydney, Melbourne, and Adelaide.

#### Financial Freedom.—Borrowing.

As will be seen, Local Authorities have never enjoyed financial freedom in Queensland, and particularly have they been fettered in that important part of it, namely, borrowing. Not only have they been fettered by the nature of their constitution, and by legislative limitations, but an atmosphere was created that borrowing was an evil thing, and even to-day there are men in Local Government who are proud of the fact that they have no loan liabilities. The limitations which have been imposed, and the interference which such limitations necessarily bring, have, as has already been mentioned, made the carrying of loan proposals a protracted and burdensome undertaking. The consequence has been that Local Authorities have very largely attempted to develop their localities by means of direct taxation.

Borrowing by Local Authorities in Queensland, except in the case of the bigger cities, may be said to be of quite recent origin, and the borrowings of the bigger cities have not been in respect of general works, as may be seen from the fact that the large part of the debt of Brisbane and South Brisbane is in respect of wharfage. Permanent works, such as concrete water channelling and asphaltting footpaths, are met out of taxation, with the result that the work is done piece-meal, and so have bridges, etc., in many cases.

The total expenditure of all Local Authorities increased from £664,000 in 1910 to £1,578,000 in 1919 (figures for 1920 not available). Proportion of loan expenditure to the total expenditure ranged from 7.8 per cent. down to 2.2 per cent., but the average has been about 5 per cent., which it was in 1919. Payments for interest and redemption

ranged from 6.8 per cent. to 3.7 per cent. of the total expenditure. In "Local Government Law" (England), it is stated that in England annual loan expenditure equalled 28 per cent., and interest and redemption payment 15 per cent., of the total expenditure. In New Zealand, for a period of 10 years, loan expenditure ranged from 20 per cent. to 30 per cent. (including Harbour Boards), but during the years of War it declined. In Canada, for the period of five years just before the War, the loan liabilities, of all Local Governments, just exceeded that of the Dominion and Provincial Governments added together. (Canadian Year Book).

In most Local Governing Laws there is a limit fixed to borrowing, and a maximum limit to the term of loans. These limits vary. For instance, the limit fixed in the New South Wales law is 20 per cent. of the unimproved value of land, and the limit in Queensland law has already been stated. In every case where a limit is fixed, the limit is not affected by borrowings in respect of public utilities. The question is whether any limit should be fixed or is required, because there is one inexorable limit, and that is the limit fixed by the ability of the community to bear the taxation necessary to meet the annual charge. This limit or test is the test which must always be applied by the borrower or the lender.

It seems merely to repeat long-established principles to say borrowing is only justified in respect of permanent or reproductive works, that the term of the loan should be measured by the life of the work or period of benefit, and provision made for repayment by fixed annual payments or by way of sinking or redemption funds. So far as borrowings from the Government is concerned, the Local Works Loans Acts define permanent works, and the periods of loan in respect of such works, and for fixed repayments. There are no statutory limits fixed with regard to borrowing by debentures, but the law requires that the limit shall be fixed by the authorising Order.

In respect of some of the earlier loans, no provision was made for repayment—the Local Authorities followed a bad example, and the Cities of Brisbane and South Brisbane have legacies of this kind handed down to them. Mention of this raises an issue which is often discussed, namely: the issue of short-dated or long-dated loans. In a system of finance where loans are not repaid, but renewed, the argument in favour of short-dated loans can be understood, but in a system which provides for fixed annual repayments, or sinking or redemption funds, the loan, if it does not correspond to the life of the work or period of benefit, merely imposes burden, and the question, whether



money should be borrowed or not in times of dear money, is, it is submitted, merely one of economy, governed by circumstances and need, and the terms sought to be imposed by the lender.

The circumstances of recent times have placed the Commonwealth Bank in the position of having a monopoly in public finance, to such an extent that that Bank is now practically, for the time being, at any rate, the only financial institution from which public bodies can borrow. Some of the recent loans granted by the Bank might be referred to. They are as follows:—

Town of Hamilton—Electric Light, £10,000, 5½%, 10 years.  
 Shire of Stephens—Electric Light, £10,000, 5½%, 10 years.  
 St. George County Council  
 (N. S. Wales)—Electric Light, £100,000, 5½%, 30 years.  
 City of Brisbane—Town Hall, £530,000, 5%, 25 years.  
 City of Brisbane—Concrete Roads, £190,000, 5½%, 15 years.

Now the Commonwealth Bank is a Government Institution, which should at least pay some regard to the general good of the community. Why, then, should the Bank deal differently with Local Authorities in Brisbane and Sydney? The Local Authority merely is the Trustee of the Community, and there is no question of security, as in private finance. No community can dishonour its obligations, and the taxing resources of the community are the same no matter what State it is in. If, then, the period of the loan to the St. George County Council, namely, 30 years, represents the true and economic period of loan for an electric light undertaking, then the Hamilton Town Council and Stephens Shire Council were entitled to the same periods, and to the extent that they were not, the Commonwealth Bank has imposed burdens on those communities. And if the period of 30 years for an electric light undertaking is the true and economic period of loan for such an undertaking, how absurd is the period imposed on the Brisbane City Council in respect of the loans for the Town Hall and concrete roads? They represent heavy burdens on the community of Brisbane during the next 25 and 15 years.

Apparently the Bank is obsessed with "commercial finance." A big electric light scheme may earn profit; but a town hall and concrete roads will not, according to a balance-sheet, yet the community for one hundred or more years hence conceivably will be enjoying the benefits of such works.

The Brisbane City Council will earn the gratitude of the citizens for their action in embarking upon such a profitable venture as concrete roads, which can hardly now be said

to be in the experimental stage, as the following evidence, taken from the Report of Roads and Transport Congress, London (1919), will show:—

Part of St. Kilda Road, Melbourne, 5 years laid, cost of maintenance,  $\frac{1}{2}$ d. per square yard per annum.

County of Outagannie, Wisconsin, U.S.A., annual maintenance of 65 miles of new macadam roads, £80 per mile. Annual maintenance of 55 miles of concrete roads, £4 per mile.

London, concrete road (experimental strip) at entrance to Tilbury Dock, laid in 1916, over alluvial drift with a depth of 40 feet before reaching firm ground), annual maintenance to 1919, nil.

(All the above were re-inforced.)

This evidence should establish the almost certainty of properly laid re-inforced concrete roads earning profits. It may perhaps be contended that the saving in maintenance will counterbalance the burden imposed by the un-economic terms of the loan. The contention cannot be allowed. The community of to-day is entitled to have the period of the loan spread over the period of benefit.

Herein lies a fundamental factor in the economy of Local Government finance, and let us illustrate the points by Tables VIII. and IX.

TABLE VIII.

(For comparative purposes, the terms of the loan which may be borrowed from the Treasury for the same class of work is set by side.)

	Term of Years	Maturing	Interest	Annual payment to Sinking Fund	Sinking Fund at 31.3.1916	Ann. charge
WELLINGTON	50	1.9 1930	† 6%	£700	£61,860.11.7	£ 5,200
QUEENSLAND	10		* 4%	—	—	9,200 approx
			 5½%	—	—	9,950 approx

†Majority of loans of Wellington at 4 per cent. and 4½ per cent.

\*Old rate in Local Works Loans Act.

|| Present rate in Local Works Loans Act.

### CITY OF WELLINGTON.

LOAN FOR CITY IMPROVEMENTS—£75,000.

TABLE IX.  
TOWN HALL.

CITY OF WELLINGTON.		CITY OF BRISBANE.	
Cost . . . . .	£30,000	Authorised to Borrow, £530,000	
Annual Charge (approx.)	£4,600	Annual Charge* . . . . .	£37,000
Taxing Area, 15 square miles		Taxing Area . . . . .	5½ square miles
Rate . . . . .	.09d.	Rate . . . . .	1d.

NOTE.—Taxation to meet the Annual Charge will be eleven times greater than the tax in the City of Wellington. A revenue will be earned from rents of offices, but this will largely be off-set by maintenance charges. The Brisbane structure will be, no doubt, the larger and nobler; but the Wellington Town Hall is no mean structure, as is evidenced by the fact that the Public Hall seats 3,000 persons, and the Reception Hall 600 persons. The period of loan for the Wellington Town Hall was for 30 years. The Sydney Town Hall cost, approximately, £488,000 to build, and, according to the Sydney City Council's "Vade Mecum" (1919) (Page 88), the net annual charge for seven years ending 1918 was £19,234/1/0, including interest and sinking fund payments, requiring a tax of .14d. The tax for the Brisbane Town Hall appears in its real magnitude, not only comparison with the taxes required to provide the Wellington and Sydney Town Halls, but also when it is realised that the land taxes in Victoria and South Australia are ½d. or half.

### Single Authority—Single Policy.

Of the Capital Cities compared in the Tables, the City of Wellington is the only City, which as a single authority, controls the primary functions of local government, and it is the largest in area. The Cities of Melbourne and Sydney control electric light and power, but it would seem that the former is to lose this control in a new Authority, which has been created, called the Electrical Commissioners, who will control the supply of electricity for the whole State of Victoria. Cities of Melbourne, Sydney, and Adelaide also control utilities, which are not controlled by the City of Brisbane.

The advantage of a single Authority controlling all the primary functions of local government should be apparent. The City of Wellington has engineers in almost every branch of the engineering profession on its staff, and this highly skilled staff is working under the direction of a single co-ordinated policy. The saving in cost must be enormous, and the low taxation in Wellington seems to demonstrate this. The inefficiency caused by divided control has been pointed out over and over again by Town Planning Experts. Roads are the means by which services are provided, so that, if there are separate authorities exercising functions having relation to roads, it follows that each of these authorities must have powers to break up roads. Every Local Authority in Brisbane knows what this means. Instead of co-ordination there is contention, and to such an extent can this go that the Metropolitan Water Supply and Sewerage Board was given a superior power over roads to the Local Authority. There was a dispute between the Board and the South Brisbane City Council as to the ownership of the soil taken out of roads where water mains were laid, and to settle the dispute the Water Supply and Sewerage Act was amended, definitely declaring the ownership in the Board. Thus we have the subsidiary form of local government having a superior power over the local government proper, upon which is imposed the obligation and responsibility of constructing, maintaining, and controlling roads. In New Zealand and New South Wales, the Local Authority has the fee simple of roads.

### Density and Distribution of Population.

Wellington is, however, the only city of those mentioned in the Tables which controls all the primary functions of local government, and in which, therefore, the full effects of a co-ordinated policy and control can be seen. We have, therefore, to look further for the causes for the high cost of local governing services in Brisbane as compared with the other cities. The prime factor is the greater density of population in the Cities of Sydney, Melbourne, and Adelaide, combined with easier natural conditions.

If Table I. be referred to, it will be seen that the density of population in the Metropolitan Area of Adelaide, that is within the ten mile radius, is not greatly higher than in Brisbane. However, this by no means indicates the true position.

Take, first, the City of Adelaide. This city is a little greater in area than the City of Brisbane (local governing areas), but Adelaide is circled by a park belt, which comprises probably 50 per cent. of the total area of that city. This, then, leaves, approximately, 50 per cent. occupied by the City, including the area occupied by the Crown, other parks and reserves, streets, schools, churches, &c., business, industrial and residential. The total area in parks and reserves, including town belt, is 60 per cent., or slightly more than 1960 acres or 3 square miles (which is not intersected by roads), leaving 1308 acres or 2 square miles for all other purposes. As only approximately 10 per cent. of the City of Brisbane is comprised in parks, or 11/20ths of a square mile, out of a total of 5½ square miles, nearly 5 square miles is occupied for all other purposes, as against 2 square miles in Adelaide. Probably half of the occupied part of Adelaide is occupied by the Crown, schools, churches, &c., and for business and industrial purposes approximately 674 acres, or 1 square mile, leaving the same area for residential purposes. If it is assumed that the Crown, schools, churches, &c., and business and industrial occupy the same area of Brisbane, there is left for residential purposes practically 4 square miles. That is to say, the population in the City of Adelaide (43,000) is settled on an area of 674 acres, or 1 square mile, whereas in Brisbane, approximately, the same population is settled on 2,560 acres, or 4 square miles. The area in streets in the City of Brisbane is 19.2 per cent. of the whole area, and in Sydney 29.27 per cent. (approximately). The area in streets in Adelaide is not known, but it has probably a greater percentage area in streets in the occupied part, although a less total area, so that the average density is probably from three to four times greater than in Brisbane.

The comparison, however, becomes more marked if the area of comparison be extended. The population of Adelaide, within the 3-mile radius, is estimated to be 175,000, and in the area outside the 3-mile radius and within the 10-mile radius, 83,000. The population of Brisbane within the 3-mile radius is estimated to be 136,000, within the 5-mile radius 181,000, and in the area outside the 3-mile radius and within the 10-mile radius it is estimated to be 73,000. (The figures for Adelaide are for the year 1919.)

The records show that the sewerage system of Melbourne, which sewers an area of 100 square miles, approximately, served an estimated population of 730,000 (1919), that is, a population of 730,000 within a radius of 6 miles. This estimate seems to be liberal, but in any case, 90 per cent. of the population of Melbourne is within that radius. If the densities of population were compared, say, in each mile of radii to the 10-mile radius, with maps of the Metropolitan Areas of Brisbane, Adelaide, and Melbourne, the unevenness of the population in Brisbane would be most marked.

**Growth and Distribution of Population  
in Brisbane, 1891 to 1921**

The following Table, X., shows the growth of the population of Brisbane in the 3, 5 and 10 mile radii, since the year 1891. This Table would be better understood if it were accompanied by a map showing, in colours, the location of the population:—

TABLE X.

Radius	1891	1921	Increase		Average density per sq. mile	
			Number	%	Brisbane 19. 1	Adelaide 1919
Within 3 mile	75,000	136,450	61,450	80%	4,870	6,250
Outside 3 mile, and within 5 mile	18,657	44,955	26,298	140%	880	—
Outside 5 mile, and within 10 mile	7,897	27,763	19,866	250%	118	—
	101,554	209,168	107,614	106%		

The above Table shows that population is spreading outside the 3-mile radius, and this movement has been more rapid during the last 10 years. During the same period

the increase in the 3-mile radius increased in greater ratio than in the previous ten years, and the developments of the last year or two, that is, the introduction of flats, increased railway fares, &c., will probably turn the movement of population into the 3-mile radius. If this movement is uncontrolled, within a few years some of the evils of other cities will become common also to Brisbane.

#### Ideal Density.

The absence of law of the nature of our Undue Subdivision of Land Act, which limits the area of an allotment to 16 perches, may have had an influence on the density of population in the other cities. This Act has certainly had an influence in Brisbane, and has created a generally prevailing desire for larger areas of land for residential purposes, so that an opinion has been expressed in Parliament, and out of it, that not more than one house should be allowed on 40 perches of land, that is, that the minimum residential allotment should be not less than 40 perches. Others have stated the area at 32 perches, and some less, but all require more than 16 perches. And accompanying these demands is the further demand for wide streets, not only main streets, but all streets.

Of course, these demands are against Town Planning opinion. However, it is interesting to see how they work out. It is understood that Town Planners do not favour big cities, and I cannot state authoritatively what is considered to be the ideal density, that is, a density which would provide for the health, happiness, and recreation of the people, consistent with the economy of local government services. There is, however, the Garden Suburb of Daceyville. The plan of that suburb provided for an average of 6.57 houses to the acre (the area in streets was not deducted in calculating the average, but the area in reserves was), equal to a density of 32 persons, or, approximately, 20,000 to the square mile. The area of building lots varies from 14 to 19 perches. If the density of Daceyville were applied to the 3-mile radius, the area comprised within that radius would be sufficient for probably 400,000 persons.

This population would require 80,000 houses, and it only needs a simple calculation to ascertain the area required if each house had 40 perches of land, and, adding to the calculation the area required for other purposes and the additional area required in streets, to satisfy the demands of those who want wide streets.

Mr. John Sulman, Lecturer in Town Planning to the University of Sydney, in forecasting the planning of Canberra, adopted an area of three square miles for an estim-

ated population of 50,000. On this forecast the area within the 3-mile radius would serve a population of 450,000. Mr. Sulman pointed out that the density of Washington was 45 per acre, and stated that "Washington is by no means congested."

The population within the 3-mile radius of Brisbane is estimated to be 136,450.

### **The Economic Aspects of Wide Distribution of Population.**

We may now look at another side of the question. Recently, a Local Authority constructed some sewers. Under the Health Acts, section sewers, that is, sewers through sections of land (not in streets) to connect the houses in the section of land with the main sewer (corresponding to house connection branches in Water Supply and Sewerage Board's scheme) are a charge against the owners in each section of land (and not a community charge, as in the Metropolitan Water Supply and Sewerage Act), and the Council now finds that the cost of constructing the sectional sewers is so great (each house has two or more allotments as a rule), to which also has to be added the cost of connecting the houses with such sectional sewers, that it may have to abandon the scheme. This is precisely the position in Ithaca, and, as already indicated, the cost of house connections is a problem which the Water Supply and Sewerage Board also has to face.

Suppose that the revenue earned by the Wellington and Brisbane trams (which represents the amount necessary to run the services) were raised by means of a tax on land, instead of by fares, the tax in Wellington would be 4½d., as against 9½d. in Brisbane. The rate for Brisbane has, however, been calculated on a value of £12,000,000, which is a very conservative estimate, and the tax is probably nearer 1/-. The high rate in Brisbane is not due to exorbitant charging by the Tramways Company, but to the fact that the service has to cover a greater mileage; in fact, everything indicates that if it had not been for the skilful management and organisation of the Company, that the tax rate would have been very much greater. The cost in a scattered city is also indicated in the average fare-rate per passenger which in Wellington was 1.44d. (1916), and in Brisbane 1.85d. (1919), due, it would seem, entirely to the longer journeys necessary to be travelled in Brisbane. The average fare in most of the municipal tram services in Great Britain are all less than Wellington (except in one case), many of them under 1d.

Next take the case of electric light. The suburban Local Authorities were told that they could supply electric



light at 7d. a unit. In no case have they been able to do so, and, consequently, have had to meet the capital cost by a tax on land, that is, by a tax on the consumer and non-consumer (which, it is submitted, is fair and just). The total revenue earned by the Sydney City Council undertaking in 1919 was equal to an average charge of 1½d. per unit sold. In Great Britain the charge per unit varies according to the size of the scheme, and, for private lighting, the charge ranges from 2½d. down to ¾d. per unit, although in some of the smaller schemes the charge is higher, up to 6d. in one case, but this was a very small scheme. (These figures are up to 1916.)

These comparisons can be carried to parcel deliveries and other services. The cost of the Fire Service in Brisbane is equivalent to a tax of nearly 1d. in the £, whereas in Wellington it is equivalent to .17d. in the £.

But there is an economic loss which cannot be estimated in money terms, and that is the wastage in loss of time and energy.

We know what the taxation is required to provide and carry on the general sources of local government, and what it will be in the case of sewerage. The uneconomic position of Brisbane may further be illustrated by the following Table, XI., comparing the outstanding liabilities of Local Authorities in the Metropolitan Areas of Brisbane and Wellington. (See also Table I. for comparative areas.)

METROPOLITAN AREA OF BRISBANE. Outstanding at 31/12/1920.      £	METROPOLITAN AREA OF WELLINGTON. Outstanding at 31/3/1917.
Water and Sewerage Board . . . . . 2,786,000*	In respect of General Improvements and—
City of Brisbane . . . . . 688,970	Water,
City of South Brisbane . . . . . 287,958	Sewerage,
3,762,926	Electric Light, and
ADD Loan Authorised for Town Hall . . . . . 530,000	Trams . . . . . £2,300,000
"  "  Proposed for Concrete Roads . . . . . 190,000	Outstanding at 31st March, 1919.
£4,482,926	..... £2,005,125
"  other Metropolitan Local Authorities . . . . . 284,000	ADD other Metropolitan Local Authorities . . . . . 540,000
£4,776,926	
"  Estimated Cost to Complete First Section	
Sewerage Scheme . . . . . *	
"  Purchase Price of Trams . . . . . †	
"  Purchase Price of Electric Light (City) . . . . . ?	
	£2,545,125

74

\*£1,500,000 represents Sewerage. The additional liability may be increased by from £500,000 to £2,000,000, or a greater sum  
†Liabilities of Tramway Co. were stated to be £1,453,000, on 31/12/19 (Statistics).

## NEED FOR CONTROL.

It is submitted that it has been demonstrated that the people of Brisbane are paying, and will pay, excessively for local government services. The excessive water tax, the cost of the tram service, and electric light, and the tax which will be required for sewerage are sufficient evidence of this. Even if the latter could have been provided at the original estimate, the tax would have been excessive, and it is apparent that it will be many years before the economic position will permit of sewerage in the outer suburbs.

It is submitted, also, that the causes have been demonstrated, and may be repeated, by the following:—

- 1.—Wide and uneven distribution of population.
- 2.—Difficulties of natural configuration.
- 3.—(1) Multiplicity, division, and inversion of authority in the Metropolitan Area; and  
(2) Lack of essential powers; which are primary causes of (1).
- 4.—Limitation of financial powers.
- 5.—Provision of permanent works out of taxation instead of out of loans.

The primary cause is the first of the foregoing, and is due to the fact that there never has been any authority to control the distribution of population. The Local Authorities have never been given the power to deal with this question; in point of fact they have never been in the position to take the power, owing to the unnatural distribution of local government, particularly now in the Metropolitan Area, and to other causes. And while the State has withheld this power, it has never taken the power itself.

The more even distribution of population in Melbourne and Adelaide is not due to the possession by the local authorities of better control or greater powers, or to a better application of local government than in the case of Brisbane. Generally speaking, the Local Authorities in Melbourne and Adelaide have not greater powers, and if

reference be made to Table I., and the reference carried to maps, it will be seen that the distribution of local government in both Melbourne and Adelaide is worse and more erratic than it is in the case of Brisbane. It is worse still in the case of Sydney, the Metropolitan Area of which is divided into 54 local governing areas, with one, the Borough of Darlington, as small as 44 acres, or one-fifth the area of our Victoria Park. It is not due to these causes, but to accident, to natural conditions, to the fact that Melbourne and Adelaide are flat places compared to Brisbane. The density of population in Sydney and Wellington seems to be due in the case of Sydney, to its rapid growth, and in both cases to the circumscribed nature of both cities. Brisbane is a city of hills, and is divided by an expansive river.

The Table, showing the growth and distribution of population in the Metropolitan Area, since 1891, indicates clearly enough what is taking place, and as population spreads in the outer suburbs, so does the mileage of streets increase. Many people will, of course, prefer to live in the outer suburbs, and be prepared to pay the cost; but there are also many people compelled to live in these suburbs because of the means of communication, and if the distribution of population were shown on a map, it would be seen that the population is mostly distributed along the lines of transit services. Now, the East Brisbane tramway terminus is within the one and a half mile radius, and if an additional means of crossing the river had been provided, say, between the City and Kangaroo Point, as has been proposed for so long, thousands of acres of land not built on within two and three miles radii would have been within easy access of the City, and a large number of people, already resident in that part, been within a penny section of the city.

## GREATER BRISBANE.

In the year 1917, a paper was prepared by Mr. W. M. Nelson, of the Engineering Staff of the Brisbane Tramways Company, assisted by representatives of the several Institutes of Engineers (including the Institute of Local Government Engineers), the Institute of Surveyors, and Professor R. W. Hawken, of the Queensland University, for the Australian Town Planning Conference, held in Adelaide, in the same year, and was entitled: "Greater Brisbane: Probable Development of Traffic Road System." Therein it was suggested that, in the course of time, at least seven crossings, in addition to Victoria Bridge, would be required across the Brisbane River. The authors attached a note to the paper, from which the following significant extract is taken:—

**"The existing multiplicity of governing bodies introduces so many indeterminate factors into the problem, that it would be practically hopeless to look for general acceptance of even the best scheme that could be devised by the most skilled town planners.**

**"It is hoped, however, that this serious obstacle, which has for so long barred the progress of real town planning, will shortly be removed."**

It will be realized that a proper control of the transit problem is an important factor, and it is obvious that no proper control can be had if that control is to be divided between a number of authorities.

The final solution of the problem of the distribution of population does not, however, lie only with the transit problem, but with the vesting of full town planning powers in the Local Authority. As far as the Metropolitan Area is concerned, the City of Brisbane is the only authority which could equip itself to exercise such powers, but even if the others could also equip themselves, it would be uneconomical to do so, because the field of operations would be limited. If joint action were taken, the joint authority would merely be the creation of additional authority, and

an authority, which would have to be representative of all authorities operating in the Metropolitan Area, would, in the end, become powerless.

The remedy, then, is the creation of a single authority in the Metropolitan Area, to exercise all the functions of local government, including water, sewerage, light, and power, and transit—in short, the creation of a Greater Brisbane. This Authority should be given a constitution with its powers stated in the broadest manner, and independence in finance. It would then be in a position of true governmental responsibility.

The proposition that greater cities should be given their own constitution is not a new one. As a matter of fact, the Brisbane City Council has discussed the question of a separate constitution for the present City of Brisbane. On the authority of Mr. Herman G. James, Director of the Bureau of Municipal Research and Reference, in a monograph entitled "County Government in Texas" (University of Texas Bulletin, 1917), it has been found advisable in several of the States of America to give cities local freedom in choosing their own machinery of government, and Mr. James stated that exactly the same considerations applied in favour of allowing counties a similar freedom, and that "the constitution should confer upon counties broad powers of local government, subject only to control by the legislature when required in the interests of the State."

The advantages of securing a single control of all functions of local government are apparent, but it is necessary for true local self-government. For instance, it was not the people of Brisbane who determined that they should have a sewerage scheme, but another Authority, which created a Separate Authority to provide a sewerage scheme. The Water Supply and Sewerage Board, therefore, merely exercised the function which they were created to exercise. The economy of the matter, apparently, was not considered at all. It seems idle now to blame the Board, for it had to accept the position as it was.

Greater Cities already exist, as, for instance, Birmingham and Glasgow. It has even been proposed to create a Greater London, but historical associations and other considerations have prevented it. So recently as 1918, a Bill was promulgated for the creation of a Greater Chicago, which is an identical scheme to that of the proposed Greater Brisbane. Chicago, which has a population of 2,500,000 in an area of 189 square miles, was, if not now, governed by 22 local governing bodies, including subsidiary bodies, and the proposal was to unify the Government into one sin-

gle Authority. The proposal resulted from "Mounting taxes," with the inefficiency of divided control. The Greater Baltimore was, however, a different scheme. Baltimore has always been governed by a single authority, but the city wished to extend its area of 30 square miles, with a population of, approximately, 600,000, to an area of 80 square miles, so that it could control the growth and development of the city, including shipping development. The population of the city had already commenced to overflow.

It has been suggested that responsible persons would not be able to give the time necessary to attend to the work of the Greater City. This objection would be valid under the existing system. In America, where it may be said that there has been great experimentation in local government organizations, there is a widespread movement to get back to what the Public Bureau of Efficiency in Chicago calls the simple British form of Local Government, with one difference. Under the British system, the Mayor or Chairman is the chief executive officer, but under the Chicago Bill, the chief executive officer is to be the Mayor or City Manager (as the position is generally called), and not the President of the Council. Mr. Allen, in his scheme of organization for counties, proposed the same organization. On page 85 of his Monograph, a description of the scheme appears. The following extract is taken from that page:—

"The County, being properly a unit of Local Government for the satisfaction of local needs, there seems to be no reason why the general scheme of government, which is receiving widespread approval for cities, should not be applied in the case of counties. The underlying principle of the commission—manager plan of government, which is the concentration of all local powers in the hands of a single elective body, and the entrusting of the active administration to a chief administrative officer appointed by and responsible to this body, is just as applicable to the county as to the city. There should, therefore, be an elective County Commission of from five to nine members.

" . . . This governing body would be a legislative and supervisory body purely, and its functions would demand so little time that capable but busy men could be secured to serve as County Commissioners without pay. The administrative work would be entrusted to a County Manager, appointed by the Commission, on the basis of administrative ability. He would have the responsibility for the efficient execution of the functions determined upon by the Commissioners."

The members of the Greater Chicago Council, numbering 35, were to be called Aldermen. The above scheme is generally referred to as the City Manager Plan.

A chart, illustrating the old scheme of County Government in Texas, and the new scheme, taken from Mr. Allen's monograph, is shown in Appendix IV. A chart, compiled from the Greater Chicago Bill and Reports published by the Bureau of Public Efficiency, is shown in Appendix V. A chart illustrating a Commission form of Government, taken from Bruere's "New City Government," is shown in Appendix VI. A chart, illustrating the organization of the Brisbane City Council, compiled from the Local Authorities Acts and By-laws of the Brisbane City Council, is shown in Appendix VII.

The charts illustrate the simplicity of the City Manager Plan. There is a generally prevailing opinion that Commission Government in America means government by elective experts. It is no such thing; but government by a paid Council. If the chart illustrating the Commission form of government be referred to, it will be seen that at the same time that Commissioners are elected, a Board of Citizens is also elected, which has power to veto the acts of the Board of Commissioners. This provision illustrates the obsession of the Americans "to check the tyranny of governments." The idea of elective judges and officials found its root in this obsession, and it is interesting to note that they wish to get back to the British form of government, and do away with their elective officials.

A short time ago, when the Greater Brisbane scheme was revived, a conference of representatives of Local Authorities on the south side of the river recommended a Greater South Brisbane, on the ground that the river created a natural division, which is to say, that the river divided Brisbane into two localities and communities. Such a proposal, if given effect to, it is manifest, would destroy the main purpose of a Greater Brisbane, and provide a sharp line for contention and dispute in the future. It is of historical interest to mention that the citizens of Rockhampton, when they first asked for the creation of their community into a Local Government, in 1860, marked out an area on both sides of the Fitzroy River as the locality of Rockhampton. The Government of the day, however, decided to eliminate the north side, and when the citizens became aware of this, they held a public meeting and passed a resolution declining local government if the north side were to be eliminated, on the ground that such a condition would lead to contention and dispute in the future. The



citizens forecasted truly, and, after nearly 60 years, action had to be taken to include the north side in the City of Rockhampton.

**Suggestion for Immediate Improvement.**

The remedy which has been suggested for the position in Brisbane cannot, of course, be immediate. For instance, nothing can cure the heavy burden of the sewerage scheme, unless there were an immediate accession of population in the area served. The burden could, however, be relieved somewhat by an extension of the periods of the loans. This also applies to Water loans and loans for Town Hall, concrete roads, electric light schemes, &c. It could also be relieved further by the carrying out of permanent works, such as water-channelling, asphaltting, &c., out of loan instead of out of taxation.

## ADDENDUM.

### Local Government Accounts—Assets and Liabilities.

Recently, the New South Wales Government appointed a Committee of Accountants to inquire into the question of Local Government Accounts. The Committee, in its report, stated that their "basic problem related to the kind of financial statements which would most clearly show rate-payers and other persons interested the result, periodically, of a Council's transactions." The Board also pointed out that there was a ready tendency to make use of the same form of statements and methods as commercial concerns. Mr. Hungerford, a member of the Committee, summarised the position in the following words:—

**"The object of a Local Government Council was to provide various public services and utilities as nearly as might be practicable at cost. It set out to levy and collect sufficient rates and charges to defray the cost, and the accounts should show whether the cost had exceeded or fallen short of those rates and charges, and inasmuch as there was no question of distribution of profits, the ordinary profit and loss account was not necessarily suitable. Moreover, a local council was not responsible to owners for capital, as they were not actual shareholders.**

**"The simplest and most effective way in which requirements could be met was to extend the form of revenue account so as to include all expenditure, whether of carrying on services or of acquisition of assets, and, on the other hand, to add to the income side loans and debts incurred in constructing works and in the acquisition of assets. In regard to the balance-sheet, it would be preferable to show it in two parts, the first relating to funds available for future expenditure, and the second part setting out invested funds, the existing assets of a permanent nature and their cost, and, on the other hand, the remaining liabilities in regard to these and the difference to make up the balance."**

The statements quoted set out the case accurately. What the taxpayers want to know is the cost of services.

It would appear that the Committee, by the use of the words, "carrying on services or acquisition of assets," includes in that term a trading undertaking, as it is called in New South Wales, or public utility, and also parks, pounds, depots, refuse destructors, town halls, plant, &c., but not roads, bridges, &c.

The practice of writing off depreciation (which they state in local government accounts means a provision for replacements) is to be discarded. The Committee say that the only advantage in the practice is to equalise the charge between the years. "What the local government bodies are concerned with is cash and funds available for expenditure, so that unless depreciation written off is actually set aside in a special bank account, no advantage is gained in writing it off."

This is applied particularly to such assets as town halls, parks, &c., but in respect of a "trading venture," a gas works, for instance, they say that the position is somewhat different, and although they adhere to their reasoning, the system of accounts has been so framed by them that a Local Authority, if it so desired, could set aside each year in a separate bank account a sum for replacements.

The Committee's work related only to the keeping of accounts. This aspect of the matter is, of course, peculiarly one for accountants. It will be noted that the Committee bring into the balance-sheet parks, town halls, pounds, depots, destructors, &c. Why these things should be brought into the balance-sheet and not roads and bridges, is not clear. Theoretically, there is no difference; they are all necessary for the general good of the community. It is an obligation on the Local Authority to provide parks for the recreation of the people, and once a park is acquired generally it will remain a park. No Local Authority would dispose of a park unless it provided another in its place. And if it did, the proceeds could only go in relief of taxation.

The same thing applies in the case of a utility or "trading venture." If a reserve is set aside for replacement, it is merely requiring the consumer or user of to-day to pay for the consumer or user of the future. These arguments may be drawing the case to a fine point, but they nevertheless accurately state the position, and the Expert Committee appointed by the New South Wales Government recognised them. The matter of providing a system of accounts is, however, one for the accountants; but it must be

insisted that what really matters is that the published accounts will accurately inform the taxpayer what the services are costing him.

There is generally to be found in most local government laws provisions for apportioning assets and liabilities between two or more Local Authorities, in the case of an alteration of boundaries between the areas of such Local Authorities, or the division of an area into two areas. What constitutes an asset or a liability in this case? The practice, until within the last few years, has been to take the assets and liabilities as shown by the Local Authority in its balance-sheet or in its accounts, at the date of alteration. In some cases, bridges have been included as assets, and the book values have been apportioned. These values might merely represent an amount equivalent to a liability unpaid. The liability unpaid would appear as a liability, and this would also have to be apportioned, so that in the whole apportionment one would balance the other. Now, what circumstance would cause an alteration of boundaries, or the division of an area into two areas? It would be what is generally called no "community of interest." In other words, that a part of a locality has been wrongly joined to another locality, or that two separate localities have been joined together. So that the question is really one of compensation, that is to say, an investigation is required to ascertain to what extent the people in the affected part have suffered by being included in a locality in respect of which they had no community of interest, and could not, therefore, enjoy the benefits of the services of that community and in respect of which they had been taxed.

During recent years, the carrying out of Greater City Schemes has brought prominently under consideration the operation of the provisions referred to. In one case the Local Authority (a Shire Council) had provided a recreation ground in the part of its area included in the Greater City. This part was a suburb of the city, and if the city had been extended with its development, no question could have arisen. The Shire Council had provided the recreation ground many years before the creation of the Greater City, and its cost had been paid for by the whole of the Shire area. No capital liability existed with regard to it, but the Shire Council claimed in the apportionment practically the whole cost of the recreation ground, even to the value of the trees planted in it. On the face of it, this seemed a fair enough claim, but investigation could easily have proved it otherwise, that in the general result the taxpayers for whose benefit the recreation ground was presumed to have been

provided had paid the whole cost of it. Now, this Shire Council had previously objected to the inclusion of part of its area being in the Greater City, and the objection, to be valid, had to rest on community of interest, that is, that the community of interest still lay with the Shire. In such case, the Shire had a right to pay the cost. Now, there is another aspect of the case: a park or recreation ground is not provided for the use of taxpayers, but for the inhabitants, whether they are encircled by a boundary line or not, in the same way that a road or bridge is, so that the shifting of a boundary line after 30 or 40 years, merely shifted the obligation from one authority to another, and the question again comes back to one of compensation.

The circumstances which brought into existence the provisions referred to were merely circumstances created by an unnatural distribution of local government.

## **APPENDICES**

## [APPENDIX I]

Local Authority	No. of Wards	RATES LEVIED, 1921		
		General	Separate or Special	Cleansing
<b>CITIES</b>				
BRISBANE ... ..	7	6½	—	£ s. . 2 4 0
SOUTH BRISBANE ...	4	6	2½ Loan 1 Health and Bath ¾ Lighting ¼ Water Channelling	2 2 0
<b>TOWNS</b>				
HAMILTON ... ..	1	6	2½ Loan 1½ Park ½ Health 1 Lighting	2 15 0
ITHACA ... ..	3	7	1 Lighting ½ Health 1 Overdraft 1 Loan 1 Water Channelling	1 15 0
SANDGATE ... ..	1	5½	2 Loan	2 0 0
TOOWONG—Wards No. 1 2 & 3	3	5½	1½ Loan ¾ Health and Parks ¼ Lighting	1 15 0
WINDSOR—North Ward	4	6½	2 Loan	1 17 0
South ..		6½	2 Loan	
Central ..		6½	1 Loan 4 Loan Ben. Area	
West ..		6½	1½ Loan	
WYNNUM—Ward No. 1	4	6½	2½ Loan 1 Lighting	1 15 0
" 2		6½	2½ Loan 1 Lighting	
" 3		7	1½ Loan 1 Lighting	
" 4		7	—	

## [APPENDIX I (continued)]

Local Authority	No. of Divisions	RATES LEVIED		
		General	Separate & Spec <sup>l</sup>	Cleansing
SHIRES				
BALMORAL Div 1	3	d 6	d 1½ Loan 1 Lighting ½ Health ½ Park	£ s. d 1 15 0
Div 2		5½	1 Loan ½ Park ½ Health ½ Loan	—
Div 3		7	½ Loan	—
BELMONT ...	1	4	8 Tram'y B. area	—
COORPAROO „ 1,2,3	3	5½	z Loan	—
ENOGGERA Div 1	3	8	½ Loan 1½ Lighting ½ Loan	1 12 6 1 14 8
Div 2		6	½ Loan	—
Div 3		6½	½ Loan	—
KEDRON Div 1	3	4	½ Loan ½ Light ½ Health ½ Loan ½ Health ½ Loan	1 12 6
Div 2		4	½ Loan ½ Health ½ Loan	—
Div 3		3	½ Loan ½ Health	—
MOGGILL Div 1	3	5		—
Div 2		4		—
Div 3		5		—
SHERWOOD „ 1,2,3	3	5½	1 Loan E light Ben. Area	2 2 6
STEPHENS Div 1	3	7½	½ Loan B. area 2½ Jct. Drainage Ben Area 1 Special „ Ben Area ½ Health ½ E Light Loan ½ Loan Ben A ½ E Light Loan ½ Health ½ Health ½ E Light Loan	1 12 0
Div 2		7½		—
Div 3		7½		—
TARINGA „ 1,2,3	3	4½	1½ Improvement Ben Area	1 14 0
TOOMBUL Kalinga Div.	4	5½	½ Park ½ Lighting ½ Loan ½ Park ½ Lighting	1 17 6
Nundah Div		5½	1 Loan	1 17 6
Nudges „ Pt. Bris. „		4½ 4½	½ Loan	1 10 0 1 17 6
YERRONGPILLY Div 1	3	5		—
Div 2		5		—
Div 3		5½		—
Totals	59	59	102	19

\*1920 Figures.

NOTE.—There are, therefore, 180 taxing units within the Metropolitan Area of Brisbane, exclusive of a large number of benefited areas for water supply extensions.



[APPENDIX II]

	Area	Population	Total Capita Value of Rateable Property	Annual Value of Rateable Property	Unimproved Value of Rateable Property	Total Revenue	Revenue from Rates	Rate on Annual Value	Rate on Unimproved Value	Number of Dwellings	Total Loan Indebtedness
	Acres		£	£	£	£	£		d.		£
SYDNEY (1919)	3327	106,000	86,341,480	3,885,367	31,830,295	882,831§	587,809	—	4½	18,768	7,466,423†
MELBOURNE (1919)	7552	108,070	47,827,600	2,391,380	23,913,800	353,891§	157,152	1/2	1½ (approx.)	22,477	2,529,105‡ (1917)
ADELAIDE (1918-19)	3268	43,164	15,436,100	771,805	7,718,050 (approx.)	137,135	95,885	2/5	2½ (approx.)	8,128	198,479
BRISBANE (1920)	3520	45,259	*	*	7,840,013	260,102	180,741 General 29,313 Cleansing	—	6½	7,327	688,969
WELLINGTON (1918-19)	9650	73,305	21,535,181	*	11,652,792	284,077§	181,848¶	—	4‡	13,950	2,005,125

§Includes revenue from services not developed in City of Brisbane, but excludes electric lighting. The receipts from trams in the case of Wellington are also excluded.

\*Not available.

†Includes Electricity Undertaking, and Resumptions for Street Widening (approximately £5,000,000).

‡Includes Electricity Undertaking.

|| Includes Trams, Water, Sewerage and Electric Light.

¶Includes Collections from Water, Sewerage, and Hospital Rates.

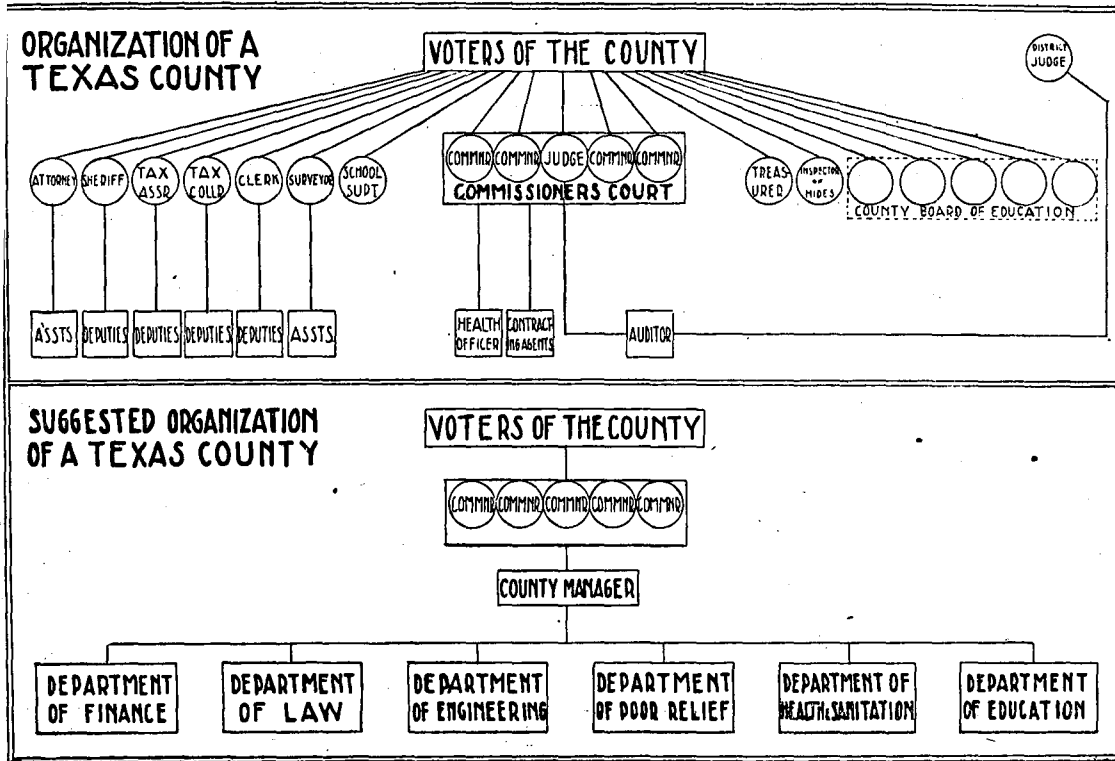
‡Includes Water, Sewerage, and Hospital Rates. Hospital Rate equal to ‡d. This accounts for the difference in the rate given in this Appendix and that in Tables II. and III.

[APPENDIX III]

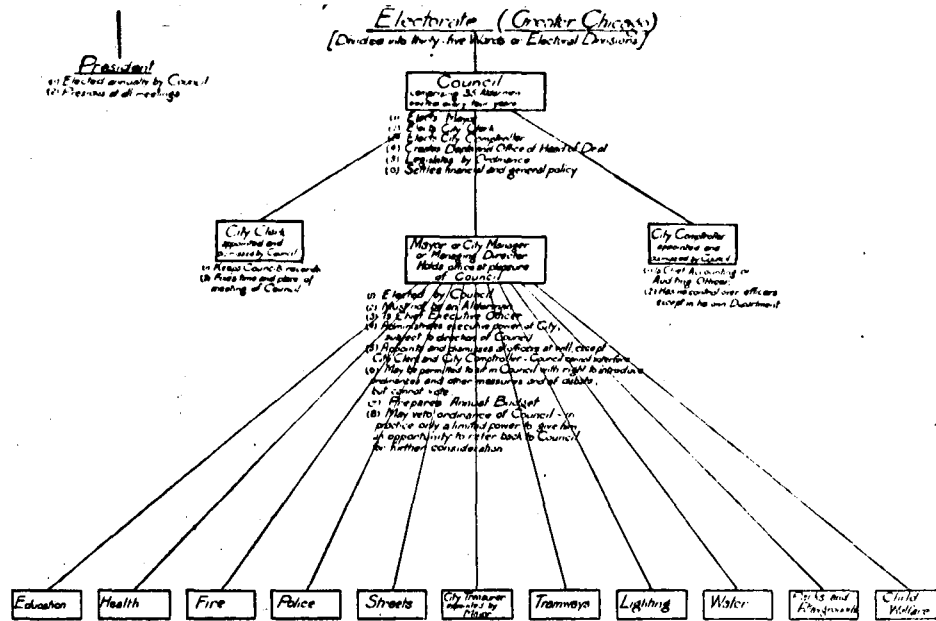
Local Authority	1904				1917				1921			
	General & Special	Water	Clean'g	Total	General & Special	Water	Cleansing	Total	General & Special	Water	Cleansing	Total
	d.	d.		d.	d.	d.	s. d.	s. d.	d.	d.	d.	s. d.
BRISBANE	2	1½		3½	5	2½	4	8½	6½	4½	1	1 0½
SOUTH BRISBANE	3	1½		4½	7½	2½	2½	1 0½	10½	4½	2½	1 6½
HAMILTON	2½	1½		4	6½	2½	2½	11½	11	4½	2	1 5½
ITHACA	2½	1½		4½	6½	2½	2½	11½	11½	4½	3	1 7
SANDGATE	2½			2½	6½	1½	1½	8	7½		1½	8½
TOOWONG	2½	1½		4½	6½	2½	2	11½	8½	4½	2½	1 3½
WINDSOR	4	1½		5½	5½	2½	2½	10½	7½	4½	3	1 3½
WYNNUM	4			4	5½	1½	1½	7	9½	4½	1½	1 4½
BALMORAL	4½			4½	5	2½	1½	9	7½	4½	2	1 2
BELMONT	3			3	3			3	4			4
COORPAROO	2½			2½	5	2½	2	9½	7½	4½	2	1 2½
ENOGGERA	3			3	6½	2½	1½	10½	6½	4½	1	1 1
KEDRON	2½			2½	2½	2½	1½	6½	8½	4½	1½	9½
MOGGILL	1			1	3½			3½	5			5
SHERWOOD	2			2	4½	2½	1½	8½	6½	4½	2	1 1½
STEPHENS	2½	1½		4	5	2½	2	9½	8½	4½	2½	1 4
TARINGA	2	1½		3½	4½	2½	1½	8½	4½	4½	2½	11½
TOOMBUL	1½			1½	3	2½	1½	7	3½	4½	2	10½
YEERONGPILLY	2½			2½	3			3	4½			4½

\*Water Rate is a differential rate; therefore, for comparative purposes, the average rate has been calculated by ascertaining the rate required on total unimproved value of all land to produce an amount equal to the collections of the Water Supply Board in each year. The average rate is greater, because only lands within 300 feet of mains are rated.

†In each case a cleansing charge is made, but for comparative purposes, the average rate has been calculated, as in the case of water supply.



*Taken from monograph "County Government in Texas" by HERMAN G. JAMES, J. D., Ph. D., Director of the Bureau of Municipal Research and Reference, University of Texas.*



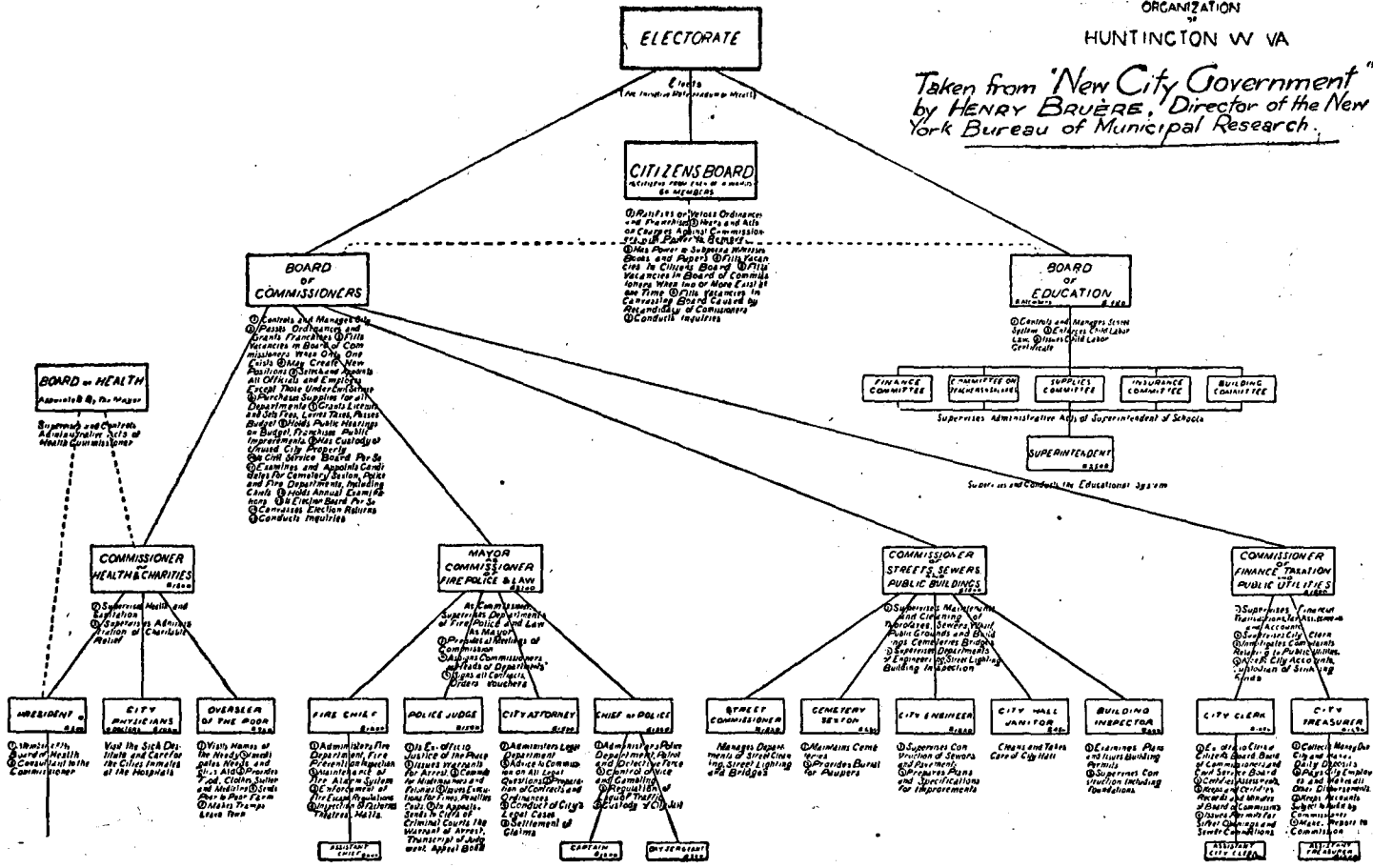
[APPENDIX V.]

1. No political party may make any nomination.
2. Poll taken on all bond issues.
3. Poll must be taken on demand of electors on franchise grants.
4. Apparently there are two classes of employees -
  - (a) classified civil servants
  - (b) employees who come into office or place with the incoming Mayor and Council - All these offices and places terminate with election of new Council.

Checked by R. Deaneau, Insp. Sec'y, Office  
 and Director, Chicago, Ill., 1913

ORGANIZATION  
HUNTINGTON W VA

Taken from 'New City Government'  
by HENRY BRUERE, Director of the New  
York Bureau of Municipal Research.



# STATE INCOME TAX ACT

The 1922 Amendment of section 7 in relation to Company A:  
section 14 of the Consolidated Act (1902-1922)

*Paper read by Mr. Charles G. McCorkell, Insp  
Income Tax Department, with the approval of the  
Taxes, before members of the Accountants  
Educational Society on 18th April, 1923.*

02 TO 1922,

## INTRODUCTION.

5 TO 1922.

Mr. President, Ladies and Gentlemen,

I esteem it an honour to have been invited to read a paper on so important a subject as taxation. It is a pleasure to accede to the request, but I must acknowledge my task of preparation with a feeling of diffidence, for those I would have to face this evening would be ladies and gentlemen whose profession makes them ardent students of matters relating to taxation and consequently keen critics. I trust, therefore, ladies and gentlemen, that the paper I am about to read falls short of the high standard which you who have taken this platform, or does not come up to your expectations. I will be very tolerant towards me.

(5)

I notice that, on the reminder sent out to members of the Society, it was advertised that I would read a paper on "State Income Taxation." It is probably understood from that that I would deal with State Income Taxation generally. To do so in a short paper of this sort would mean that I could not do justice to such an important and comprehensive subject. I must not deal with it in anything but a very superficial manner. It is at my disposal, with the result that you would get very little. When invited to read a paper to you, I decided that it should deal with portions of the Act which cause taxpayers and their accountants the most amount of difficulty. I accordingly chose sections 7 and 14 of the Consolidated Act (1902-1922) from which to select my paper. As a matter of fact, the outstanding features of the Act were the amendments of these two sections. In each case the object of the amendments was to distribute the burden of tax and to lighten its incidence. The more important of the amendments were those relating to the method of assessing companies. As my disposal is limited I shall, therefore, confine my paper to the

VERNMENT PRINTER.

with this section to these amendments; but, owing to the fact that the amendments of section 14 affect the whole of the provisions of the section, as these provisions are matters which concern practically every taxpayer, for the sake of convenience, I shall deal with section 14 fairly fully. I hope, that the subjects I have chosen will meet with your approval.

#### AMENDMENTS OF SECTION 7 IN RELATION TO COMPANY ASSESSMENTS.

EDUCAT  
 difference between the assessment of a company and that of a taxpayer is that in the case of the former the rate of tax is determined by the percentage which the profits bear to the capital of the company, whereas in the latter case it is determined by the amount of the taxpayer's income.

As has been experienced in the past in determining the actual profits of certain companies and in ascertaining the actual profits to be taken into account in fixing the rate of tax. In order to take into account the experience had taught were justified, and in order to give effect to the Amending Act provided for the following:—

1. Definition of capital;

2. Definition of the amount of profits liable to tax (instead of the profits) in determining the percentage to capital;

3. Revision of assessment for foreign companies which are assessed on their actual profits, and for Queensland companies assessed on trade outside Queensland.

#### DEFINITION OF CAPITAL.

The definition of capital in force to 30th June, 1921, provided that the amount of capital on which the percentage of profits was to be calculated was to be the amount actually paid up in cash or value at the beginning of the year in which the income was earned on all shares actually issued by the company, subject to the provision that from the amount of the paid-up capital to be taken into account should be deducted so much of the amount of any goodwill appearing on the company's accounts as had not been paid for in cash or value and which had not been paid by the vendor to the company.

The new definition, which operates as from 1st July, 1921, differs from the old definition in that it provides that the capital on which the percentage of profits to be calculated shall be the average amount over a full year of the amount of reserves used in the business and on which full tax is payable, as, during the year in which the profits were earned, the reserves of the business and used for the purpose of producing the profits of the company liable to tax under the Act. This definition is a revision of the old definition *re* goodwill mentioned above.

The whole position lies in the words "invested in the assets of the company for the purpose of producing the profits of the company."

Heading II. Sub.  
3

**IMPROVEMENTS EFFECTED BY TENANT.**

The amounts expended by a tenant in pursuance of an agreement with the landlord in effecting improvements (including alterations or repairs) to a property owned by the landlord, if the tenant is not reimbursed for such improvements, shall be treated as income to the landlord in the year or respective years in which the improvements are effected.

Provided that—

1. The tenant may claim as a deduction each year the following amounts:—

(a) If the agreement does not specify certain expenditure in each year—the amount so expended by the tenant divided by the number of years for which he has agreed to rent the property.

(b) If the agreement specifies certain expenditure in each year—the amount so specified if the tenant is not reimbursed for such expenditure; otherwise the amount so specified if the tenant is reimbursed for such expenditure.

1st July, 1918,  
onwards

To the amount so arrived at under (1) or (2) above, add—

(a) The amount of the taxpayer's other taxable income.  
(b) The amount of any dividends received by the taxpayer from companies trading in Queensland.

Apply the rate of tax applicable to an income equal to the total sum so ascertained to the whole taxable income of the taxpayer.

The Commissioner may, if he thinks fit, grant an extension of time for paying the tax without penalty.

Heading II. Sub.  
3



IMPROVEMENTS EFFECTED BY TENANT—  
*continued.*  
RATE OF TAX WHEN INCOME INCLUDES VALUE OF  
IMPROVEMENTS EFFECTED BY TENANT.

<sup>1205/21</sup>  
The rate of tax on a taxpayer's taxable income which includes expenditure incurred by a tenant in effecting improvements to a landlord's property shall be arrived at as follows:—

1. Divide the taxable income derived from such expenditure by the number of years of the tenancy (not exceeding seven) after the date when the improvements were effected.
2. To the amount so arrived at add—
  - (a) The amount of the taxpayer's other taxable income.
  - (b) The amount of any dividends received by the taxpayer from companies trading in Queensland.
3. Apply the rate applicable to an income equal to the total sum so ascertained to the whole taxable income of the taxpayer.

The Commissioner may, if he thinks fit, grant extension of time for paying the tax without penalty.

1st July, 1921,  
onwards

Heading II, Sub.  
3—*continued.*

1  
2  
3

STATE INCOME TAX.

<b>CASH PRIZE IN A LOTTERY.</b>			
Heading II. Sub. 4	The amount of any cash prize in a lottery, drawing, or sweep carried on in Queensland.	1st July, 1918, onwards	(Section 8 of the Consolidated Act, 1902-1922 now takes its place)
<b>INCOME OF A BENEFICIARY.</b>			
Heading II. Sub. 5	Income received by any beneficiary from any trust estate—  Provided that if a beneficiary who, as an executor, administrator, or trustee carries on a business in connection with a trust estate the income received by him as a beneficiary with respect to such business shall be treated as income from personal exertion.	1st July, 1918, onwards	
<b>FIVE PER CENTUM OF CAPITAL VALUE OF RESIDENCE.</b>			
Heading II. Sub. 6	Five per centum of the capital of any land and improvements owned and occupied by taxpayer as a residence or occupied rent free by the taxpayer as a residence.	1st July, 1918, onwards	
<b>ROYALTIES.</b>			
Heading II. Sub. 7	All sums received by way of royalty.	1st July, 1918, onwards	
Heading II. Sub. 4			1st July, 1921, onwards

STATE INCOME TAX.

GOVERNMENT PRINTER.

11

## CONCLUSION.

In conclusion, ladies and gentlemen, I wish to say that I hope the paper I have read will be of some little assistance to those of you who practise as accountants. I have endeavoured to reduce the theoretical side of the subject to a minimum. Perhaps I have erred on the other side, but in such cases as the one we have had before us to-night practical demonstration is more valuable than mere theory.

*Addendum.*

## SALES OF SHARES IN A COMPANY.

The following is added as the result of a question submitted by Mr.

Profit on the sale of shares in a company, which are purchased in Queensland by a Queensland resident but sold by a resident outside Queensland, is not taxable.

Profit on the sale of shares in a company, which are purchased outside Queensland by a Queensland resident but sold by a resident in Queensland, is taxable.

Profit on the sale of shares in a company, which are purchased and sold outside Queensland by a Queensland resident, through a broker outside Queensland, is not taxable.

Profit on the sale of shares in a company, which are purchased and sold in Queensland by a resident outside Queensland, is taxable under the Queensland Act.

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Brisbane:

Jews and Co., Ltd., Printers, 229 Elizabeth street.

QUEENSLAND.

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STATE  
INCOME TAX ACTS, 1902 TO 1922,  
AND  
LAND TAX ACTS, 1915 TO 1922.

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BRISBANE :  
BY AUTHORITY: ANTHONY JAMES CUMMING, GOVERNMENT PRINTER.  
1923.

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**STATE INCOME TAX ACTS, 1902 to 1922.**

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# THE INCOME TAX ACTS, 1902 TO 1922.

<i>Income Tax Act of 1902</i> ... ..	2 Edw. VII. No. 10
<i>Income Tax Act Amendment Act of 1902</i> ... ..	2 Edw. VII. No. 23
<i>Income Tax Act Amendment Act of 1904</i> ... ..	4 Edw. VII. No. 9
<i>Income Tax Act Declaratory Act of 1905</i> ... ..	5 Edw. VII. No. 34
<i>Income Tax Act Amendment Act of 1906</i> ... ..	6 Edw. VII. No. 11
<i>Income Tax Act Amendment Act of 1907</i> ... ..	7 Edw. VII. No. 5
<i>Income Tax Act Amendment Act of 1915</i> ... ..	6 Geo. V. No. 33
<i>Income Tax Act Amendment Act of 1918</i> ... ..	9 Geo. V. No. 2
<i>Income Tax Act Amendment Act of 1920</i> ... ..	10 Geo. V. No. 35
<i>Income Tax Act Amendment Act of 1920, No. 2</i> ... ..	11 Geo. V. No. 12
<i>Income Tax Act Amendment Act of 1921</i> ... ..	12 Geo. V. No. 19
<i>Income Tax Act Amendment Act of 1922</i> ... ..	13 Geo. V. No. 32

It is provided by section 30 of the Amending Act of 1922 that in all copies of the Income Tax Acts hereafter printed by the Government Printer, the sections, subsections, and numbered or lettered paragraphs thereof shall be renumbered or relettered so as to be in consecutive numerical or alphabetical order throughout, and all specific references to any section, subsection, or paragraph by its number or letter in any enactment therein contained shall be amended by the substitution of the proper number or letter of the reprinted Act.

These directions have been observed in this reprint. The original sections of the Act before renumbering are indicated in the margin in black type.

## An Act to Impose a Tax on Income.\*

[ASSENTED TO 1ST DECEMBER, 1902.]

**B**E it enacted by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of Queensland in Parliament assembled, and by the authority of the same, as follows:—

### PART I.—PRELIMINARY.

1. This Act may be cited as "*The Income Tax Act of 1902.*"

PART I.—  
PRELIMINARY.

Short title.

[1.]

\* (1.) It is provided by section 37 of the Amending Act of 1920 that the first period for which assessments of income shall be made under the Principal Act as amended by that Act shall commence on the first day of July, one thousand nine hundred and eighteen, and end on the thirtieth day of June, one thousand nine hundred and nineteen, and all subsequent annual periods shall be reckoned from that period, and to that extent the Amending Act shall have retrospective operation, to the intent that the Principal Act as amended by that Act shall apply to all incomes for the first period commencing and ending as aforesaid, and for every subsequent annual period, and to the assessment levy payment and recovery of tax thereon:

Provided that if any taxpayer satisfies the Commissioner that the taxable income received by him during the period of twelve months ending on the thirtieth day of June, one thousand nine hundred and nineteen, is in excess of such income received by him during the year ending on the thirty-first day of December, one thousand nine hundred and nineteen, the Commissioner may assess such taxpayer on such an amount of taxable income not exceeding the taxable income actually received by such taxpayer during the year ending on the thirty-first day of December, one thousand nine hundred and nineteen, as in the opinion of the Commissioner is just and reasonable:

Provided further that income tax shall not become payable earlier than the thirty-first day of January next succeeding the close of the financial year in respect of which the assessment is made:

Provided further that in the event of the death, on any date subsequent to the first annual period aforesaid, of any person who was a taxpayer as from the commencement of that first period and so continued until the end of the annual period immediately preceding his death, the Commissioner shall have power to

Parts of  
Act.

[2.]

- PART I.—PRELIMINARY;
- PART II.—ADMINISTRATION;
- PART III.—NATURE AND INCIDENCE OF THE TAXATION;
- PART IV.—ASSESSMENT OF INCOME;
- PART V.—PROCEDURE TO ENFORCE TAXATION;
- PART VI.—GENERAL PROVISIONS;
- PART VII.—REGULATIONS;
- \*PART VIII.

Interpreta-  
tion.

[3.]

3. In this Act, unless the context otherwise requires, the following terms have the meanings set against them respectively, that is to say—

Absentee.

†“Absentee”—A person who does not ordinarily reside in Australia or in a Territory under the authority of the Commonwealth: the term includes a person who—

(a) Is absent from Australia and such Territories at the time when the tax is assessed; or

(b) Has been absent from Australia and such Territories during more than half of the period of twelve months immediately preceding that date, unless he satisfies the Commissioner that he ordinarily resides in Australia or a Territory under the authority of the Commonwealth: the term does not include a public officer of the Commonwealth or of a State who is absent in the performance of his duty:

Agent.

“Agent” includes any company acting as agent and any person declared by the Commissioner to be an agent;

---

make any adjustment of the tax in respect of such last-mentioned annual period and of the period of time thereafter up to the date of death as will prevent double taxation by reason of the alteration of the period of assessment provided for in this section.

(2.) It is provided by section 14 of the Amending Act of 1921 that, save as is therein otherwise expressly provided, the first period for which assessments of income shall be made under the Principal Act as amended by that Act shall commence on the first day of July, 1920, and end on the thirtieth day of June, 1921, and all subsequent annual periods shall be reckoned from that period, and to that extent the Amending Act shall have retrospective operation, to the intent that the Principal Act as amended by that Act shall apply to all incomes for the first period commencing and ending as aforesaid, and for every subsequent annual period, and to the assessment levy payment and recovery of tax thereon.

(3.) It is provided by section 29 of the Amending Act of 1922 that the first period for which assessments of income shall be made under the Principal Act as amended by that Act shall commence on the first day of July, one thousand nine hundred and twenty-one, and end on the thirtieth day of June, one thousand nine hundred and twenty-two, and all subsequent annual periods shall be reckoned from that period, and to that extent the Amending Act shall have retrospective operation, to the intent that the Principal Act as amended by that Act shall apply to all incomes for the first period commencing and ending as aforesaid, and for every subsequent annual period, and to the assessment, levy, payment, and recovery of tax thereon.

\* Part VIII. (temporary provisions) repealed by section 19 of the Amending Act of 1904.

† Definition repealed and new definition substituted by section 3 of the Amending Act of 1904; this definition in turn repealed by section 3 of the Amending Act of 1915 and new definition substituted.

‡ Words from “and” to end of definition inserted by section 2 (1) of the Amending Act of 1922.



- “Assessment”—An estimate of the amount of any income liable to taxation under this Act as well as the amount of tax imposed thereon respectively: the term includes all matters comprised in any return required by or under this Act;
- “Business”—Every profession, vocation, trade, business, calling, employment, and occupation; Business.
- “Company” includes every body corporate, howsoever incorporated, and whether under the laws of Queensland or elsewhere, and wherever its head or principal office or principal place of business may be: \*the term also includes any body or association of persons which is not a body corporate but to which the Commissioner declares the provisions of this Act relating to a company are applicable, but this shall not apply to any *bonâ fide* partnership; Company.
- “Commissioner”—The Commissioner of Income Tax appointed under the provisions of this Act: the term includes the Assistant Commissioner of Income Tax and any Deputy Commissioner of Income Tax; Commissioner.
- †“Dividend”—All sums of money paid, allocated, distributed, or credited by a company to or amongst its shareholders as such, by whatever name called: the term includes any payment to a shareholder as a bonus or a director’s fee in excess of the amount allowed under subsection (xi.) of section seventeen of this Act: the term does not include— Dividend.
- (a) Refundment on reduction of capital where such refundment is only made in respect of call money on shares actually paid by the shareholders; or
- (b) Such portion of liquidation dividends as does not exceed the amount of call money on shares actually paid by the shareholders:
- “Foreign Company”—A company the head or principal office or the principal place of business of which is out of Queensland; Foreign company.
- ‡“Gross income”—Income without any deductions or exemptions allowable under this Act; Gross income.
- “Income derived from personal exertion”—All income consisting of earnings, salaries, wages, allowances, fees, commissions, or consideration in the nature of or in lieu of commission, pensions, superannuation or retiring allowances, or stipends, earned in or derived from Queensland, and all income arising or accruing from Income derived from personal exertion.

\* Words from “the term” to end of definition inserted by section 2 (2) of the Amending Act of 1922.

† Definition of “Dividend” inserted by section 3 of the Amending Act of 1906 and printed as amended by section 2 (3) of the Amending Act of 1922 with verbal correction of renumbering.

‡ Definition inserted by section 2 of the Amending Act of 1920.

§ Words from “fees” to “commission” inserted by section 2 of the Amending Act of 1920.

PART I.—  
PRELIMINARY.

any business carried on in Queensland \*other than a business carried on with the assets of or as part of or in connection with a trust estate: the income subject to tax includes income of the taxpayer, although the same has not arisen or accrued or been earned, derived, or received by or from his own personal exertion or business:

†Without limiting the generality of the foregoing provision, the income subject to tax expressly includes all income referred to in the respective subsections under heading I. in section fourteen of this Act;

Income derived from the produce of property.

“Income derived from the produce of property”—All income derived in or from Queensland and not derived from personal exertion: the income subject to tax includes income of the taxpayer, although the same has not been derived from his own property:

†Without limiting the generality of the foregoing provision, the income subject to tax expressly includes all income referred to in the respective subsections under heading II. in section fourteen of this Act;

Income tax.

“Income tax”—The tax on income derived from personal exertion and the tax on income derived from the produce of property: the term includes any additional rate of income tax or additional amount, charge, percentage, penalty, or interest in respect thereof to be assessed, collected, enforced, or recovered under this Act or any instalment or portion of income tax;

Life assurance company.

“Life assurance company”—A life assurance company within the meaning of §“*The Life Assurance Companies Act of 1901*”: the term “mutual life assurance company” means a life assurance company which is not a proprietary company within the meaning of that Act;

Local Authority.

“Local Authority”—The Council of a Municipality, or Board of a Division, or Council of a Town or Shire constituted under the laws in force for the time being relating to the constitution of Local Authorities;

Net income.

||“Net income”—Save as herein otherwise expressly provided, gross income less all deductions and exemptions allowable under this Act with the exception of the special exemption of two hundred pounds or any part thereof provided for in section seven of this Act;

\* Words from “other” to “trust estate” inserted by section 2 of the Amending Act of 1921. Section 2 also provides that the definition as so amended shall be construed so as to apply to incomes for the year commencing on the first day of July, 1918, and for each subsequent year, and to that extent the enactment shall have retrospective operation.

† Paragraph substituted (by section 2 of the Amending Act of 1920) for a paragraph which had been inserted by section 3 of the Amending Act of 1915 and now printed with verbal correction of renumbering.

‡ Paragraph inserted by Section 2 of the Amending Act of 1920; now printed with verbal correction of renumbering.

§ 1 Edw. VII. No. 20, Statutes, page 282.

|| Definition inserted by section 2 of the Amending Act of 1920.

- “Notice”—A notice in writing given by causing the same to be personally served on any person or by leaving the same at his usual or last known place of abode or business in Queensland, or by sending the same by post addressed to such usual or last known place of abode or business; and in the case of a company—a notice given by being served upon or sent by post or delivered to the public officer of the company at the prescribed address for service, or if there is no such address then by serving, leaving, or sending the same at or to any office or place where the company carries on business in Queensland; PART I.—  
PRELIMINARY.  
Notice.
- “Person” includes a company; Person.
- “Policy of life assurance”—Any instrument by which the payment of moneys, by or out of the funds of a life assurance company, on the happening of any contingency depending on the duration of human life, whether by way of life assurance, endowment, annuity, or otherwise, is assured or secured; Policy of life  
assurance.
- “Policy holder”—The person who for the time being is the legal holder of a policy of life assurance; Policy  
holder.
- “Prescribed”—Prescribed by this Act; Prescribed.
- “Public notice”—Notice published in the *Gazette* or in some newspaper generally circulating in the locality where notice is prescribed to be given; Public  
notice.
- “Queensland Company”—A company the head or principal office or the principal place of business of which is in Queensland; Queensland  
Company.
- “Taxable income”—Income on which income tax is chargeable after allowing for all deductions and exemptions allowable under this Act; Taxable  
income.
- “Taxpayer”—Every person liable to pay income tax, whether on his own behalf or in a representative capacity: in reference to any return with regard to a taxpayer’s own income, the term includes every person required by this Act to furnish such return; Taxpayer
- “This Act”—This Act and any Regulations made thereunder; This Act.
- †“Trustee” includes trustee, executor, administrator, guardian, committee, the Public Curator or any Deputy Public Curator, and any officer or person having or taking upon himself the possession, administration, or control of any income affected by any express or implied trust, or having the possession, administration, or control of any income of a person under any legal disability; Trustee.
- “Year”—The period of time commencing on the first day of July in a year and ending on the thirtieth day of June in the succeeding year; Year.
- ‡“Year of assessment”—The year during which income tax becomes due and payable. Year of  
assessment.

\* Definition inserted by section 2 of the Amending Act of 1920.

† Definition verbally amended by section 2 (4) of the Amending Act of 1922.

‡ Definition inserted by section 2 (5) of the Amending Act of 1922.

## PART II.—ADMINISTRATION.

PART II.—  
ADMINISTRATION.  
Commissioner and  
other  
officers.

[4.]

4. (1.) For the due administration of this Act the Governor in Council may, from time to time, appoint a fit and proper person to be called the Commissioner of Income Tax, and a like person to be Assistant Commissioner of Income Tax.

(2.) Whenever by reason of the absence or illness of the Commissioner or Assistant Commissioner, or for other sufficient reason, it is expedient so to do, the Governor in Council may appoint a fit and proper person to act as the Deputy of the Commissioner or Assistant Commissioner; and during the term of his office such Deputy shall have all the powers and authorities and shall perform all the duties of the Commissioner or Assistant Commissioner, and shall for the purposes of this Act be deemed in all respects to be the Commissioner or Assistant Commissioner.

(3.) The Governor in Council may from time to time appoint such assessors, receivers, and other officers as may be necessary for carrying out the provisions of this Act.

(4.) The Commissioner may, with the approval of the Governor in Council, delegate to the Assistant Commissioner or any other person any powers, duties, and functions by this Act conferred or imposed upon him.

Secrecy to be  
maintained.

[5.]

5. (1.) Every person appointed or employed under this Act shall preserve and aid in preserving secrecy with regard to all matters that may come to his knowledge in his official capacity, and shall not communicate any such matter to any other person except in the performance of his duties under this Act, \*or except to the Auditor-General or some officer of his Department for the purposes of audit under the laws in force relating to the audit of public accounts. And to this extent the Auditor-General and any such officer shall be deemed to be persons appointed or employed under this Act.

Oath of  
fidelity and  
secrecy.

(2.) The Commissioner and Assistant Commissioner and every Deputy Commissioner shall, before acting in the execution of their office, take and subscribe, before a justice, the prescribed oath of fidelity and secrecy; such oath shall also be taken and subscribed by every other person appointed or employed under this Act before so acting, and the same may be administered to him by the Commissioner or Assistant Commissioner or any justice.

Every person who, in contravention of the true intent of such oath, and without lawful excuse, reveals any matter or thing which has come to his knowledge in his official capacity, shall be liable to a penalty not exceeding one hundred pounds, or to be imprisoned for any period not exceeding six months, with or without hard labour.

If any person acts in the execution of his office before he has taken the prescribed oath, he shall be liable to a penalty not exceeding one hundred pounds.

†(3.) Notwithstanding anything herein contained, it shall be lawful for the Commissioner, and he is hereby authorised, to afford to the Commonwealth Commissioner of Income Tax or to his deputy

\* Words from "or except" to end of subsection inserted by section 4 of the Amending Act of 1904.

† Subsection inserted by section 4 of the Amending Act of 1915.

in Queensland any information in his possession with respect to the administration of this Act or the incomes of taxpayers thereunder; and the affording of such information shall not be deemed to be a contravention of this section.

PART II.—  
ADMINISTRATION.

This subsection shall not come into operation unless or until reciprocal authority to afford similar information to the Commissioner has been duly conferred on the Commonwealth Commissioner of Income Tax or his deputy in Queensland.

\* (4.) Notwithstanding anything herein contained, it shall be lawful for the Commissioner, and he is hereby authorised, to afford to any other Commissioner of Income Tax in Australia any information in his possession with respect to the business done in Queensland by any person or company carrying on business in any Australian State as well as in Queensland; and the affording of such information shall not be deemed to be a contravention of this section.

6. The Governor in Council may from time to time by public notice, declare that any Judge of the Supreme Court † shall be a Court of Review for the purposes of this Act.

Court of  
Review.  
[6.]

Every Court of Review, so constituted, shall have jurisdiction, within such limits as may be prescribed in such notice, to hear and determine, in manner provided by this Act, objections to assessments made under this Act.

### PART III.—NATURE AND INCIDENCE OF THE TAXATION.

†7. (1.) Subject to this Act, there shall be charged, levied, collected, and paid for the use of His Majesty in aid of the Consolidated Revenue for each year an income tax in respect of the annual amount of the incomes of all persons‡ at the rates following, that is to say:—

PART III.—  
NATURE AND  
INCIDENCE OF  
THE TAXATION.  
Rates of  
income tax.  
[7.]

(i.) On all taxable income derived from personal exertion—

|| When the taxable income does not exceed £4,000 the rate on each and every £ of the taxable income shall be 6d. plus as many times  $\frac{1}{16}$  d. as there are pounds in the taxable income;

\* Subsection inserted by section 4 of the Amending Act of 1915.

† Words "or police magistrate" repealed by section 3 of the Amending Act of 1920. Words "the Supreme" substituted for "a District" pursuant to the Supreme Court Act of 1921, section 3 (3), Statutes, page 9788.

‡ Section 7 (as amended) repealed and new section substituted by section 4 of the Amending Act of 1920. It is here printed as amended by the Amending Acts of 1921 and 1922 as indicated.

§ By section 2 of the Amendment Act of 1905 it is declared that each of the persons for the time being holding the following offices in the State of Queensland, namely, the office of—

Chief Justice,  
Judge of the Supreme Court,  
Member of the Land Court,  
Auditor-General,  
Commissioner for Railways,

is and always has been chargeable with and liable to pay income tax in respect of his official salary under and in accordance with the provisions of the laws imposing a tax on income.

As to the salaries of officers of the Commonwealth and the allowances of members of the Commonwealth Parliament being subject to taxation, see the *Commonwealth Salaries Act of 1907* (No. 7 of 1907), Commonwealth Acts, volume 2, page 926.

|| Paragraphs substituted for original paragraphs by section 3 (1) of Amending Act of 1921, which also provides (subsection 9) that the substituted provisions shall apply to incomes for the year commencing 1st July, 1918, and each subsequent year.

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\*When the taxable income exceeds £4,000 the rate shall be 30d. in the £ on the first £4,000, and 36d. in the £ on each and every £ in excess of £4,000:

Provided that, from the amount of the tax payable on the income of any taxpayer derived from any agricultural, dairying, or grazing pursuits carried on by him, there may be deducted the amount of any land tax actually paid by the taxpayer in respect of the same year under any Act of the Parliament of Queensland on land of which he is the owner for an estate of freehold and on which such agricultural, dairying, or grazing pursuits are carried on. For the purposes of this provision, "grazing pursuits" means the grazing of stock on freehold areas the unimproved value whereof does not in the aggregate exceed £1,280, and where both dairying and grazing pursuits are carried on by the taxpayer on the same lands and the greater part of his income is derived from such dairying pursuits he shall be entitled to the deduction aforesaid as if dairying pursuits only were so carried on by him.

†Provided nevertheless that the maximum amount of land tax to be deducted from a taxpayer's income tax for any one year shall not exceed one hundred pounds.

(ii.) On all taxable income derived from the produce of property; and on the taxable incomes of all absentees—

‡When the taxable income does not exceed £3,000, the rate on each and every £ of the taxable income shall be 12d. plus as many times  $\frac{1}{1000}$ d. as there are pounds in the taxable income;

‡When the taxable income exceeds £3,000 but does not exceed £4,000, the rate on each and every £ of the taxable income shall be 6d. plus as many times  $\frac{1}{1000}$ d. as there are pounds in the taxable income;

‡When the taxable income exceeds £4,000 the rate shall be 30d. in the £ on the first £4,000, and 36d. in the £ on each and every £ in excess of £4,000.

(iii.) Provided that where a taxpayer receives income from personal exertion and also from the produce of property he shall be charged on the taxable income derived from personal exertion at the rate that would be chargeable if his total taxable income had been derived from personal exertion, and on his taxable income derived from the produce of property at the rate that would be chargeable if his total taxable income had been derived from the produce of property.

\* Paragraphs substituted for original paragraphs by section 3 (1) of Amending Act of 1921, which also provides (subsection 9) that the substituted provisions shall apply to incomes for the year commencing 1st July, 1918, and each subsequent year.

† Proviso added by section 3 (2) of Amending Act of 1921.

‡ Paragraphs substituted for original paragraphs by section 3 (3) of the Amending Act of 1921, which also provides (subsection 9) that the substituted provisions shall apply to incomes for the year commencing 1st July, 1918, and each subsequent year.

(iv.) Provided further that—

- (a) A person (not being a company or an absentee) whose net income (whether derived from personal exertion or from the produce of property or partly from personal exertion and partly from the produce of property) during the year in respect of which the assessment is made, does not amount to more than £200, shall not be liable to tax;
- (b) With respect to any person (not being a company or an absentee) whose net income (whether derived from personal exertion or from the produce of property or partly from personal exertion and partly from the produce of property) during the year in respect of which the assessment is made, amounts to more than £200 but does not amount to more than £1,000, a part, but not exceeding £200, of such income shall be exempt from tax and shall not be deemed to be part of the taxable income. The amount of such exemption shall be ascertained as follows:—The amount of £200 shall be exempt if the net income does not amount to more than £203. The amount of £199 shall be exempt if the net income is £204, and the amount of exemption shall be reduced by £1 for each £4 of net income in excess of £204, so that there shall not be any exemption if the net income is £1,000. In deducting the amount of such exemption the income derived from personal exertion, if any, shall be first resorted to.
- \* (c) For the purposes of this paragraph the amount of a taxpayer's income which is exempt from tax under paragraph (vi.) of section thirteen of this Act (less the expense of earning such exempt income) shall be taken into consideration in determining the amount of exemption to be allowed to the taxpayer.

† (v.) On the taxable incomes of all companies not being public utility companies or monopoly companies as herein defined or those foreign companies for which special rates of tax are prescribed under paragraph (viii.) of this subsection—

If the total profits liable to tax under this Act do not exceed 6 per cent. on the capital ..	{	15d. in each and every £.
If such profits—		
Exceed 6 per cent. and do not exceed 7 per cent. . . . .	{	16½d. in each and every £.
Exceed 7 per cent. and do not exceed 8 per cent. . . . .	{	18d. in each and every £.
Exceed 8 per cent. and do not exceed 9 per cent. . . . .	{	19½d. in each and every £.
Exceed 9 per cent. and do not exceed 10 per cent. . . . .	{	21d. in each and every £.

\* Inserted by section 3 (1) of the Amending Act of 1922, and now printed with verbal correction of renumbering.

† Printed as amended by section 3 (2) of the Amending Act of 1922.

‡ Words from "liable" to "Act" inserted by section 3 (3) of the Amending Act of 1922.

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Exceed 10 per cent. and do not exceed 11 per cent. . . . .	}	22½d. in each and every £.
Exceed 11 per cent. and do not exceed 12 per cent. . . . .		24d. in each and every £.
Exceed 12 per cent. and do not exceed 13 per cent. . . . .		25½d. in each and every £.
Exceed 13 per cent. and do not exceed 14 per cent. . . . .		27d. in each and every £.
Exceed 14 per cent. and do not exceed 15 per cent. . . . .		28½d. in each and every £.
Exceed 15 per cent. and do not exceed 16 per cent. . . . .		30d. in each and every £.
Exceed 16 per cent. and do not exceed 17 per cent. . . . .		31½d. in each and every £.
Exceed 17 per cent. and do not exceed 18 per cent. . . . .		33d. in each and every £.
Exceed 18 per cent. and do not exceed 19 per cent. . . . .		34½d. in each and every £.
Exceed 19 per cent. . . . .		36d. in each and every £.
(vi.) On the taxable incomes of all public utility companies and monopoly companies—		
If the total profits *liable to tax under this Act do not exceed 6 per cent. on the capital . . . . .	}	15d. in each and every £.
If such profits—		
Exceed 6 per cent. and do not exceed 7 per cent. . . . .	}	18d. in each and every £.
Exceed 7 per cent. and do not exceed 8 per cent. . . . .		21d. in each and every £.
Exceed 8 per cent. and do not exceed 9 per cent. . . . .		24d. in each and every £.
Exceed 9 per cent. and do not exceed 10 per cent. . . . .		27d. in each and every £.
Exceed 10 per cent. and do not exceed 11 per cent. . . . .		30d. in each and every £.
Exceed 11 per cent. and do not exceed 12 per cent. . . . .		33d. in each and every £.
Exceed 12 per cent. and do not exceed 13 per cent. . . . .		36d. in each and every £.
Exceed 13 per cent. and do not exceed 14 per cent. . . . .		39d. in each and every £.
Exceed 14 per cent. and do not exceed 15 per cent. . . . .		42d. in each and every £.
Exceed 15 per cent. and do not exceed 16 per cent. . . . .		45d. in each and every £.
Exceed 16 per cent. . . . .	48d. in each and every £.	
(vii.) For the purposes of paragraph (v.) and paragraph (vi.) of this subsection, the Commissioner may accept the total profits as ascertained and shown by a company to be its total profits: Provided that if the Commissioner is not satisfied that its total profits have been correctly		

\* Words from "liable" to "Act" inserted by section 3 (3) of the Amending Act of 1922.



so ascertained and shown he shall have the power to declare what are its total profits for the purposes of the said paragraph (v.) or paragraph (vi.) as the case may require.

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† (viii.) On the taxable incomes of the foreign companies here-  
under mentioned (not being public utility companies  
or monopoly companies), the incomes whereof are  
assessable under section thirty-four, section thirty-six,  
or section thirty-seven of this Act, the rates of tax shall  
be as follows:—

	Rate of Tax.
Banking companies, fire, accident, fidelity, guarantee, or marine insur- ance companies assessed on twenty- five per centum of the premiums, life assurance companies which have shareholders who are entitled to receive the whole profits, other companies assessed under para- graph (iv.) of section thirty-four of this Act on seven pounds ten shillings per centum of the gross sales made in Queensland or of the revenue derived from Queensland, and companies assessed under section thirty-six or section thirty- seven of this Act . . . . .	} 24d. in each and every £ of the taxable in- come
Mutual life assurance companies (that is, life assurance companies all the profits from which are divided among the policy-holders) . . . . .	} 18d. in each and every £ of the taxable in- come
Life assurance companies which have shareholders who are entitled to receive a share of the profits but which divide a part of their profits among the policy-holders—	
(a) On so much of the taxable income as bears the same pro- portion to the total taxable income as the profits divided for the same year amongst the policy-holders of the company bear to the total profits of the company for the same year . . . . .	} 18d. in each and every £
(b) On the remainder of the tax- able income . . . . .	} 24d. in each and every £

On the taxable incomes of other foreign companies, the  
incomes whereof are assessable under section thirty-four of  
this Act the rates of tax shall be as provided in paragraph  
(v.) or paragraph (vi.) of this subsection, as the case may  
require.

† A proviso which had been inserted by section 3 (4) of the Amending Act of 1921 was repealed by section 3 (4) of the Amending Act of 1922.

‡ Paragraph substituted by section 3 (5) of the Amending Act of 1922 for original paragraph (which had been amended by section 3 (5) of the Amending Act of 1921). It is here printed with verbal corrections of renumbering.

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\*(ix.) On the taxable incomes of foreign companies the incomes whereof are assessable under paragraph (ii.) and paragraph (iv.) of section thirty-four of this Act, at the rate which applies under paragraph (v.) or paragraph (vi.) of this subsection, as the case may require: Provided that if the company—

Has no paid-up capital; or

Is such that the capital invested in Queensland cannot be ascertained; or

Has not supplied full information as to its paid-up capital and profits; or

Fails to supply to the Commissioner any information which he deems necessary to enable a proper assessment to be made,

income tax shall be charged at the highest rate in the £ fixed by paragraph (v.) or paragraph (vi.) of this subsection, as the case may require, on each and every £ of its income.

(2.) In this section—

(a) "Public utility" includes street tramway services, the manufacture or supply of coal gas for any purpose, the production or supply of electricity for light or power, and any other undertaking declared by resolution of the †Legislative Assembly respectively to be a public utility;

(b) "Public utility company" means any company carrying on in Queensland the business of a public utility;

(c) "Monopoly company" means any company declared by resolution† of the Legislative Assembly respectively—

To be a company in possession or partial possession of a monopoly within Queensland for the production, distribution, transport, or exchange of goods or commodities to the detriment of the public interests; or

To be associated with any trust or combine for the purpose of securing a monopoly or partial monopoly in Queensland of the production, distribution, transport, or exchange of goods or commodities to the detriment of the public interests.

‡(3.) For the purposes of this section, except where otherwise expressly provided, the capital on which the percentage of profits of any company shall be calculated shall be so much of the average amount over a full year—

(i.) Paid up in cash or value on all shares actually issued by the company; and

\* Paragraph substituted by section 3 (6) of the Amending Act of 1922 for original paragraph (which had been amended by section 3 (6) of the Amending Act of 1921). It is here printed with verbal correction of renumbering.

† Verbally amended owing to the abolition of the Legislative Council. See Constitution Act Amendment Act of 1922, sections 2 and 4; Statutes, page 9956.

‡ Subsection substituted by section 3 (7) of the Amending Act of 1922 for original subsection (which had been amended by section 3 (7) of the Amending Act of 1921).

- (ii.) Of all reserves invested in the business which have been created out of profits—
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- (a) On which the additional tax that would be chargeable under subsection five of this section on their distribution has been paid; or
- (b) On which the full amount of tax applicable to the income of the year during which those profits were earned has been paid;
- as was, during the year in which the profits were earned, invested in the assets of the business and used for the purpose of producing the profits of the company liable to tax under this Act; but in arriving at such average, where tax has been paid as aforesaid on any such reserves during the year in which the profits were earned, such reserves shall not be taken as invested and used as aforesaid until the date on which tax thereon has been so paid:

Provided that—

- (a) If a company has written down its capital the Commissioner may treat as paid-up capital payments by any shareholder holding shares during the year in which the profits were earned who held shares at the time the writing off took place to the extent of the amount paid by him which was written off on any of his existing shares;
- (b) So much of the amount of any goodwill appearing as an asset in the company's accounts shall be deducted from the paid-up capital as was not paid for in cash on the purchase of a business by the company or on which tax under this Act was not paid by the vendor of a business when selling to the company;
- (c) If any shareholder sells or transfers to a company in which he is a shareholder any property and receives shares in payment for the property or for part payment of the property, and owes money to the company, the paid-up value of such shares for the purposes of this subsection shall be the value of such property at the date of sale or transfer less the amount of the shareholder's indebtedness to the company. This provision shall also apply if a company—

In consideration for any property transferred to it by any person has issued shares to him and has also made itself responsible for any debt due by him on such property; or

Has advanced money to a shareholder which has been used by him in acquiring any shares of the company and is still owing to the company.

\* (4.) The taxable income of every Queensland company may be assessed for any year at not less than the amount of the dividends declared by such company out of profits made during that year.

\* Printed as amended by section 3 (3) of the Amending Act of 1922.

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\* (5.) With respect to the taxable profits of any Queensland company which were earned prior to the first day of January, one thousand nine hundred and fifteen, and which were undistributed on the thirtieth day of June, one thousand nine hundred and twenty-one, if after the lastmentioned date any part of such undistributed profits have been or shall be distributed, tax shall be charged thereon at the rate of sixpence in each and every pound of the amount distributed.

With respect to the taxable profits of any Queensland company which were earned after the thirty-first day of December, one thousand nine hundred and fourteen, and which were undistributed on the thirtieth day of June, one thousand nine hundred and twenty-one, if after the lastmentioned date any part of such undistributed profits have been or shall be distributed, and with respect to the profits of any Queensland company, which were or shall be earned after the thirtieth day of June, one thousand nine hundred and twenty-one, and which are undistributed at the close of the year in which the profits were made if any part of such undistributed profits are afterwards distributed, tax shall be charged thereon at the rate that would have been chargeable if the profits had been distributed in the year in which they were made, less any amount already paid as tax thereon.

For the purposes of this Act profits of a company shall be deemed to be distributed if they are paid or credited to shareholders by way of dividend or by the issue to shareholders of debentures or if they are transferred to capital in any way whether with or without the issue of fresh shares, or are applied in any way in reduction of assets.

† \* \* \* \* \*

(6.) If a Queensland company has no paid-up capital, the tax payable shall be at the maximum rate fixed under paragraph (v.) or paragraph (vi.) of subsection one of this section for companies of that class.

‡ (7.) In the case of a Queensland company carrying on business outside Queensland, tax shall be charged on the profits made in Queensland:

Provided that—

- (i.) The deduction allowed for head office expenses shall be reduced by an amount which bears the same proportion to the total head office expenses as the sales made outside Queensland bear to the total sales, or where no sales have taken place by an amount to be fixed by the Commissioner;
- (ii.) The undistributed profits shall be arrived at by deducting from the taxable income the dividends paid from that income less an amount which bears the same proportion to the total dividends paid from that income as the profits made outside Queensland bear to the total profits made during the year in respect of which the assessment is made;

\* Subsection substituted for original subsection by section 3 (9) of the Amending Act of 1922.

† Original subsection (6) repealed by section 3 (10) of the Amending Act of 1922.

‡ Printed as amended by section 3 (8) of the Amending Act of 1921 [which amendments were made applicable to all incomes for the year commencing 1st July, 1918, and every subsequent year] and by section 3 (11) of the Amending Act of 1922.

- (iii.) The capital invested in Queensland shall be a sum which bears the same proportion to the paid-up capital as the value of the assets in Queensland bears to the value of the total assets of the company.

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(8.) —

- (a) When any undistributed profits of any Queensland company standing to the credit of Profit and Loss Account or of Reserves are transferred to capital in any way or applied in any way in reduction of assets—then such transfer or application; or
- (b) When the assets of any Queensland company are increased in value, and shares whether fully or partly paid up or debentures (which term includes debentures or stock or any other instrument of value by whatever name called), representing the whole or any part of such increase, are issued to its shareholders as such—then the issue of such shares to the amount of the nominal value of such shares if issued fully paid up, or of such portion of such value as is deemed to be paid up if such shares are issued partly paid up, or the issue of such debentures to the amount of the sum stated or alleged to be secured thereby, and the payment of interest from time to time accruing on such debentures;

shall be and it is hereby declared that the same always has been a declaration of dividends and a distribution of dividends within the meaning of this section.

(9.) When any Queensland company issues any of its shares at a premium, then all sums of money received by the company in respect of such premiums—that is to say, all sums so received in excess of the nominal value of all such shares allotted and issued by the company—shall, for the purposes of this Act, be profits of the company and assessable for income tax accordingly.

(10.) In the case of companies which carry on in Queensland the business of mining, the following rules shall be applied in estimating the income subject to the tax:—

- (a) The profits made by the company shall be taken to be applied, in the first place, in repayment of the cost actually incurred by the company in respect of labour or material employed in developing the mine, and, in the second place, in repayment of three-fourths of the cost of any machinery erected for raising ores and other materials from the mine.
- (b) So much of the profits as is shown to the satisfaction of the Commissioner to have been applied during the year in respect of which the assessment is made for the purposes specified in the last preceding rule shall be deducted from the income of the company for that year, and shall be exempt from the tax.
- (c) If the company carries on other business besides the business of mining, the Commissioner may require the company to submit to him accounts verified in like manner as the returns hereby prescribed, and showing separately the transactions of the company with respect to its mines and with respect to its other business, and

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the company shall be entitled to exemption from payment of the tax upon so much of its profits as is shown to the satisfaction of the Commissioner to have been applied during the year in respect of which the assessment is made for the purposes specified in the first of these rules.

- (d) When a mining company is reconstructed and it is shown to the satisfaction of the Commissioner that after reconstruction the company is to all intents and purposes the same as before reconstruction, such reconstructed company shall be entitled to the same exemption from payment of tax as the company was entitled to before reconstruction.
- (e) The decision of the Commissioner in every case arising under this subsection shall be final and conclusive.

\* (11.) The amount of the taxpayer's income which is exempt from tax under paragraph (vi.) of section thirteen of this Act shall, notwithstanding anything in this Act or any other Act contained, be taken to be part of the taxpayer's gross income, and shall be returned in the taxpayer's return; and the rate of tax shall be calculated as if the amount so exempted were part of his taxable income.

Tax on cash  
prize in a  
drawing.  
[7A.]

† 8. There shall also be collected as income tax on each ticket issued in a drawing for a cash prize an amount equal to five per centum of the selling price of the ticket.

The minimum tax charged on any such ticket shall be three-pence.

The tax shall be paid within one week after the drawing takes place, and shall be accompanied by a return signed by a person responsible for the drawing, showing the number of tickets sold and the amount realised by the sale thereof.

Super tax  
[8.]

‡ 9. There shall be charged, levied, collected, and paid for the use of His Majesty in aid of the Consolidated Revenue for the year one thousand nine hundred and seventeen and for every year thereafter, in addition to the income tax provided by this Act, income tax (called the super tax) in respect of the annual amount (subject to the exemption or deduction hereinafter mentioned) of

\* Printed as amended by section 2 of the Amending Act of 1920, No. 2, and by section 3 (12) of the Amending Act of 1922 and with verbal corrections of renumbering.

† Inserted by section 4 of the Amending Act of 1922.

‡ Original section 8 (incidence of taxation) repealed by section 5 of the Amending Act of 1904. New section inserted by section 3 (1) of the Amending Act of 1913

It is provided by section 3 (2) of the Amending Act of 1918 that the super tax for the year 1917 shall be assessed under the Principal Act as amended by section 2 of the Amending Act, and shall be paid as soon as may be after the passing of the Amending Act, and for all purposes of the Principal Act as amended by section 2 of the Amending Act shall be deemed part of the income tax for the year 1917, and to that extent the Amending Act shall have retrospective operation.

The super tax for the year 1918, and for each year thereafter while such tax is leviable, shall be assessed and paid together with the income tax for the same year respectively, and for all purposes of the Principal Act as amended by the Amending Act shall be deemed part thereof.

§ Words "during the continuance of the present War and the year next succeeding the year in which Peace is proclaimed" repealed by section 5 (1) of the Amending Act of 1922. Section 5 (2) provides that this amendment shall be deemed to have been made on the 29th day of June, 1921.

the incomes of all persons (except mutual life assurance or insurance companies or societies, and except other life assurance or insurance companies whose business is partly mutual, but to the extent only to which the profits of such last-mentioned companies are distributed or allocated to policy holders as such on a mutual basis), at the rate of twenty pounds per centum on the amount of the income tax payable under this Act:

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\*Provided that—

- (a) Where the taxable income of any person (not being a company or an absentee) after deducting the statutory exemption of £200 (or part thereof) provided in paragraph (iv.) of subsection one of section seven of this Act, does not exceed £200, then such person shall not be liable to pay any super tax;
- (b) Where the taxable income of any person (not being a company or an absentee) after deducting the statutory exemption as aforesaid of £200 (or part thereof) exceeds £200, then from the super tax which would be otherwise payable by such person there shall be allowed the amount of super tax on the exemption allowed under paragraph (iv.) (b) of subsection one of section seven of this Act, computed at the rate at which the income tax of such person is computed, and such rate shall be as on income derived from personal exertion, if any, in the first instance.

10. Income tax shall be paid on such day or days, and either in one sum or by instalments of equal or varying amounts, and at such place or places as may be prescribed.

Date and  
place of  
payment.

[9.]

11. Subject to this Act, income tax shall be charged, levied, collected, paid, and enforced upon assessments made under this Act, except as hereinafter provided.

Tax to be  
levied, &c.,  
on  
assessments.

[10.]

12. If the Commissioner is satisfied that any person—

Commis-  
sioner's  
discretion.

[11.]

- (i.) Has become insolvent within the meaning of any law for the time being in force relating to insolvency; or
- (ii.) Is by reason of age, infirmity, loss, or other cause so situated that the exaction of the full amount of income tax would entail hardship of such a nature as to render it just and equitable that relief from such tax should be given—

Insolvency.

Losses, &c.

he may release such person wholly or in part from liability to income tax for that year, and make such entries or alterations in the assessment-register hereinafter mentioned as may be necessary for that purpose.

13. The following incomes, revenues, and funds shall be exempt from income tax:—

Exemption  
of certain  
incomes.

[12.]

- (i.) The income of the Governor of Queensland so far as respects the emoluments of his office as Governor;

\* Proviso repealed and new proviso inserted by section 5 of the Amending Act of 1920.

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- (ii.) The revenues of Local Authorities and local bodies receiving revenue of any kind for the purposes of local self-government;  
† \* \* \* \* \*
- (iii.) The incomes of societies and institutions not carrying on business for purposes of profit or gain;
- (iv.) The funds and incomes of societies registered under any Act relating to Friendly Societies (other than Building Societies), or under any Act relating to Trade Unions;
- (v.) The incomes and revenues of religious, charitable, and educational institutions of a public character;
- (vi.) Income derived as dividends from any company which has paid in Queensland †income tax on the profits of the company from which such dividends are paid;
- §(vii.) Income arising or accruing from debentures, stock, bonds, certificates, or Treasury bills issued by the Government of Queensland or of the Commonwealth of Australia;
- ||(viii.) Income derived as interest from deposits in the Commonwealth Government Savings Bank.
- ¶(ix.) War pensions and war gratuities granted by the Government of the Commonwealth in respect of service on active service abroad during the war;
- \*\* (x.) The profits of any company carrying on business of a co-operative nature whose articles of association provide that profits shall not be distributed amongst the shareholders as dividends and which company is declared to be exempt from taxation by the Governor in Council.

These exemptions shall not extend to the salaries, wages, allowances, or pensions of persons employed by any such corporation, company, society, or institution, although the same are paid wholly or in part out of the income, revenues, or funds thereof.

††14. Without limiting the force or effect of any other provision of this Act, incomes liable to tax shall expressly include—

(I.) *As income derived from personal exertion—*

- (1) All net gains or profits arising from the sale of any real property (not including the grant by the owner in fee-simple, or the grant, whether by way of sublease or of transfer or assignment by any lessee, of any estate or interest less than freehold) whether or not arising or accruing from any business carried on by the taxpayer ††where such real property was purchased or acquired by him during the year in which the sale took place or the six years prior thereto, arrived at by deducting from

Specific  
classes of  
incomes  
liable to  
tax.

[12A.]

† Original subsection (iii.) repealed by section 6 of the Amending Act of 1904.

‡ Words from "income" to "paid" substituted for "a duty on such dividends" by section 6 of the Amending Act of 1904.

§ Printed as amended by section 6 of the Amending Act of 1920.

¶ Paragraph inserted by section 6 (2) of the Amending Act of 1922.

¶ Paragraph inserted by section 6 (2) of the Amending Act of 1922.

\*\* Paragraph inserted by section 6 (3) of the Amending Act of 1922.

†† Inserted by section 7 of the Amending Act of 1920.

‡‡ Words from "where" to "thereto" inserted by section 7 (1) of the Amending Act of 1922.



the amount realised by the sale the expenses of sale and the cost \*to the vendor (less any amount for depreciation which the Commissioner considers just) of the property:

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THE TAXATION.

Provided that if a sale is subsequently cancelled an allowance may be made to the taxpayer in the year in which the cancellation takes place, or a refund may be made of any tax overcharged in connection with the profit made or supposed to be made.

† \* \* \* \* \*

- †(2) All net gains or profits arising from the sale of any personal property whatsoever, except where otherwise provided under heading (II.) of this section—whether or not arising or accruing from any business carried on by the taxpayer: Provided that unless the taxpayer purchased or acquired such property (other than stock-in-trade including in this term live stock) during the year in which the sale took place or the six years prior thereto, any profit made shall not be liable to tax.

The following provisions shall apply to the cases of sales of personal property respectively referred to in such provisions:—

- §(i.) When a shareholder has purchased or acquired shares in a company and subsequently receives liquidation dividends in excess of the purchase price of such shares, such excess shall be treated as income arising from a sale of the shares.

If a person receives by way of payment on any account whatsoever certificates issued by or shares in a company, the market value of such certificates on shares on the date on which they were so received by such person shall be treated as income of such person but not arising from a sale; if, however, all or any of these certificates or shares are subsequently sold by him or are redeemed or paid for by the company, any excess of moneys received by such person on such sale, redemption, or payment, over and above the market value of the same on the date aforesaid, shall be treated as income of such person arising from a sale during the year in which such excess was received.

In the event of the sale of any such certificates or shares before such redemption thereof or payment therefor by the company and the purchaser receiving such redemption money or payment from the company, the net excess, if any, of such redemption money or payment over

\* Words "to the vendor" inserted by section 7 (1) of Amending Act of 1922.

† A proviso repealed by section 7 (2) of the Amending Act of 1922.

‡ This paragraph of subsection (2) printed as amended by section 7 (2) of the Amending Act of 1922.

§ Paragraph (i.) substituted for original paragraph by section 7 (3) of the Amending Act of 1922.

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and above the purchase price paid by him for such certificates or shares shall be treated as income of such purchaser during the year in which such redemption money or payment was received by him.

- (ii.) On the sale of any business, the net gains or profits shall be arrived at by deducting from the amount realised by the sale the expenses of sale and the cost of any stock-in-trade (including in this term, live stock) comprised in the sale, and the cost (less any amount of depreciation which the Commissioner considers just) of any furniture, fittings, and other items comprised in the sale.

\*If the sale is of a business (including a mine) to a company and part of the purchase money is paid in shares of the company the Commissioner shall assess the value of such shares, and the value thereof shall be taken as the consideration paid to the vendor for that part of the purchase money represented by the shares, and when the vendor sells any of such shares the value so assessed shall be taken as the cost price of such shares to the vendor.

- †(iii.) On the sale of any share or interest in a business other than that carried on by a company the net gains or profits shall be arrived at by deducting from the amount realised by the sale—

- (a) The amount if any actually paid by the vendor for such share or interest; and  
(b) The amount of any profit in the business attributable to such share or interest not drawn by him at the date of the sale or subsequent thereto, less any part of such taxable profits on which income tax has not been paid.

- ‡(iv.) On the sale of the goodwill of any business, except as provided in subsection two under heading (II.) of this section, the net gains or profits shall be arrived at by deducting from the amount realised by the sale any sum paid by the taxpayer to the previous vendor for the purchase of the goodwill:

- (v.) In connection with live stock owned by a grazier or farmer or other person dealing in live stock the following provisions shall be applicable:—

- §(a) If a business (whether carried on by an individual person or by a partnership or by a company) is sold and the whole or part of

\* Words from "If" to the end of the sentence inserted by section 4 (1) of Amending Act of 1921.

† Paragraph inserted by section 4 (2) of Amending Act of 1921 and printed as verbally amended by section 7 (4) of the Amending Act of 1922.

‡ Paragraph printed as amended by section 7 (5) of the Amending Act of 1922.

§ Subparagraph printed as amended by section 4 (3) of the Amending Act of 1921 and with verbal correction of renumbering.

the stock-in-trade of the business consists of live stock, the full and actual market value in money of such live stock shall be expressly stated in the contract relating to such sale, whether such sale is for a lump sum or not.

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If such value is not so stated or not truly so stated, or if such contract has not been reduced to writing, then such value shall be assessed by the Commissioner at such amount as he deems just and reasonable.

In every such case the purchaser shall, for the purposes of this Act be entitled to claim that the sum of money so expressly stated or so assessed is the amount paid by him for the live stock upon such sale.

Moreover, such sum shall be deemed to be income of the vendor.

If on the sale of a station property "walk-in, walk-out" a profit is made on the sale of any of the assets—live stock, freehold or leasehold, or improvements or plant—and a loss is made on any other of these assets, the loss shall be deducted from the profit.

If on a sale of a station property any of the aforesaid assets are sold separately from the rest of the property, but in the same year, a loss on any of them shall be deducted from a profit on any other of them.

The tax on the income derived from the sale of the property and the stock shall, until paid, be and remain a charge upon the whole of the property included in such sale and upon every part thereof; and, if not paid by such vendor, may be recovered from the purchaser in the same manner as if it were income of the purchaser, and the Commissioner may register a charge against any land included in the sale for the amount of income tax owing.

Provided that—

If the vendor has not taken advantage of section twenty-two of this Act, in computing his income there shall be allowed as a deduction—

The value of such of the stock sold as was on hand at the close of the last preceding year at the price shown in the income tax return for that year, and

The purchase price of such of the live stock sold as were purchased since that date.

If the vendor has taken advantage of the provisions of section twenty-two of this Act, in computing his income there shall be allowed,

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according to the circumstances hereinafter mentioned, the deductions therein specified, viz. :—

If he has owned the business or interest sold continuously since the thirtieth day of December, one thousand nine hundred and six, there shall be deducted the value of live stock owned by him in connection with such business or interest at the end of the year one thousand nine hundred and six, as shown in his return to the Commissioner for that year (less any portion of such value which has been already allowed to him) together with the purchase price of such of the live stock sold as were purchased during the year when the sale took place; or

If he has purchased the business or interest since the thirty-first day of December, one thousand nine hundred and six, there shall be deducted the value of live stock at the time of such purchase as expressed in the contract of sale or assessed by the Commissioner (less any portion of such value which has been already allowed to the taxpayer), together with the purchase price of such of the live stock sold as were purchased during the year when the sale took place.

\* (b) If the sale is not of a business as aforesaid but of a share or interest in a partnership which carries on such a business, then the provisions of paragraph (v.a) hereof shall be applicable with the modification that the value of the purchaser's interest in the live stock comprised in the purchase by him of such share or interest shall be deemed to bear the same proportion to the total value allocated to the live stock owned by the partnership as the share or interest so purchased by him bears to the total shares or interests of the partnership.

†(3) The rate of tax in respect of taxable income which consists of or includes taxable income derived from any sale to which the foregoing subsection one or subsection two of this section applies, shall be arrived at as follows:—

The taxable income derived from any sale under

\* Subparagraph (b) substituted for original subparagraph by section 4 (3) of the Amending Act of 1921, which provides that this paragraph (v.) as so amended shall be construed so as to apply to incomes for the year commencing on 1st January, 1915, and for each subsequent year. The subparagraph is here printed with verbal correction of renumbering.

† Subsection substituted by section 7 (6) of the Amending Act of 1922 for a subsection inserted by section 4 (4) of the Amending Act of 1921 and printed with verbal correction of renumbering.

subsection one or subsection two (excluding any sale of stock-in-trade, but including any sale of live stock in excess of the average number of live stock disposed of from the property during the last preceding three years and otherwise excluding any sale of live stock) shall be divided by the number of years not exceeding seven, during which the taxpayer owned the property sold, and the amount arrived at shall be added to the taxpayer's other taxable income if any (including taxable income derived from any sale of stock-in-trade or of live stock not already taken into account under the foregoing provision) and there shall be charged on each and every pound of the taxpayer's taxable income the rate that would be chargeable if the amount so ascertained together with any income derived as mentioned in paragraph (vi.) of section thirteen of this Act were the taxpayer's total taxable income. In any such case an extension of time for paying the tax may be allowed by the Commissioner without penalty.

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- (4) When goods or articles manufactured in Queensland or produced in Queensland are sold outside Queensland, or live stock are exported or sent from Queensland for sale outside Queensland, the amount received for the sale of the goods, articles, or live stock shall be taxable as income earned in Queensland, but the cost of selling the goods, articles, or live stock outside Queensland shall be allowed as a deduction.

- \* (5) A retiring allowance or gratuity which is paid in a lump sum.

The rate of tax in respect of taxable income which consists of or includes taxable income derived from such retiring allowance or gratuity shall be arrived at by adding to the other taxable income, if any, of the taxpayer one-fifth of the taxable income derived from such retiring allowance or gratuity, and applying to the taxpayer's taxable income the rate that would be chargeable if the amount so ascertained, together with any income derived as mentioned in paragraph (vi.) of section thirteen of this Act, were the total taxable income of the taxpayer. In any such case an extension of time for paying the tax may be allowed by the Commissioner without penalty.

- † (6) Under this heading (I.) shall be treated as gross income the income derived by persons dealing in bêche-de-mer, pearls, pearl-shells, and other shells, who carry on business in Queensland.

‡ (7) For the purpose of any of the foregoing provisions under this heading (I.) and paragraph (2) under heading (II.)—

- (a) Transfers of any property including live stock by any person to any other person by way of gift or for

\* Subsection inserted by section 4 (5) of the Amending Act of 1921; but the second paragraph was substituted by section 7 (7) of the Amending Act of 1922 for the original paragraph.

† Subsection inserted by section 7 (8) of the Amending Act of 1922.

‡ Inserted by section 4 (5) of the Amending Act of 1921, with the retrospective operation therein provided, and now printed as amended by section 7 (9) of the Amending Act of 1922.

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a nominal or manifestly inadequate consideration, or to any beneficiary under any will or in the distribution of any intestate estate; or

- (b) The taking over of a taxpayer's estate on his death by an executor or administrator;
- (c) The distribution in specie of the whole or any of the assets of a business among partners or shareholders of a company;
- (d) The vesting of any property in any constructing authority by a Proclamation or other instrument pursuant to any act in respect of which property compensation is received by the late owner,

shall be considered to be sales, and the selling price in the case of all such property other than live stock in cases to which subparagraph (a) or (b) or (c) refers shall be the market price of the property transferred, taken over, or distributed as at the date of transfer, death, or distribution, and in cases to which subparagraph (d) refers shall be the total amount or value of such compensation as aforesaid, and in the case of live stock shall be the price per head at which the late owner returned the same class of live stock in the last income tax return in which he returned his live stock on hand at the close of the year in respect of which such return was made, or, if purchased during the year for which the return is made, at the actual purchase price, to which in each case shall be added, for the purpose of arriving at the purchasing price to any beneficiary, executor, or administrator as aforesaid, the amount of any probate duty, succession duty, or estate duty paid in respect of such live stock.

(II.) *As income derived from the produce of property—*

- (1) The amount of any annuity paid to any person by any other person residing in Queensland or any company carrying on business in Queensland or in connection with any property situated in Queensland:

Provided that if the annuitant has purchased his annuity there shall be deducted from the annuity such amount as represents the repayment of capital invested in the annuity or the purchase money of any property sold by the annuitant which is being paid for in the shape of an annuity:

- \* (2) The amount or value of any consideration paid upon the grant of a lease of any land (including Crown land) or for the cancellation of any lease of land or premises or for the sale of the goodwill of a hotel property:

Provided that if any lessee or sublessee makes a grant of a lease of the land whereof he is lessee or sublessee or agrees to the cancellation of a lease and receives any consideration therefor and he has paid any consideration upon the grant of a lease to him there shall be deducted from the amount of the consideration

\* Printed as amended by section 7 (10) of the Amending Act of 1922, with verbal corrections of renumbering.

so received by him any allowance under subsection (xvii.) of section fifteen of this Act to which he was still entitled at the date of the sale by him or the cancellation of the lease by him, but not exceeding the amount of the consideration so received by him; and in the event of the lease sold having been a lease of Crown land acquired by him before the first day of July, one thousand nine hundred and eighteen, less such an amount as bears the same proportion to the consideration paid by him as the period for which the lease had to run at the date of the sale thereof by him bears to the period the lease for which had to run at the date of the purchase thereof by him. And if a lease is granted by the owner of any freehold who has paid a consideration for the cancellation of a lease or for the purchase of the goodwill of a hotel property, he shall be entitled to deduct from the consideration received for the granting of such lease any allowance to which he was entitled under subsection (xvii.) or subsection (xviii.) of the said section fifteen at the date when he granted such lease, but such deduction shall not be allowed in excess of the consideration so received by him:

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Provided further that if the consideration aforesaid is paid by instalments tax shall be charged on the amounts paid in the year in respect of which the assessment is made after allowing for a proportionate share of any deductions as last aforesaid.

In this subsection the term "consideration" includes any consideration whatsoever other than the stipulated rent, and the expression "grant of a lease" includes not only a grant from the owner of the land but also any assignment transfer or sublease of any lease by any lessee or sublessee.

The taxable income derived from any such consideration paid for a lease or the cancellation of a lease if paid in one year shall be divided by the number of years (not exceeding seven) during which the taxpayer held the lease prior to the date of sale, and the taxable income derived from the sale of the goodwill of a hotel property if paid in one year shall be divided by five; and the amount so arrived at, shall be added to the taxpayer's other taxable income, and there shall be charged on each and every pound of the taxpayer's taxable income the rate that would be chargeable if the amount so ascertained together with any income derived as mentioned in paragraph (vi.) of section thirteen of this Act were the taxpayer's total taxable income. In any such case an extension of time for paying the tax may be allowed by the Commissioner without penalty.

- (3) If a landlord agrees with a tenant that the tenant shall effect certain improvements (including any alterations or repairs) to a property owned by the landlord, and the tenant is not reimbursed for such improvements, the amounts so expended by the tenant shall be considered

as income of the landlord in the year, or respective years if more than one, in which such improvements are effected:

\*Provided, however, that the Commissioner shall, in arriving at the rate of tax to be charged to the taxpayer, add to the other taxable income of the taxpayer an amount arrived at by dividing the taxable income assessed under this subsection by the number of years of the tenancy (not exceeding seven) after the date when the improvements were effected; and there shall be charged on each and every pound of the taxpayer's taxable income the rate that would be chargeable if the amount so ascertained together with any income derived as mentioned in paragraph (vi.) of section thirteen of this Act were the taxpayer's total taxable income. In any such case an extension of time for paying the tax may be allowed by the Commissioner without penalty:

Provided that the tenant may claim as a deduction the amount so spent:

The amount to be allowed as a deduction to the tenant in each year shall be determined by dividing the total expenditure of the tenant by the number of years for which the tenant has agreed to rent the property, unless the agreement specifies a certain expenditure in each year, in which case that amount shall be the deduction to be allowed to the tenant on his satisfying the Commissioner that the expenditure has actually been incurred:

In determining the amount to be allowed to the landlord for depreciation or repairs the expenditure of the tenant shall be taken into account:

- (4) The amount of any cash prize in any lottery, drawing, or sweep carried on in Queensland:
- (5) Income received by a beneficiary from any trust estate:
 

†Provided that, if a business is carried on by executors, administrators, or trustees who are beneficially entitled to any part of the income derived from such business, the Commissioner shall treat such part of the income as income derived from personal exertion.
- (6) Five per centum of the capital value of any land and improvements owned and occupied by the taxpayer as a residence, or occupied rent free by the taxpayer as a residence:
- (7) All moneys received by any person as or by way of royalty.

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\* Proviso added by section 7 (11) of the Amending Act of 1922 and printed with verbal correction of renumbering.

† Proviso inserted by section 4 (8) of the Amending Act of 1921. See also section 4 (9) giving the amendment a certain retrospective operation.



**•15. (1.)** In estimating the income subject to the tax, there shall be deducted from the gross income of every person—

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- (i.) All losses and outgoings (not being in the nature of losses and outgoings of capital, but excluding all losses by cyclone which are proved, to the satisfaction of the Commissioner, to have occurred and to be irrecoverable either directly or by way of insurance at a reasonable premium) actually incurred in Queensland by him in production of that part of his income which is not exempted from tax;
- (ii.) All rates and taxes actually paid by him on his own behalf, except so much of the land tax so paid by him as is allowed as a deduction under the proviso in paragraph (i.) of subsection one of section seven of this Act, during the year in respect of which the assessment is made under any Act of the Parliament of Queensland except this Act, and also the amount of any land tax in respect of land situated in Queensland actually paid under any Act of the Parliament of the Commonwealth;
- (iii.) All interest actually paid by him in the year during which the income was earned upon money borrowed by the taxpayer and used with intent to the production of that part of his income which is not exempt from tax, and any interest actually paid by him in that year on any mortgage of his residence:

Deductions.

[13.]

Losses and  
outgoings.

Rates and  
taxes.

Interest.

Provided that, where such interest is payable to a person residing beyond Queensland, the person paying it shall, for the purposes of this Act, be deemed to be the agent of the person entitled to receive it, and before making payment of any interest shall pay to the Commissioner income tax, together with super tax if any, on the amount at the rate of seven pounds ten shillings per centum, and may deduct from such interest the amount of the tax thereon; and only such interest upon which the tax has been so paid shall be allowed as a deduction from the taxpayer's income:

Provided that where it can be shown to the satisfaction of the Commissioner that such borrowed moneys were so borrowed before the passing of this Act, and that the person paying interest on money so borrowed is unable to deduct the tax payable in respect of such interest, the Commissioner may allow the deduction of interest, notwithstanding that the tax has not been paid thereon;

†Verbally  
corrected.

- (iv.) All sums paid by him by way of commission for collecting taxable income;
- (v.) The amount of twenty-six pounds in respect of each and every child of a taxpayer ordinarily resident in Queensland whose net income does not exceed eight hundred pounds, under the age of sixteen years on the first day of the year in respect of which the assessment is made, and who is actually dependent on the taxpayer:

Commis-  
sion.

\* Printed as amended by the Amending Acts of 1904, 1915, 1918, 1920, and 1922, and with verbal corrections of renumbering.

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The amount of twenty-six pounds in respect of the wife and each and every relative by blood or marriage of a taxpayer ordinarily resident in Queensland whose net income does not exceed eight hundred pounds, if such wife or relative is wholly maintained by him. If the income of a wife does not exceed twenty-six pounds in any year she shall be deemed to have been wholly maintained by her husband during that year.

The amount of twenty-six pounds in respect of a female relative, whether by blood or marriage or by adoption during childhood, of a taxpayer ordinarily resident in Queensland whose net income does not exceed eight hundred pounds, if such relative resides with him for the purpose of caring for any child or adopted child of his and is incapacitated either by age or infirmity and has not an income of her own exceeding twenty-five pounds per annum and is actually dependent on him:

Provided that if the net income of a taxpayer ordinarily resident in Queensland exceeds eight hundred pounds each of the allowances of twenty-six pounds to which he shall be entitled under any of the provisions of this paragraph shall be reduced by one pound for each five pounds by which his net income exceeds eight hundred pounds:

Provided further that, in arriving at the net income of the taxpayer for the purposes of any of the provisions of this paragraph, the amount of any deduction which the taxpayer may be entitled to under any of such provisions shall be disregarded:

Provided also that in arriving at such net income of a taxpayer there shall be taken into account the amount of a taxpayer's income which is exempt from tax under paragraph (vi.) of section thirteen of this Act (less the expense of earning such exempt income):

Provided also that where a taxpayer entitled to deductions under this paragraph has earned income in the State for part only of a year, the deduction to which he shall be entitled shall be a sum which bears the same proportion to twenty-six pounds (or part thereof) in each case as the part of the year during which the taxpayer earned the income in the State bears to the whole year.

War  
pensions.

(vi.) The amount of any war pension paid to the taxpayer, whether by the Imperial Government or the Commonwealth Government, if returned as income;

Cash gifts  
to Patriotic  
Funds.

(vii.) The amount of any donation in cash, not being less than two pounds, to any Queensland Patriotic Fund approved by the Commissioner;

Life  
assurance  
premiums.

(viii.) The amount of all premiums, but not exceeding fifty pounds, paid by any taxpayer ordinarily resident in Queensland, in the year on the income of which the assessment is based in respect of any policy of life assurance on the life of any of his children or his own life for his own benefit or for the benefit of his wife and children or some or one of them;

(ix.) The amount of all payments, but not exceeding fifty pounds, made during the year on the income of which the assessment is based, by any taxpayer ordinarily resident in Queensland, into any superannuation, sustentation, widows' or orphans' fund, or duly registered friendly society within the meaning of subsection one of section eight of "*The Friendly Societies Act of 1894*," or which he may be required to make into any guarantee or provident fund to enable him to exercise his vocation ;

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Payments  
for super-  
annuation,  
&c.

(x.) Sums expended by the owner for repairs to or on that part of any property occupied by him or a tenant for the purpose of producing income (including any residence owned and occupied by the taxpayer or occupied by him rent-free) and for the repair of machinery, implements, utensils, rolling-stock, and articles used by such owner for the purpose of producing income ;

Provided that the sums shall be estimated on the annual average sums expended for such purposes during the year in respect of which the assessment is made and the two years immediately preceding it :

(xi.) Such sum as the Commissioner thinks just and reasonable as representing the diminished value per centum to the owner by reason of depreciation, during the year in respect of which the assessment is made, of any building (including any residence owned and occupied by the taxpayer or occupied by him rent-free) and machinery, implements, utensils, rolling-stock, and articles used by the taxpayer or his tenant for the purpose of producing income, and also by reason of depreciation of any bore, well, dam, or other improvement made for the conservation of water, or of any fence :

Provided that where a deduction has been allowed under paragraph (x.) of this subsection the Commissioner shall take into consideration the sum allowed under that paragraph in determining the sum to be allowed under this paragraph :

Provided further that, where in any business income is set apart by the taxpayer to cover depreciation under any of the headings mentioned in this paragraph, the amount so set apart for the year during which the income was earned may, subject to the approval of the Commissioner, be the sum to be deducted for depreciation.

(xii.) The amounts and sums which by paragraphs (v.), (viii.), and (ix.) hereof are directed to be deducted shall be deducted from income derived from personal exertion ; but if such income does not amount to the sum so to be deducted, the difference, or if there is no income derived from personal exertion, then the whole of such sum shall be deducted from income derived from the produce of property ;

\* 58 Vic. No. 17 repealed. See now 4 Geo. V. No. 13 and 5 Geo. V. No. 16, Statutes, pages 5991, 6379.

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- (xiii.) Amounts expended in legal expenses incurred in collecting debts owing to persons in business or for preparation of a lease or in connection with any award relating to the taxpayer's business, or incurred in drawing up agreements for the sale or purchase of goods or service agreements with employees;
- (xiv.) Amounts expended by members of Parliament in travelling to and from their constituencies but not exceeding fifty pounds in any one year, and also the actual expenses of their own elections incurred by candidates for election as members of Parliament of the State and of the Commonwealth but not exceeding seventy-five pounds for any one election;
- (xv.) To a person employing his own children over the age of sixteen years to whom no payments are made for wages such amount as the Commissioner thinks just and reasonable;
- (xvi.) Contributions in money or kind made directly to any charitable institution in Queensland approved by the Commissioner, provided that the value of the contribution, if in kind, shall be verified to the satisfaction of the Commissioner:
- (xvii.) When any taxpayer has paid a sum of money for a lease or a renewal of a lease of premises or land occupied by him, or for the cancellation of a lease of premises or land owned by him, he shall be allowed as a deduction from his income the amount so paid, but such allowance shall be distributed proportionately over the period for which the lease had to run from the date of purchase or cancellation; but so that such deduction shall only be made, with respect to the purchase of a lease granted by the Crown, in cases where such purchase was made after the thirtieth day of June, one thousand nine hundred and eighteen, and such deduction shall not be allowed after the sale by the taxpayer of such lease or the cancellation of such lease.
- (xviii.) When it is proved to the satisfaction of the Commissioner that any taxpayer who purchases a hotel property has paid a sum of money for the purchase of the goodwill of the property, he shall be allowed as a deduction the amount so paid, distributed proportionately over a period of five years; but if he subsequently grants a lease of such property before such period expires the allowance shall cease.
- (xix.) Contributions in money to any *bona fide* industrial union, trade or professional association, or agricultural society approved of by the Commissioner, but not exceeding ten guineas to each respectively.
- (xx.) Sums set aside or paid by an employer of labour as or to a fund to provide individual personal benefits, pensions, or retiring allowances to employees:

Provided that the deduction shall not be allowed unless the Commissioner is satisfied that the fund has been established or the payment made in such a manner that the rights of the employees to receive the benefits, pensions, or retiring allowances have been fully secured.

- (xxi.) Provided always that a payment by a husband to a wife or by a wife to a husband by way of salary or wages shall not be allowed unless the Commissioner is satisfied that the transaction was *bonâ fide*;
- (xxii.) Provided also that the aggregate amount of the contributions under paragraphs (vii.), (xvi.), and (xix.) hereof to be allowed as a deduction from a taxpayer's income shall not exceed twenty per centum of the net income of the taxpayer before allowing any deduction under paragraph (v.) of this subsection;
- (xxiii.) Expenses incurred by a taxpayer in educating his children under sixteen years of age, where it is proved to the satisfaction of the Commissioner that suitable educational facilities are not provided by the State within reasonable daily travelling distance of the place of residence of the taxpayer.

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(2.) In all cases deductions under this section shall be made first from either the income derived from personal exertion or the income derived from the produce of property according to the source of the income to which the deductions relate, and in any case of doubt from the income derived from personal exertion; if the source of income first resorted to is not sufficient to cover the deductions then the balance of such deductions shall be taken from the other source of income.

(3.) All payments of income tax, land tax, and for other purposes which are not allowed as deductions from a taxpayer's income under this Act, shall be deemed to have been paid out of the income earned during the year when the expenditure was incurred.

† \* \* \* \* \*

§16. A taxpayer who carries on any business in Queensland as a principal, and employs therein any other person exclusively for the purposes of such business, and in addition to the wages or salary of such person paid in money provides him with food or with quarters in the residence of the taxpayer owned and occupied by him or occupied by him rent free, may deduct the sum actually expended by the taxpayer on such food or the estimated annual value of such quarters from the income arising from such business:

Cost of  
sustenance of  
employees.  
[15.]

Provided that, if the taxpayer is unable to state the sum actually expended on such food or the value of such quarters, such sum may be deducted as the Commissioner thinks just:

§17. In estimating the income subject to the tax, no sum shall be deducted therefrom for or on account of—

(i.) Any loss not connected with or arising out of any business, or any capital withdrawn from any business, or any sum used or intended to be used as capital in any business, or any capital used in the improvement of premises occupied for the purposes of any business: Provided that where during any year sales of any property not connected with or arising out of any

For what  
matters no  
deduction to  
be allowed.

[16.]  
Losses not  
connected  
with  
business;  
capital.  
(11.)

† Original section (14) repealed by section 9 of the Amending Act of 1920.

‡ Printed as amended by section 5 of Amending Act of 1921.

§ Printed as amended by the Amending Acts of 1904, 1906, 1920, 1921, and 1922.

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- business have been made, and a profit has accrued upon one or more of such sales, and a loss has accrued upon one or more of such sales, the aggregate loss may be set off against the aggregate profit, but if such loss exceeds such profits the balance of such loss shall not be deducted from any other source of income; or
- Bad debts. (ii.) Any bad debts, except debts proved to the satisfaction of the Commissioner to have become bad and to have been actually written off by the taxpayer in the year immediately preceding the year in which the assessment is made, and which have not previously been allowed as a deduction (but no allowance shall be made in connection with bad debts in relation to which no transactions have taken place within three years prior to the claim for allowance being made), or any doubtful debts, except debts proved to the satisfaction of the Commissioner to be doubtful, and deductions for doubtful debts shall be made according to the value at which the Commissioner estimates them:
- Provided that every amount at any time received on account of any such bad or doubtful debts shall be credited in income in the year in which the same was received and be subject to income tax; or
- Average loss. (iii.) Any average loss beyond the actual amount of loss after adjustment, or any sum recoverable under any insurance or contract of indemnity; or
- Domestic expenses, &c. (iv.) Any disbursements or expenses of maintenance of the taxpayer, his family, or domestic establishment, or any sums expended in any private purposes distinct from the purposes of any business; or
- Disbursements. (v.) Any disbursements or expenses whatever not being money wholly and exclusively laid out or expended for the purposes of any business; or
- Rent. (vi.) The rent or annual value of any dwelling-house or domestic offices, or any part of such dwelling-house or domestic offices, except such part thereof as may be used for the purposes of any business, not exceeding such proportion of the said rent or annual value as may be allowed by the Commissioner; or
- Income tax. (vii.) The amount of any tax paid under this Act;
- Wastage, &c., of lease. (viii.) Any wastage or depreciation of lease, or in respect of any loss occasioned by the expiration of any lease;
- [Losses generally.] (ix.) Any losses except losses of uninsured live stock arising through misappropriation by employees, theft, fire, flood, cyclone, or similar cause;
- [Expenses in earning exempt income.] (x.) Any expenses incurred in earning income exempt from taxation: Provided that, if in the opinion of the Commissioner this cannot be accurately determined, an amount of one-half per centum on the income so received shall be disallowed as a deduction from the income of the taxpayer which is not exempt from taxation.

If the taxpayer has paid interest during any year and has earned in that year income which is exempt from taxation, the interest allowable as a deduction from

the income of the taxpayer which is not exempt from taxation shall be a sum which bears the same proportion to the total interest paid as the value at the end of the year of the assets which were used in earning the income of the taxpayer which is not exempt from taxation bears to such value of his total assets;

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NATURE AND  
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- (xi.) Any sum as a bonus or fee to a director or to a member of the family of a director in a company in excess of what the Commissioner considers a reasonable amount; [Bonus or fee to directors, &c.]
- (xii.) Any depreciation in the value of stock-in-trade (including live stock) below its cost price, unless with the approval of the Commissioner; [Depreciation below cost price.]
- (xiii.) Any loss incurred in a previous year: Provided, however, that if a taxpayer deriving income from any agricultural or dairying or grazing pursuits carried on by him makes a loss in any year in connection with such pursuits this loss may be carried forward into his subsequent yearly returns (but not exceeding five years) until the loss has been made good, but from the loss shall be deducted any expenditure which was not an allowable deduction under this Act for the year in which the loss was made. But in the case of a taxpayer carrying on grazing pursuits the amount of any such loss after the deduction aforesaid which may be carried forward by him shall not exceed one thousand pounds loss in respect of any one year, and for the purposes of this paragraph any person whose principal business is buying and selling live stock shall not be deemed to be carrying on grazing pursuits. [Loss in previous year.]

In any case where, for the purpose of ensuring regularity of price or for the purpose of distribution amongst its producing shareholders, a co-operative company dealing with butter, cheese, bacon, fruit, or wheat, or any other primary products used for food purposes, distributes, within six months after the close of any year for which such company makes a return of income, any profits made during that year, such company shall not be liable to pay income tax on the amount of such profits so distributed for such purpose.

18. If a taxpayer carries on in Queensland more than one business either alone or otherwise, and makes a profit in one or more of such businesses and a loss on the other business or businesses, such loss shall be deducted from such profit in calculating the taxable amount of his income. [17.]

Carrying on  
separate  
businesses.

19. If a taxpayer having an income derived from the produce of property carries on in Queensland one or more businesses, either alone or otherwise, and makes a loss thereon, such loss shall be deducted from his income derived from the produce of property in calculating the taxable amount of his income. [18.]

Income  
derived from  
the produce  
of property  
and loss by  
business.

20. When a taxpayer is employed by another person, then the estimated annual value of any quarters or board and residence, and every amount received or receivable by way of extra salary, bonus, or emolument, and every allowance, benefit, or advantage of any kind, whether in money or otherwise or of a like nature, or any modification or combination of any such benefit or advantage granted, secured, or allowed to such employee shall be deemed to be part of the income of such employee. [19.]

Quarters,  
board, extra  
salary, &c.,  
of employee.

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NATURE AND  
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THE TAXATION.

Profits  
converted  
into stock.

[20.]

21. Whenever profits arising from any business have been converted into stock-in-trade or added to the capital of or carried to reserve or in any way invested in such business, such profits so converted or added or carried to reserve or invested shall be deemed to be income \*and in computing such profits the value of all live stock, produce, goods, and merchandise, not disposed of, at the beginning and end of the year in respect of which the assessment is made shall be taken into account. But additions to stock resulting from natural increase shall be reckoned in their first year as being equal to one-fourth of the then value put upon the same class of full-grown stock.

† Provided that if any of the assets of any person carrying on a business are written-up in value, the increase in value shall be taken as profit in the year in which the writing-up occurs, but the rate of tax shall be arrived at by dividing the amount of profit by the number of years (not exceeding seven years) during which the assets were owned prior to the writing-up; and the amount so arrived at shall be added to the taxpayer's other taxable income, and there shall be charged on each and every pound of the taxpayer's taxable income the rate that would be chargeable if the amount so ascertained together with any income derived as mentioned in paragraph (vi.) of section thirteen of this Act were the taxpayer's total taxable income. In any such case an extension of time for paying the tax may be allowed by the Commissioner without penalty.

‡ \* \* \* \* \*

Optional  
limitation of  
s. 21 as to  
live stock.

[20A.]

§22. Any owner of live stock who desires to be exempted from the provisions of the last preceding section, so far as the same relate to the taking into account of the value of all live stock and produce not disposed of at the beginning and end of each year in the assessment of his income, may give notice in writing to that effect signed by him or by his duly authorised agent and delivered at the office of the Commissioner, in the case of persons who at the commencement of this Act are owners of live stock not later than the thirty-first day of December, one thousand nine hundred and seven, or such later date as the Commissioner may allow, and in the case of persons who may thereafter become owners of live stock not later than the thirty-first day of December in the year in which they first become such owners respectively, or such later date as the Commissioner may allow:

|| Provided that persons who become owners of live stock during any part of the year one thousand nine hundred and nineteen or at any time up to the thirtieth day of June, one thousand nine hundred and twenty, may give such notice not later than the thirtieth day of June, one thousand nine hundred and twenty, and thereafter no further of such notices under this section shall be received or have any effect.

\* Words from "and" to "stock" inserted by section 9 of the Amending Act of 1904.

† Proviso added by section 10 of the Amending Act of 1922 and here printed with verbal correction of renumbering.

‡ Proviso relating to equalisation of dividend reserve funds of companies repealed by section 9 of the Amending Act of 1904.

§ Section inserted by section 4 of the Amending Act of 1907.

|| Proviso inserted by section 12 of the Amending Act of 1920.



Every such notice when given shall be irrevocable by such taxpayer and shall take effect in respect of the year in which the same is given and each succeeding year.

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THE TAXATION.

Such notice shall have the following effect:—

- (i.) The Commissioner, in the assessment of the income of such taxpayer for the year in respect of which the notice was given and each succeeding year, shall not take into account the value of any live stock or produce not disposed of at the beginning and end of the year;
- (ii.) Save as hereinafter provided, such taxpayer shall not for any year in respect of which an assessment is made be entitled to make any claim as a deduction for or in connection with any live stock beyond the amount of money actually paid by him in that year for the purchase of live stock:

Provided that, in computing the income subject to tax of such taxpayer for any year, there shall be allowed as a deduction from the proceeds of any live stock disposed of in that year, and in respect of which tax was theretofore paid, the value of such live stock; and such value shall be taken at the value upon which the tax was paid:

\*Provided further that the Commissioner may exempt persons who do not own more than one hundred and fifty head of live stock from returning such live stock as on hand at the beginning and end of a year, but such persons shall return as income the proceeds of any sales of live stock made by them.

†   \*   \*   \*   \*   \*   \*

‡23. Subject to this Act, income tax shall be payable—

Persons by  
whom tax  
payable.

- (i.) Generally, by the person to whom the income arises or accrues, or who, during the year in respect of which the assessment is made, is entitled to the receipt thereof; and particularly [21.]
- (ii.) In respect of the income of a company, by the public officer thereof;
- (iii.) In respect of income earned, derived, or received by a trustee, by such trustee: Provided that—
  - (a) Where income is earned, derived, or received by a trustee in respect of different trust estates for different beneficial owners who are not for any reason liable to be jointly assessed, the tax payable by the trustee shall be separately assessed in respect of each of these estates;
  - (b) Where a trustee also earns, derives, or receives income beneficially he shall be separately assessed for that income, and for the income of which he is trustee, unless for any reason he is liable to be jointly assessed independently of this section;

\* Proviso added by section 11 of the Amending Act of 1922.

† Sections 20a (sale of property of which live stock is a part) and 20c (royalty is income derived from property) repealed by section 13 of the Amending Act of 1920.

‡ Section substituted for original section by section 14 of the Amending Act of 1920.

(c) A trustee shall in respect of any income for which he is trustee be assessed as if the income were being received by one person: Provided that if any beneficiary is entitled to receive from the trustee and is in receipt of any part of such income as his share the beneficiary shall be assessed on such part together with any other income earned or derived by him, and the trustee shall be assessed on the balance of such income for which he is trustee as if it were being received by one person; notwithstanding the foregoing provisions of this paragraph, where the net income of the trust exceeds two thousand five hundred pounds the tax shall be assessed as if such income were being received by one person unless in any particular case the Commissioner thinks it expedient not to do so;

(iv.) In respect of the income of an absentee, by his agent.

\*Provided that the Commissioner may declare any person in Queensland who holds money or may in future hold moneys on behalf of or is liable to pay moneys to a person liable to income tax to be the agent of such person, and such agent before paying any moneys to such other person after receipt of a notice from the Commissioner shall be liable to pay the amount of income tax due by such other person, but shall be entitled to deduct from the moneys due to such other person the amount of tax paid by him on behalf of such other person.

Who are  
agents of  
absentees.  
[22.]

24. For the purposes of this Act, any person in Queensland having the receipt, management, disposal, or control of income on behalf of an absentee for person absent from Queensland, or remitting or paying income to him, shall be deemed to be his agent, and such agent, before remitting or paying to such absentee or person absent from Queensland any income, shall pay to the Commissioner income tax thereon, and shall be entitled to deduct from the income payable to such person the amount of the tax paid thereon.

The Commissioner may declare any person to be agent of such absentee for person absent from Queensland, and the person so declared an agent shall be agent for the purposes of this Act.

But nothing herein shall constitute or authorise the Commissioner to declare any banking company or the public officer of such company to be the agent of any such absentee for person absent from Queensland so far as regards moneys paid by any other company or person to the credit of such absentee for person absent from Queensland with such banking company in the ordinary way of business, unless such banking company or the public officer thereof is the holder of a power of attorney from such absentee for person absent from Queensland, or unless such moneys are specific sums so paid to such banking company and are set out, with the amounts thereof, the approximate dates of payment.

\* Proviso added by section 7 of the Amending Act of 1921.

† Words "or person absent from Queensland" inserted by section 10 of the Amending Act of 1904.

‡ Words from "and" to end of paragraph inserted by section 10 of the Amending Act of 1904.

thereof, and the names of the companies or persons by whom the same were so paid, in a notice by the Commissioner to such banking company.

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When it appears that several persons are in receipt of income for or on behalf of an absentee \*or person absent from Queensland, the Commissioner, if it appears to him to be expedient so to do, may consolidate all or any of the assessments thereof, and declare any one of such persons to be the agent of such absentee \*or person absent from Queensland in respect of such consolidated assessment, and require him to pay income tax on the amount thereof.

25. When a member of a company is an absentee, such company shall for the purposes of this Act be deemed to be the agent for such member, and, shall, so far as regards the interest of such member in such company, have and exercise all the powers, duties, and responsibilities of an agent for an absentee. [23.]

26. If an owner of land is an absentee and has no known agent in Queensland, any tenant of such land shall be deemed to be the agent of the owner in respect of such land. [24.]

†27. Every agent for an absentee and every trustee is answerable for the doing of all such acts, matters, and things as are required to be done by virtue of this Act in order to ensure the assessment of the income which belongs to such absentee, or which is the subject of the trust of such trustee, or which is received by such agent or trustee, and for paying income tax in respect thereof, but, save as by this Act is otherwise provided, shall not otherwise be personally liable for any such tax. [25.]

‡28. Every agent and every trustee—

- (i.) Is authorised to recover from or deduct from any moneys belonging to any person in whose behalf such agent or trustee is compelled to pay income tax, the amount so paid;
- (ii.) Is authorised and required to retain from time to time in each year out of any money which comes to him as such agent or trustee so much as is sufficient to pay income tax in respect of any income subject to such tax; and is indemnified for all payments which as such agent or trustee he may make in pursuance of this Act or by requirement of the Commissioner;
- (iii.) Is personally liable for income tax payable in respect of any income if, while such tax remains unpaid, he—
- (a) Alienates, charges, or disposes of such income; or
- (b) Disposes of or parts with any fund or money which comes to him after such tax is payable, from or out of which fund or money such tax could legally have been paid;

Agents and  
trustees.  
[25a.]

but, save as by this Act is otherwise provided, shall not otherwise be personally liable for any such tax.

\* Words "or person absent from Queensland" inserted by section 10 of the Amending Act of 1904.

† Section substituted for original section by section 8 of Amending Act of 1921.

‡ Section inserted by section 8 of Amending Act of 1921.

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NATURE AND  
INCIDENCE OF  
THE TAXATION.  
Power to  
mortgage.  
[26.]

29. Every trustee may raise such moneys as are necessary to pay income tax by mortgage with or without power of sale of any property held by him upon trust, and may expend such moneys so raised or any trust funds in his possession or control in paying such tax.

Remedy in  
case of  
persons  
under  
disability.  
[27.]

30. (1.) When any person chargeable with income tax is under any legal disability, or when any person so chargeable dies, the trustee of such person, upon default of payment of such tax out of the trust estate if such estate is sufficient to enable him so to do, shall be and is hereby made liable to and charged with the payment of such tax.

(2.) If such trustee neglects or refuses to pay such tax, it shall be lawful to proceed against him in like manner as against any other person making default in payment of income tax.

(3.) All trustees making payment of income tax as aforesaid shall be allowed every sum so paid in their accounts, and shall be allowed to deduct all such payments out of the assets.

Principal  
and  
beneficiary  
still liable.  
[28.]

31. When a person is entitled to receive or receives income from any agent or trustee, nothing in this Act shall be taken to relieve such person from any income tax payable in respect of such income unless such agent or trustee has paid the tax in respect thereof.

Employer  
may be  
declared  
agent for  
employee.  
[29.]

32. (1.) In any case where any taxpayer employed by any person, Local Authority, corporation, board, commission, or body has in any year failed to pay the income tax payable by such taxpayer, the Commissioner may declare such person, Local Authority, corporation, board, commission, or body to be the agent of such taxpayer so far as respects the income by way of earnings, salary, wages, allowances, pension, or stipend paid or allowed by him or it to such taxpayer, and may give notice to such agent setting forth the fact that such taxpayer has failed to pay the tax payable by him, and requiring such agent to pay the same on behalf of such taxpayer.

(2.) Thereupon every such agent shall deduct and retain from time to time out of such earnings, salary, wages, allowances, pension, or stipend respectively so much as is sufficient to pay such income tax, and shall pay the same in pursuance of this Act; and for any default in so doing such agent shall be liable to a penalty not exceeding five pounds:

Provided that if any such employee claims to be exempt from income tax in respect of such income, and makes application to the Commissioner in the form and within the time prescribed, the Commissioner, upon being satisfied that a refund should be made, may issue a certificate for a refund of the amount of the income tax which has been paid on such income.

Every  
company  
to be  
represented  
by a public  
officer.  
[30.]

33. (1.) Every company carrying on business in Queensland shall at all times be represented by a person residing in Queensland, who shall be duly appointed by the company or by some agent or attorney having power to appoint such person for the purposes of this Act.

(2.) Such person shall be called the public officer of the company, and shall be appointed within three months after the

passing of this Act, or within fourteen days after the company commences to carry on business in Queensland, whichever shall last happen.

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THE TAXATION.

(3.) The office of public officer shall be kept constantly filled by making fresh appointments thereto as may be necessary.

No appointment shall be deemed to be duly made until after notice thereof specifying the name of the public officer and an address for service has been given to the Commissioner.

(4.) Every company which fails to make an appointment to the office of a public officer or to keep the office constantly filled as aforesaid, and every person who acts as agent or manager or representative of such company, shall be liable to a penalty not exceeding fifty pounds for every day during which such failure continues.

(5.) Every public officer shall be answerable for the doing of all such acts, matters, and things as are required to be done by the company by virtue of this Act.

(6.) Everything done by any such public officer which he is required to do in his representative capacity shall be deemed to have been done by such company.

(7.) The absence or non-appointment of a public officer shall not exonerate any company from the necessity of complying with any of the provisions of this Act; but every such company shall be liable to the provisions of this Act as if there were no requirement to appoint such officer.

**34.** The income of foreign companies \* shall be assessed as follows:—

Assessment  
of income of  
foreign  
companies.

(i.) If the company carries on in Queensland the business of banking and no other business whatsoever, its income shall be a sum which bears the same proportion to the total profits of the company as the amount of its assets and liabilities in Queensland bears to its total assets and liabilities, (not including liabilities to capital or reserves;

[31.]  
Banking  
companies.

‡(ii.) If the company carries on in Queensland fire, accident, fidelity, guarantee, or marine insurance business, its taxable income shall be the amount of the profits made by the company in Queensland plus any expenses or charges which are not allowable deductions under this Act, and where the company actually pays away any portion of any premiums by way of reinsurance effected with any other company which does not carry on business in Queensland, the first-named company shall for the purposes of this Act be deemed to be the agent of the last-named company so receiving such portion of such premiums, and before paying away such portion may pay to the Commissioner income tax, together with super tax, if any, on the amount at the rate of two pounds ten shillings per centum, and may deduct from such portion

Insurance  
companies.

\* Words "shall be deemed to be income derived from property and" repealed by section 2 of the Amending Act of 1902.

† Words "not including liabilities to capital or reserves" inserted by section 11 of the Amending Act of 1904.

‡ Paragraph substituted for original paragraph by section 12 (i.) of the Amending Act of 1922.

PART III.—  
NATURE AND  
INCIDENCE OF  
THE TAXATION.

Life  
assurance  
companies.

of premium the amount of tax thereon; and only such portion of premium upon which the tax has been so paid shall be an allowable deduction as aforesaid. If such profits cannot in the opinion of the Commissioner be satisfactorily determined, its taxable income shall be a sum equal to twenty-five pounds per centum of the premiums on account of Queensland business received by the company after deducting any portion of such premiums actually paid away by way of reinsurance effected in Queensland with any other company, together with any profit made on the sale of any assets held in Queensland.

- \* (iii.) If the company is a life assurance company and carries on in Queensland life assurance business, its taxable income shall be a sum equal to twenty-five pounds per centum of the premiums on account of ordinary Queensland business received by the company and fifteen pounds per centum of the premiums on account of industrial Queensland business received by the company, †together with any profits derived from the sale of any assets in Queensland or from the writing-up of the value of assets in Queensland, from which total sum shall be deducted any amount received as interest from the Queensland Government Loan of 1920 after deducting therefrom the expenses of earning such interest, and in estimating such expenses such amount as the Commissioner thinks just may be allowed in respect of interest paid by the company on money borrowed and invested in such loan.

- ‡ (iv.) The net income of any other foreign company liable to assessment under this Act shall be the amount of the profits made by the company on its business in Queensland plus any expenses or charges which are not allowable deductions under this Act.

If such profits cannot, in the opinion of the Commissioner, be otherwise satisfactorily determined, the taxable amount of the income of the company may be assessed by the Commissioner at a sum which bears the same proportion to the total profits made by the company in Australia as the sales made in Queensland bear to the sales made in Australia, or, if there are no sales, in the same proportion as the total revenue derived from Queensland bears to the total revenue derived from Australia, but to the amount so arrived at there shall be added payments of income tax with regard to Queensland income and any other expenditure incurred in Queensland not allowable as a deduction under this Act.

If the Commissioner is satisfied that this information cannot be obtained or is not satisfied that the profits

\* Paragraph substituted for original paragraph by section 11 of the Amending Act of 1904.

† Words from "together" to "loan" inserted by section 12 (ii.) of the Amending Act of 1922.

‡ Two paragraphs repealed and new paragraph substituted for the latter of them and the enactment given a certain retrospective operation by section 9 of the Amending Act of 1921.

returned disclose the true state of affairs he may assess the taxable income of the company at a sum equal to seven pounds ten shillings per centum of the gross sales made in Queensland, or, if there are no sales, at a sum equal to seven pounds ten shillings per centum of the gross revenue derived from Queensland.

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NATURE AND  
INCIDENCE OF  
THE TAXATION.

\*35. When and so often as any dividend is declared payable to any shareholders in a Queensland company, such company shall within thirty days from the time when such dividend has been declared forward to the Commissioner a return in the prescribed form and containing the prescribed particulars, under the hand of and made by the public officer of such company, stating the amount of such dividend and showing the date when the same was so declared.

Dividends  
in local  
companies.  
[31A.]

Upon so much of such dividend as consists of a distribution of hitherto undistributed profits the amount already paid as tax shall be allowed for, and the balance only of the tax at the rate or respective rates of tax that would have been payable in respect of the year or years in which the undistributed profits were earned shall be paid.

Upon so much of such dividend as consists of an interim dividend on profits for the current year, tax at the rate of fifteen pence in the pound shall be paid on account of income tax payable in respect of such year, and that amount when paid shall be allowed for in computing the tax for the said year.

Except in cases where a dividend is declared by the company to be a dividend out of the profits of a specified year or years, a dividend shall be taken to have been paid out of the profits for the year preceding that in which the dividend was paid; but if the total amount of dividends paid exceeds the total profits for the year preceding that in which such dividends were paid, then the amount by which such total amount of dividends exceeds such total profits shall be taken to have been paid out of the profits accumulated prior to the first day of January, one thousand nine hundred and fifteen, or if there are no such accumulated profits, or such profits when so applied do not exhaust the excess of dividends over profits as aforesaid, then the profits of each year after the year one thousand nine hundred and fourteen shall be resorted to in rotation.

It shall not be lawful for the person charged with the payment of any dividend to distribute the same amongst the persons entitled thereto until the tax payable in respect thereof has been paid.

†36. (1.) When a foreign company or an absentee, or person absent from Queensland, herein termed "the principal," by means of a company registered in Queensland or carrying on business therein or by means of any person in Queensland, herein termed "the agent," earns any income for the principal, whether such income is received by the agent personally or is received or is receivable by the principal directly or otherwise, or sells or disposes of any property for the principal, whether such property is in Queensland or is by the contract to be brought into Queensland,

Assessment  
of foreign  
companies  
or absentees  
carrying on  
business in  
Queensland  
by agent.  
[32.]

\* Section inserted by section 12 of the Amending Act of 1904, and printed as amended by section 15 of the Amending Act of 1920 and section 13 of the Amending Act of 1922.

† Printed as amended by the Amending Acts of 1904, 1906, 1915, 1920, 1921, and 1922.

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INCIDENCE OF  
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and whether the contract is made by the agent in Queensland or by or on behalf of the principal out of Queensland, and whether the moneys arising therefrom are paid to or received by the principal directly or otherwise, the moneys arising therefrom shall be deemed to be income accruing to the principal from a business carried on by him in Queensland, and the taxable amount of the income derived therefrom by the principal shall, if such income cannot in the opinion of the Commissioner be otherwise satisfactorily determined, be assessed at an amount equal to seven pounds ten shillings per centum upon the amount of such income earned, or as the case may be upon the amount for which such property has been sold or disposed of.

In every case the amount assessed shall for the purposes of obtaining income tax be deemed to be income derived by the agent.

(2.) The agent shall as regards such income make the returns, be assessed, be liable to income tax, and otherwise be subject to the provisions of this Act, and to do all acts and things thereunder as if such income were actually the income of the agent.

The tax shall, however, be assessed as if the income were the income of one person or company, and the agent shall not be allowed any exemption under paragraph (iv.) of subsection one of section seven of this Act.

But nothing herein contained shall exempt or discharge the principal from liability to make returns or to pay income tax upon such income.

Shipowners,  
&c. [33.]

37. (1.) When a foreign company or person whose principal place of business is out of Queensland, either as owner or charterer of any vessel carries passengers, live stock, mails, or goods shipped in Queensland, such company or person shall, by itself or himself or its or his agent or other representative in Queensland, within the prescribed time, make a return of the full amount payable to it or to him, whether such amount is payable in Queensland or beyond Queensland, in respect of the carriage of such passengers, live stock, mails, and goods as required or provided by the terms under which the same are carried or agreed to be carried to the port of discharge.

Such company, person, agent, or representative shall be assessed thereon, and the taxable amount of the income derived therefrom shall, if such income cannot in the opinion of the Commissioner be otherwise satisfactorily determined, be assessed at an amount equal to \*five pounds per centum of the amount so payable as aforesaid.

†(2.) Any agent or representative of such company or person shall as regards such income make the returns, be assessed, be liable to income tax, and otherwise be subject to the provisions of this Act, and to do all acts and things thereunder as if such income were actually the income of the agent or representative.

The tax shall, however, be assessed as if the income were the income of one company or person, and the agent or representative shall not be allowed any exemption under paragraph (iv.) of subsection one of section seven of this Act.

\* Words "five pounds" substituted for "three pounds" by section 10 of the Amending Act of 1915; and "per centum of the amount" substituted for "in every one hundred pounds" by section 17 of the Amending Act of 1920.

† Subsection inserted by section 15 of the Amending Act of 1922.



But nothing herein contained shall exempt or discharge the principal from liability to make returns or to pay income tax upon such income.

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NATURE AND  
INCIDENCE OF  
THE TAXATION.

(3) When such company or person has no recognised agent or representative in Queensland other than the master of such vessel, or when such company, person, agent, or representative fails to make any return, the Commissioner may assess such master, and such master shall be liable to pay income tax computed as aforesaid.

(4.) The Commissioner shall give notice of every such assessment as last aforesaid to the master, and such master shall thereupon pay income tax upon the same prior to the clearance of such vessel, and the vessel may be detained by the order of the Commissioner until such payment is made.

\*38. Every company, society, association, and institution, and every Local Authority, public trust, body, and corporation in Queensland, which pays interest upon or in respect of any debentures or bonds shall, for the purposes of this Act, be deemed to be the agent of every holder of such debentures or bonds, and before paying or crediting such interest to or for any person shall, on behalf of the person entitled to receive such interest, pay to the Commissioner income tax calculated on the amount of such interest at the rate of eighteen pence in the pound together with super tax if any, and may deduct from such interest payable to such person the amount of the income tax thereon, and super tax if any:

Debentures,  
&c., of  
company, &c.  
[34.]

Provided that if any such holder claims to be exempt from income tax in respect of such interest, and makes application to the Commissioner in the form and within the time prescribed, the Commissioner, upon being satisfied that a refund should be made, may issue a certificate for a refund of the amount of income tax which has been paid on such interest:

Provided further that, if the person entitled to receive such interest is liable to pay tax on any other income, he may be assessed on such interest together with his other income, and any amount of tax paid on his behalf in respect of such interest shall be deducted from the tax due by him under such assessment.

†        \*        \*        \*        \*        \*

39. Whenever as to any particular income—

- (i.) More than one person appears or claims to be liable or qualified to pay income tax; or
- (ii.) A question arises as to the person liable to pay income tax; or
- (iii.) A question arises as to whether a person is liable to pay or is chargeable with income tax, and whether on his own behalf, or as trustee, or agent of any other person;

Commis-  
sioner  
to determine  
doubtful  
cases.

[36.]

the Commissioner may decide the matter in question, subject, however, to objection as hereinafter provided.

\* Printed as amended by section 18 of the Amending Act of 1920 and section 16 of the Amending Act of 1922.

† Section (payments on life policies are income) repealed by section 11 of the Amending Act of 1915.

PART III.—  
NATURE AND  
INCIDENCE OF  
THE TAXATION.

Pending the final decision of the matter, all the persons appearing to be liable to pay income tax in respect of any particular income shall be jointly and severally responsible and liable for the proper discharge of the duties imposed by this Act on taxpayers.

Powers of  
Commissioner in  
cases of  
trusts, &c.  
[37.]

40. The Commissioner shall have such and the like remedies against all property of any kind vested in or under the control or management of any agent or trustee of a taxpayer as he would have if such property were vested in or under the control or management of the taxpayer himself, and in as full and ample a manner.

Income tax  
of Commis-  
sioner.  
[38.]

41. The income tax of the Commissioner shall be assessed by such person and in such manner as the Governor in Council may by notification in the *Gazette* appoint in that behalf, and such person shall have the like powers in respect thereof as are by this Act conferred on the Commissioner in respect of any income, and the Commissioner shall have the like right of objection to assessment as any other taxpayer.

PART IV.—  
ASSESSMENT  
OF INCOME.

Returns.  
[39.]

PART IV.—ASSESSMENT OF INCOME.

42. (1.) For the purpose of enabling assessments of income to be prepared, returns shall be made annually to the Commissioner as prescribed\* by every absentee irrespective of the amount of his income, and by every person who carries on business whether alone or as a member of a firm, and also by every person whose gross income amounts to †two hundred pounds and upwards.

(2.) The first period for which assessments shall be made shall commence on the first day of January, one thousand nine hundred and two, and, save as hereinafter provided, all subsequent annual periods shall be reckoned from that date, and to that extent this Act shall have retrospective operation.

(3.) Returns of income shall be based upon the amount of income which was earned, derived, or received by such person during the year ending on the ‡thirtieth day of June immediately preceding the commencement of the year in which the assessment is made.

When the income of any such person cannot be conveniently returned as of the date hereinbefore provided, the Commissioner may accept returns made up to the date of the annual balance of the accounts of such person.

The Commissioner may, if he accepts the date of such annual balance for the purpose of the return to be made by such person, accept an estimated return of income for assessment; and such assessment shall be adjusted by the Commissioner upon such annual balance being completed.

§ \* \* \* \* \*

\* Words "by every absentee irrespective of the amount of his income, and" inserted by section 19 of the Amending Act of 1920.

† This amount was amended from £100 to £160 by section 8 of the Amending Act of 1906, and again amended to £200 by section 5 of the Amending Act of 1907.

‡ Words "thirtieth day of June" substituted for "thirty-first day of December" by section 19 of the Amending Act of 1920. For the effect of the alteration in the date of the close of the year of assessment, see note to the title of the Act, *supra*.

§ A subsection repealed by section 11 of the Amending Act of 1921.

(4.) Subject to this Act, returns may be required from any such person at any time and in any manner required by or under any notice given by the Commissioner for that purpose, although the period or year for which assessments are required to be made has not commenced or has expired.

PART IV.—  
ASSESSMENT  
OF INCOME.

All the provisions of this Act shall extend and apply to such returns and the person required to make the same.

\*Assessments may be made upon or in respect of such returns at any time and payment may be demanded within such time as the Commissioner considers reasonable, and all proceedings may be had and taken and all acts and things may be done for the purpose of giving effect to this Act accordingly.

(5.) Nothing contained in this section shall be deemed to interfere with the right of the Commissioner to require from any such person any further or fuller returns at any time or as at any date in such manner as may be prescribed, or from making any assessment upon any such return in such manner as may be necessary, or be deemed to interfere with or control any special powers of assessment conferred by this Act.

†43. The price fixed by any proclamation under †“*The Sugar Acquisition Act of 1915*” in respect of any raw sugar, explosives, galvanised iron, live stock, meat, or other commodity acquired under that Act, whether during the present war or after the termination thereof and whether by reason of any shortage in stock, failure of crops, existence of war, industrial trouble, or otherwise howsoever, shall not be binding on the Commissioner or on any taxpayer for any of the purposes of this Act.

Prices under  
Sugar  
Acquisition  
Act, how far  
bindings  
[39a.]

§44. ¶Save as is hereinafter provided, persons carrying on any business in partnership shall be liable to make a joint return as such partners in respect of such business with such particulars as may from time to time be prescribed, but they shall be liable to income tax only in their separate individual capacities:

Joint return  
by partners.  
[40.]

¶Provided as follows:—

- (a) Where the net income of a partnership exceeds two thousand five hundred pounds after allowing any amounts actually paid to any of the partners for services actually performed by them in the business, the Commissioner may, if he thinks it expedient so to do, assess the tax as if such income were the income of an individual person instead of assessing the partners in their separate individual capacities.
- (b) If any person carrying on business was on the first day of July, one thousand nine hundred and eighteen, in partnership or thereafter has entered or enters into

\* Printed as amended by section 11 of Amending Act of 1921.

† Section inserted by section 20 of the Amending Act of 1920.

‡ 6 Geo. V. No. 2 (Statutes, p. 7035).

§ Section 12 (2) of the Amending Act of 1921 provided that this section as amended by section 12 (1) is to be construed in the Principal Act so as to apply to incomes for the year commencing on 1st July, 1918, and for each subsequent year, and to that extent the section as amended is to have retrospective operation.

¶ Words “ Save as is hereinafter provided ” inserted by section 21 of Amending Act of 1920.

‡ Proviso added by section 21 of the Amending Act of 1920.

PART IV.—  
ASSESSMENT  
OF INCOME.

partnership with his wife, or with his wife and any child of his under the age of twenty-one years, or with any such child, he shall be assessed on the profits made in the business as if he received the total income therefrom, but shall be allowed to deduct any amounts actually paid to any such partners for services actually performed by them in the business.

\* (c) If any person carrying on business was on the first day of July, one thousand nine hundred and eighteen, or at any time thereafter, carrying on business with his wife and any other person, or with any child of his under the age of twenty-one years and with any other person, the share of the profits to which such wife or child is entitled shall be assessed as if it were part of the income of the husband or father;

(d) If any person carrying on business was on the first day of July, one thousand nine hundred and eighteen, carrying on business with or thereafter carries on business with any members of his family (whether wife, husband, father, mother, children, or other relative by blood or marriage), and has provided at least seventy-five per centum of the original capital of the business, he shall be assessed as if he received the total income from the business, but shall be allowed to deduct any amounts actually paid to any such partners for services actually performed by them in the business;

(e) If a husband and wife are carrying on separate businesses and the original capital for these has been provided by either the husband or wife the income shall be assessed as if it were the income of the husband or wife, but a reasonable amount may be allowed by the Commissioner as salary to the wife or husband.

Duty of representative of deceased person.

[40A.]

†45. If any person in respect of whose income a return is required to be made dies without having made the same, it shall be the duty of the legal personal representative of the deceased person to make such return.

If any person, who, if he had lived, would have been liable to make a return under this Act, dies at any time before the prescribed date for making such return, such return shall be made by his legal personal representative, either on such prescribed date or earlier if required by the Commissioner or within such extended time as the Commissioner may allow; and thereupon the assessment of income for the period covered by such return shall be made, and the tax shall be payable thereon out of such person's estate, as if such death had not taken place.

Taxpayers may be required to make new or further and fuller returns.

[41.]

46. Every person required by this Act to make a return shall, from time to time and at any time when required by the Commissioner, make a new or further and fuller return of income either in respect of the whole or any part of the income received by such person, whether in his own behalf or as an agent or trustee, and although a return has been previously made by such person for the same annual period.

\* Paragraph (c) repealed and paragraphs (c), (d), and (e) inserted in lieu thereof by section 12 of the Amending Act of 1921.

† Section inserted by section 14 of the Amending Act of 1904, and second paragraph added by section 9 of the Amending Act of 1906.

All the provisions of this Act shall extend and apply to any such new or further and fuller return, and assessments may be made upon† or in respect thereof by the Commissioner in such manner as may be necessary.

PART IV.—  
ASSESSMENT  
OF INCOME.  
† *Sic* in  
*Gazette*

\*47. (1.) It shall not be lawful for any person to charge or receive any fee for or in relation to the preparation of any income tax return for a taxpayer or for or in relation to the transaction of any business on behalf of a taxpayer in income tax matters, other than a solicitor or barrister appearing in court, unless he is registered as a tax agent with the Commissioner:

Registration  
of tax  
agents.  
[41a.]

Provided that the Commissioner may in his discretion exempt any person from the provisions of this section upon being satisfied that the total income of such person derived as a tax agent does not exceed ten pounds per annum, and may grant to such person a certificate of exemption in that behalf which shall have a currency of one year, but may be annually renewed.

(2.) Only such persons as satisfy a Board, consisting of the Auditor-General, the Under Secretary to the Treasury, and a public accountant appointed by the Governor in Council, as to their qualifications and fitness to so act, shall be registered as tax agents. Such Board is hereby authorised and required to deal with all applications for such registration.

Where a firm carries on the business of tax agents it shall be sufficient if one member of the firm is so registered on behalf of the firm.

Where a registered company carries on the business of tax agents it shall be sufficient if some person appointed in writing by the company is so registered on behalf of the company.

(3.) Each registered tax agent shall pay to the Commissioner an annual fee of two guineas if carrying on business within the petty sessions district of Brisbane, or of one guinea if carrying on business elsewhere within the State.

(4.) The Board may cancel or refuse to renew the registration of any tax agent upon its being proved to their satisfaction that such tax agent has prepared a return which is false in any material particular or has persistently neglected to attend to his principal's business.

(5.) If through the neglect of a registered tax agent a penalty or additional tax is charged against a taxpayer, the registered tax agent shall be liable to pay this penalty or additional tax, and the amount may be recovered by his principal from him by process of law.

†48. (1.) It shall be the duty of every taxpayer carrying on a business and he is hereby required to enter or cause to be entered, in a book or books to be kept for that purpose, full particulars of his business transactions in such a manner that his income can be readily ascertained. The Commissioner may require him to alter his method of keeping his books if in the opinion of the Commissioner they are not kept in a satisfactory manner.

Power to  
require  
information;  
production of  
documents.  
[42.]

Any person offending against this subsection shall be liable to a penalty not exceeding fifty pounds.

\* Section inserted by section 17 of the Amending Act of 1922.

† Printed as amended by section 22 of the Amending Act of 1920 and section 18 of the Amending Act of 1922.

PART IV.—  
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OF INCOME.

(2.) For the purpose of obtaining full information in respect of any income of any person, or of any part thereof, the Commissioner may, at any time by fourteen days' notice, require any person or the public officer of any company to furnish information in such manner and form as may be required by the Commissioner, and whether general or particular, which may be in his knowledge, possession, or power relating to any such income, or any part thereof.

Any such information may be required to be furnished with respect to the income or supposed income of any designated person or of any class of persons or persons generally with respect to the income or supposed income of whom the Commissioner considers that the person or public officer to whom the requisition is made has any information or knowledge.

The Commissioner may require any person or the public officer of any company to produce for examination by the Commissioner, or by any person appointed by him for that purpose, at such time and place as may be appointed by the Commissioner in that behalf, any deeds, instruments, books, accounts, trade-lists, stock-sheets, or documents, or writings that may be deemed necessary for any of the purposes of this Act.

Oral  
examination.

(3.) The Commissioner may at any time, by fourteen days' notice, require any person entitled to or in receipt of any income, whether on his own behalf or as agent or trustee, or the public officer of any company, or any person whomsoever, to attend, at a time and place to be named by the Commissioner, for the purpose of being examined by him respecting the income of such person or any other person, or respecting any transactions or matters affecting the same, or any of them, or any part thereof.

Any person so attending may be allowed by the Commissioner any reasonable expenses necessarily incurred by such person in such attendance.

## Penalty.

(4.) Every person who without reasonable excuse fails to comply with any requirement of the Commissioner under this section, or fails to attend and give evidence or information as herein provided, shall be liable to a penalty not exceeding one hundred pounds.

Right of  
entry on  
land.

(5.) The Commissioner or any person authorised by him in writing may at any time enter upon any land or premises at any reasonable hour during the day time for the purpose of inspecting all or any part of any property producing income.

Certain  
returns and  
information  
to be  
furnished  
when  
required.

[43.]

49. (1.) The Registrar-General, the Registrar of Titles, every Local Deputy Registrar of Titles, the Registrar of the Supreme Court, and every officer employed in or in connection with any Department of the Government shall, at the prescribed time and in the prescribed form, furnish to the Commissioner such information in their respective offices \*as may be required by him.

(2.) Every Local Authority and every officer thereof shall permit any assessor or prescribed officer without payment to take for the information of the Commissioner a copy of or extract from any valuation return, rate-book, list or roll of the Local Authority.

\* Words "as may be required by him" substituted for "as may be prescribed" by section 15 of the Amending Act of 1904.

(3.) Every person and every Local Authority, corporation, board, commission, or body, if required by the Commissioner, shall, in such manner and form and at such times as may be prescribed or as the Commissioner may require, furnish to the Commissioner returns of all or any particular class of persons employed by or under engagement by contract to him or it, and of the earnings, salary, wages, allowances, pension, or stipend paid or allowed or to be paid or allowed under contract to each such person.

(4.) Every company which carries on business in Queensland, if required by the Commissioner by a notice or public notice, shall, in such manner and form and at such times as may be prescribed or as the Commissioner may require, furnish to the Commissioner returns showing all payments made to any person in respect of any share or interest in such company, and also of all moneys received from any person on deposit for any fixed time or period, with or without interest, and in such returns shall furnish all such information with regard to such payments, deposits, and persons as may be prescribed or as may be required by the Commissioner.

(5.) Every person shall, in such manner and form and at such time as may be required by the Commissioner, furnish to the Commissioner a return containing, to the best of his belief, the names of all persons resident in his dwelling-house.

(6.) Every person acting as agent for any other person, whether resident or carrying on business in Queensland or elsewhere, shall, in such manner and form and at such times as may be prescribed or as may be required by the Commissioner, furnish to the Commissioner returns containing, so far as can be ascertained, full particulars of all moneys collected or received as such agent on behalf of or paid to any such person.

50. Every person receiving, whether on his own behalf or not, any income which is or may be exempt from income tax, shall, when required by the Commissioner, make and furnish a return of income in respect of any annual period, and, except as to liability to income tax in respect of such income, every such person shall be liable to all the provisions of this Act relating to the returns of income required to be made or furnished thereunder. Receivers of incomes exempt from taxation liable to make returns. [44.]

51. Every return furnished to the Commissioner in pursuance of this Act shall be verified by any prescribed form of declaration, or in such other manner as may be prescribed or as may be specially required by the Commissioner. Verification of returns. [45.]

†52. (1.) The Commissioner shall cause assessments to be prepared for the purpose of ascertaining the amount upon which income tax shall be levied. Preparation of assessments and entering same in registers, &c. [46.]

(2.) Such assessments shall be entered in assessment-registers.

53. Every agent of an absentee and every trustee shall be assessed separately in respect of any income for which he is agent or trustee, and shall be chargeable with income tax payable in respect thereof in the same manner as if such income were the income of such agent or trustee, and shall be assessed in respect thereof as such agent or trustee. Assessment of agents of absentees and trustees. [47.]

\* Subsection (3) printed as amended by section 19 of the Amending Act of 1922.

† Printed as amended by the Amending Acts of 1904 (section 16) and of 1920 (section 23).

PART IV.—  
ASSESSMENT  
OF INCOME.

\*Such agent of an absentee shall be assessed at the rate of income tax payable by the absentee.

Each such assessment shall be kept separate and distinct from such agent or trustee's individual assessment.

Parties making default in returns to be assessed by Commissioner.

[48.]

**54.** If any person by this Act required to make any return fails so to do, or if the Commissioner is not satisfied with the return furnished by any such person, the Commissioner may make an assessment in such sum as in the Commissioner's judgment ought to be charged, and thereupon shall give notice thereof to the taxpayer to be charged, and such taxpayer shall pay income tax upon the same.

Such assessment shall be subject to objection as hereinafter provided, but the taxpayer if he has made default as aforesaid shall not be entitled to any costs on such objection.

† Without prejudice to the foregoing provisions of this section, any person who—

- (a) Fails or neglects to duly furnish any return or information as and when required by this Act or the regulations or by the Commissioner; or
- (b) Fails to include any assessable income in any return; or
- (c) Includes in any return as a deduction an amount which is in excess of that actually expended or incurred by him,

shall be liable, except as provided in this section, to a fine of one pound to be imposed by the Commissioner or to pay by way of additional tax an amount of ten per centum of the amount of tax assessable to him whichever is the greater, in any case coming under paragraph (a) hereof, or, if the case comes under paragraph (b) or (c) hereof, shall be liable to a fine of one pound to be imposed by the Commissioner or to pay by way of additional tax the amount of double the tax which would have been avoided if the assessment had been based on the return lodged, whichever is the greater, in addition to any additional tax which may become payable by him in accordance with section sixty-six of this Act:

Double tax when payable.

[49.]

Provided that the Commissioner may in any particular case, for reasons which he thinks sufficient, remit the fine or additional tax or any part thereof payable under this section.

**55.** (1.) If at any time it appears to the Commissioner that any taxpayer who ought to have been charged with income tax has not been charged therewith, the Commissioner may make an assessment as to the income of such taxpayer with respect to which such omission has occurred.

The taxpayer shall be chargeable with a double rate of income tax thereon if such omission has been occasioned by him.

(2.) If the Commissioner is satisfied that the taxpayer was not guilty of any wilful default or omission, and has not done any act with intent to defraud the revenue, he may remit the whole or any part of such extra tax over and above the amount computed on the ordinary rate.

\* Paragraph inserted by section 24 of the Amending Act of 1920.

† Provisions to the end of the section substituted by section 20 of the Amending Act of 1922 for provisions inserted by section 25 of the Amending Act of 1920, and here printed with verbal correction of renumbering.

‡ Words "extra tax" substituted for "double duty" by section 26 of the Amending Act of 1920.



\* (3.) The power conferred upon the Commissioner by the last preceding section and by this section shall be in addition to any right conferred upon him by this Act to take proceedings for and recover any penalties for failing to render returns or evading or avoiding assessment or the payment of income tax or attempting so to do.

PART IV.—  
ASSESSMENT  
OF INCOME.

† 56. Upon making any assessment the Commissioner shall cause to be given to each taxpayer whose income has been assessed a notice of the making of the assessment, and such notice shall be in the form and contain such particulars as the Commissioner thinks fit, and shall be posted or delivered to such person in a closed letter or envelope. Notice of every assessment to be sent to taxpayers affected. [50.]

The omission to give any such notice shall not invalidate any assessment.

57. (1.) Objections to any assessment may be made by any person feeling aggrieved by reason of any assessment in which he personally as principal, or as agent or trustee, is interested, or by the Commissioner, in the manner and on the terms and conditions prescribed. Objections to assessment. [51.]

(2.) The Commissioner shall, in such form as he thinks fit, and either in the notice of the making of the assessment or publicly or otherwise, give notice that objections to the assessments made are to be sent in to him on or previous to a day to be appointed in the notice.

No objection other than one made by the Commissioner shall be entertained which is not lodged with him on or before the last day appointed for lodging objections.

(3.) Every objection shall be in writing; and every objection, other than an objection by the Commissioner, shall be delivered or posted to the Commissioner in sufficient time to reach him on or before the last day appointed for lodging objections.

(4.) When the Commissioner makes any objection to an assessment he shall give notice thereof to the taxpayer interested, who shall, within the time and in the manner prescribed, give notice to the Commissioner of assent to or dissent from such objection.

If default is made in notifying the Commissioner as aforesaid, the taxpayer shall be deemed to assent to the Commissioner's objection.

In case of dissent the Commissioner shall transmit such objection and notice of dissent to a Court of Review in order that the objection may be heard and determined.

58. The right of the Commissioner to recover any income tax shall not be suspended by any objection or appeal thereupon, but if the objector, not being the Commissioner, succeeds on such objection or appeal the amount, if any, of income tax received by the Commissioner in excess of the amount determined upon by the final determination as to such objection or appeal shall be repaid to the taxpayer making such objection. Right to recover taxes not suspended by objections or appeal. [52.]

\* Subsection (3) printed as amended by section 21 of the Amending Act of 1922.

† Printed as amended by the Amending Acts of 1904 (section 17) and of 1920 (section 27).

PART IV.—  
ASSESSMENT  
OF INCOME.

And the Commissioner shall issue to such taxpayer a certificate for refund.

Commissioner to consider objections.

[53.]

59. (1.) The Commissioner shall consider the objections made by any taxpayer assessed, and may make such inquiries thereon or relating thereto as he thinks fit.

(2.) If the Commissioner considers that any objection should be allowed either wholly or in part he may alter or amend the assessment accordingly.

Commissioner to transmit objections to Court.

(3.) The Commissioner shall, on or before any day appointed for the review of assessments, deliver or transmit all objections not allowed, assented to, or withdrawn to the Court of Review in order that the objections may be heard and determined.

What constitutes assessment-register.

[54.]

\*60. When no objection is made to any assessment or when objections have been allowed or assented to or withdrawn, the assessment made by the Commissioner shall be the assessment in respect of the income therein mentioned.

Powers and duties of Court of Review.

[55.]

†61. (1.) The duties and powers imposed and conferred upon the Court of Review, and the mode, terms, and conditions on which the same shall be performed and exercised, shall be prescribed by Regulations, and in addition thereto the following provisions shall have effect.

(2.) The Court shall hear and determine all objections, transmitted to it as hereinbefore provided, and may alter the assessments accordingly.

(3.) The Court shall have power to make such order as to costs as it thinks just.

(4.) Unless appealed against as hereinafter provided, the decision of the Court on all objections coming before it and on all others matters coming within its cognisance shall be final and conclusive.

The decision of the Court shall be recorded on the assessment notice submitted to it, and such decision shall be signed by the Judge constituting the Court.

(5.) When an assessment has been altered by the Court the assessment as altered shall be the assessment of the taxpayer.

(6.) Any person objecting to any assessment may appear in person or by a barrister or solicitor or by any person in his exclusive employment duly authorised by writing in that behalf.

(7.) Unless otherwise requested by the taxpayer, the Court, with closed doors and with the public and press excluded, shall hear and determine the question in dispute.

(8.) The Court may, on the application of either party made at the hearing or within fourteen days thereafter, state a special case on either the whole matter or on any question arising at the review for the opinion of the Supreme Court; and the Court shall, when such special case is remitted back to it, make an order in respect of the matters referred to the Supreme Court in conformity with the judgment of the Supreme Court.

\* Printed as amended by section 28 of the Amending Act of 1920.

† Printed as amended by section 29 of the Amending Act of 1920.

If the taxpayer applies to the Court for the case to be stated he shall, before he is entitled to have the case stated, pay to the registrar or clerk of the Court a fee of twenty shillings for and in respect of the case.

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OF INCOME.

(9.) For the purposes of this section, the expression "assessment-notice" includes any copy thereof signed by the Commissioner.

**62.** Whenever any question arises with regard to any matter under this Act or to any question of law therein arising, the Commissioner may state a case for the opinion of the Supreme Court, and thereupon it shall be lawful for the said Court to give its judgment thereon.

Commissioner may state case for opinion of Supreme Court.

[56.]

**63.** Special cases stated for the opinion of the Supreme Court in pursuance of this Act shall be heard and determined in accordance with the ordinary practice of the said Court relating to special cases.

Procedure under special cases.

[57.]

**64.** No Judge of the Supreme Court, or Judge constituting a Court of Review, shall solely on account of his liability to be assessed under this Act, or of his liability to tax under any Act, be deemed to be interested in or be debarred from dealing with any matter upon which he may be called upon to adjudicate under this Act.

Judges not disqualified by reason of liability to be assessed for tax.

[58.]

†                    \*                    \*                    \*                    \*

#### PART V.—PROCEDURE TO ENFORCE TAXATION.

**65.** Not less than thirty days' public notice shall be given by the Commissioner that income tax will be payable on a day to be stated in such notice.

PART V.—  
PROCEDURE TO  
ENFORCE  
TAXATION.

Notice of due date of tax to be given.

[60.]

**66.** If any income tax remains unpaid at the expiration of thirty days after the due date, five per centum on the amount of such tax unpaid or any part thereof unpaid shall be added thereto, and if the tax remains unpaid at the expiration of sixty days after the due date an additional five per centum shall be added as aforesaid, unless the Commissioner is satisfied that the failure to pay the tax has not arisen through the default of the taxpayer in which case the Commissioner may reduce the additional tax to an amount equal to interest (at a rate to be fixed by him but not exceeding six and a-half per centum per annum) from the due date till the date of payment:

Additions on tax not punctually paid.

[61.]

Provided that the Commissioner may extend the time for payment of any tax on such terms as he considers reasonable.

**67.** Such tax, together with such addition, whatever may be the amount thereof, shall be recoverable in any District Court or Court of Petty Sessions by the Commissioner on behalf of the Crown by action or proceeding in his own name, or in the name of any person appointed by him by a general or particular authority in that behalf.

Tax to be recovered by Commissioner.

[62.]

\* Words "or police magistrate" after "Judge" repealed by section 22 of the Amending Act of 1922.

† Original section (59) repealed by section 23 of the Amending Act of 1922.

‡ Words from "in" to "reasonable" added by section 24 of the Amending Act of 1922.

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PROCEDURE TO  
ENFORCE  
TAXATION.

In actions or proceedings for the recovery of income tax it shall not be competent for the defendant to question the correctness of the \*assessment.

Procedure  
in District  
Court.

[63.]

68. With respect to actions in a †District Court for the recovery of the tax, such action shall for all purposes be deemed, within the meaning of “*The District Courts Act, 1891*,” or any Act amending or in substitution for that Act, to be an action brought to recover a debt or liquidated demand only, and the provisions of such Act and the rules thereunder applicable to such a debt or demand shall apply accordingly.

Procedure  
in Petty  
Sessions.

[64.]

69. With respect to proceedings in a Court of Petty Sessions for the recovery of the tax, the following provisions shall have effect:—

- (i.) When a summons for the recovery of the tax is issued and served, then, unless at least six clear days before the day appointed for the hearing a statement in writing verified on oath by or on behalf of the defendant, showing a defence on the merits, is delivered to the clerk of the Court in which the summons is returnable, the Court shall make an order for the amount claimed without allowing any defence, and without the necessity of the Commissioner or any one on his behalf appearing in court or proving the liability of the defendant and the non-payment of income tax;
- (ii.) In all such cases the summons shall be served upon the defendant at least fourteen days before the day appointed for the hearing;
- (iii.) It shall be sufficient in any such proceeding if the particulars of demand state in respect of what income such tax is payable, the amount sought to be recovered, and the date or dates on which the same was payable, together with such further and other particulars as the Commissioner thinks necessary to fully inform the defendant of the nature of the demand;
- (iv.) An order made when either party does not appear may be set aside upon such terms as to costs or otherwise as the Court in which application is made to set aside the same thinks fit, and in such case the Court may hear and determine the proceedings in respect of which such order was made;
- ‡(vi) In any such proceeding, if the Court makes an order against the defendant the Court may order the defendant to pay such costs as it thinks reasonable, including in such costs such expenses as have been incurred in connection with the issue and service of the summons and prosecution of the claim.

\* Words “assessment-register” repealed, and the word “assessment” inserted in lieu thereof by section 25 of the Amending Act of 1922.

† District Courts are abolished and the Act is repealed. See now “*The Supreme Court Act of 1921*” (12 Geo. V. No. 15). Statutes, page 9787.

‡ Paragraph inserted by section 31 of the Amending Act of 1920.

**70.** Nothing in this Act contained shall limit or prevent the enforcement of any claim for income tax by His Majesty in the manner provided by \**'The Crown Remedies Act of 1874,'* or any Act amending or in substitution for that Act.

PART V.—  
PROCEDURE TO  
ENFORCE  
TAXATION.

Procedure  
under  
Crown  
Remedies  
Act.

[65.]

**71.** No statute of limitations now or hereafter in force shall bar or affect any action, proceeding, or remedy for recovery of income tax.

Statute of  
limitations  
not to bar  
remedy.

[66.]

**72.** (1.) When any person has died who was possessed of or entitled to an income in his life-time which was not returned or assessed under this Act, the Commissioner shall have and may exercise the like remedies in respect of or against the legal personal representatives of such person as he would have had against him in his life-time.

Commis-  
sioner may  
enforce  
assessments  
against  
personal  
representa-  
tives.

[67.]

Such representatives are required to make such returns as the Commissioner requires, unless he is satisfied that it is not in their power to do so.

(2.) The income tax to be recoverable against the legal personal representative of any such person or his estate shall be assessed and levied for the whole period during which such income has not been so assessed or returned for assessment.

And the amount payable and to be recovered shall, unless the Commissioner otherwise determines, be double the amount of income tax so assessed and levied.

(3.) No time which may have elapsed shall be deemed to prevent the operation of this section, and the Commissioner may take any such proceeding or exercise or enforce any power, authority, or remedy for the purpose of giving effect to this Act, and recover the income tax due or that ought to have been paid as he may take, exercise, or enforce in any other case.

**73.** If after any income tax has been paid it is discovered that too little in amount has been paid, the person liable for such tax shall forthwith pay the necessary additional amount, and the amount so payable shall be recoverable in like manner as income tax is recoverable.

Provision  
if too little  
tax has been  
paid.

[68.]

But no taxpayer shall, as an agent or trustee, be liable under this section to pay any amount in excess of the assets presently in his control or possession belonging to the estate for which he is agent or trustee, and in respect of which such additional amount is payable.

**74.** If, after any income tax has been paid, it is discovered that too much in amount has been paid, the Commissioner, upon an application being made to him for a refund of such over-payment, and upon being satisfied that too much in amount has been paid, shall issue to the taxpayer entitled to receive the same a certificate for a refund of the amount overpaid.

Provision  
if too much  
tax has been  
paid.

[69.]

**†75.** No application for a refund of an over-payment of tax

Time limited  
for  
applications  
for refund.

\* 38 Vic. No. 13 Statutes, page 548.

† Section substituted for original section by section 26 of the Amending Act of 1922

[70.]

PART V.—  
PROCEDURE TO  
ENFORCE  
TAXATION.

shall be entertained by the Commissioner unless made within three years after the thirtieth day of June of the year of assessment in connection with which the over-payment was made.

Certificate  
for refund.

[71.]

76. Every certificate for a refund of any moneys paid as income tax shall state the person to whom such refund is to be made, and the amount of every such refund certificate shall be paid by the Treasurer out of the Consolidated Revenue.

Penalty  
for making  
false returns  
or evading  
tax.

[72.]

77. (1.) Any person, whether or not liable to taxation under this Act, who—

- (i.) \*Fails to furnish, on or before the prescribed day, any prescribed return or within a time specified by the Commissioner any new or further or fuller return required by the Commissioner, unless such person proves that such failure was not wilful; or
- (ii.) †Makes or delivers any false return or makes any false answer, whether oral or in writing, in relation to his property or income, or any matter or thing affecting his liability to or exemption from income tax; or
- (iii.) By any falsehood, neglect, fraud, art, or contrivance whatsoever used or practised, or by or under any instrument made, signed, executed, taken, or received, evades or avoids or attempts to evade or avoid assessment of any income, whether liable to income tax or not, or the payment of any income tax—

shall be liable to a penalty not exceeding one hundred pounds, and if the act or omission complained of affects any person as a taxpayer shall also by the Court before whom the matter is brought by way of additional penalty be assessed and charged double the amount of the income tax of which such person has attempted to evade or avoid the payment in addition to any income tax for which such person would have been otherwise liable.

Procedure.

(2.) Whenever upon any complaint for an offence within the meaning of paragraph (iii.) hereof the Court before whom the same is brought holds the matter of the complaint to be proved, there shall be two convictions: the first in the usual form adjudging the defendant to pay the penalty imposed and such costs as are allowed, and the second adjudging the defendant to pay double the amount of the income tax of which he has sought to evade or avoid the payment.

The first conviction shall be forthwith enforceable; but the second conviction shall not be formally drawn up until the amount of the income tax of which the defendant has attempted to evade or avoid payment has been ascertained by the Commissioner, who shall, as soon as practicable, proceed to ascertain and fix the same.

The Commissioner shall give notice to the defendant of the amount so ascertained, and if the defendant within fourteen days from the giving of such notice gives the Commissioner notice of objection to such amount he shall be entitled to have such objection heard and determined by the Court of Review.

\* Words "Being within or having an agent within Queensland, fails" repealed and the word "Fails" inserted in lieu thereof by section 27 of the Amending Act of 1922.

† Word "Knowingly" repealed by section 32 of the Amending Act of 1920.

At any time after such amount has been ascertained by the Commissioner or, upon objection, by such Court, the second conviction may be formally drawn up, adjudging the defendant to pay double the amount so ascertained or determined, and shall be forthwith enforceable.

PART V.—  
PROCEDURE TO  
ENFORCE  
TAXATION.

(3.) Any person who aids or assists in any manner whatsoever to commit any offence within the meaning of \*paragraphs (i.), (ii.), and (iii.) or any of them of subsection one hereof shall be liable to a penalty not exceeding fifty pounds.

(4.) The term "person" in this section includes the public officer of a company and the agent or trustee of any person.

†78. (1.)—

- (a) When any person who does not ordinarily reside in Queensland has, while in Queensland during a part only of any year, received or become entitled to receive any income earned by him in Queensland, whether such income does or does not amount to more than two hundred pounds, and whether such income has been paid or is payable in Queensland or elsewhere; or
- (b) When the Commissioner has reasonable grounds for believing that any person, whether theretofore residing in Queensland or not, while in Queensland has received or is entitled to receive income, and that such person intends to leave Queensland without paying income tax,

Income earned during part of year by non-residents. [72a.]

Transient taxpayers.

the Commissioner or any officer authorised by him in that behalf may at any time require such person to attend at the office of the Commissioner of Taxes for oral examination pursuant to section forty-eight of this Act, or may require him (or if he is an employee, his employer, or if he is under engagement by contract, the contractor) to forthwith make a return (if he has not already done so) of the amount of such income, and may forthwith assess the income tax payable by such person thereon, or in the event of his failing to attend at the office as aforesaid or to furnish the required return, as the case may be, on such amount and at such rate of tax as the Commissioner thinks reasonable, and demand immediate payment of the same.

(2.) In making an assessment in cases to which paragraph (a) of subsection one hereof applies, such allowance of the sum of two hundred pounds or part thereof as provided by subparagraph (b) of paragraph (iv.) of subsection one of section seven of this Act by way of exemption shall be made as the part of the year during which such person earned such income in Queensland bears to the whole year.

(3.) If in any case arising under this section the tax is not forthwith paid by the person liable, or arrangements satisfactory

Remedy.

\* Words "paragraph (iii.)" repealed and the words "paragraph (i.), (ii.), and (iii.) or any of them of subsection one" inserted in lieu thereof by section 27 of the Amending Act of 1922.

† Section substituted by section 23 of the Amending Act of 1922 for sections inserted respectively by section 18 of the Amending Act of 1904 and section 13 of the Amending Act of 1921, and here printed with verbal correction of renumbering.

PART V.—  
PROCEDURE TO  
ENFORCE  
TAXATION.

to the Commissioner are not made for payment, the Commissioner may without warrant cause such person to be arrested by any member of the Police Force and detained until he can be brought before justices upon a complaint for avoiding or attempting to avoid assessment of income or the payment of the tax, or may forthwith demand the tax from any person declared pursuant to this Act to be the agent of such person.

PART VI.—  
GENERAL PRO-  
VISIONS.

Contracts to  
shift the  
burden or  
incidence of  
tax to be  
void.

[73.]

PART VI.—GENERAL PROVISIONS.

**79.** (1.) Every contract, covenant, agreement, or undertaking made or entered into, whether by deed or in writing or orally, either before or after the passing of this Act, by or between any person or persons or companies whatsoever, which but for the provisions of this Act would altogether or partially relieve any person from the burden or incidence of income tax or from liability to pay such tax, shall, so far as such contract, covenant, agreement, or undertaking relates to or covers such tax, be absolutely null and void.

(2.) Every person who is a party to any such contract, covenant, agreement, or undertaking made after the passing of this Act shall be liable to a penalty not exceeding one hundred pounds.

Commis-  
sioner or  
officers may  
appear in  
proceedings.

[74.]

**80.** In any action or in any proceeding whatsoever under this Act, the Commissioner may appear either personally, or by a barrister or solicitor, or by some officer in the public service.

The appearance of any such officer and his statement that he so appears by authority of the Commissioner shall be sufficient evidence of such authority for all purposes.

Penalty on  
occupier or  
person in  
possession  
refusing to  
give the  
name of  
the owner.

[75.]

**81.** Any person carrying on any business, who when requested by the Commissioner, or any assessor or officer appointed under this Act, to disclose the name and residence of the person entitled to receive or participate in the income or rent derived from such business, or of the person by whom the same is collected or held, refuses or wilfully omits to disclose such name or residence, or wilfully misstates the same or neglects or refuses to give any information in his possession requested by the Commissioner or such assessor or officer, shall be liable to a penalty not exceeding fifty pounds.

Obstructing  
officers or  
not  
complying  
with Act.

[76.]

**82.** (1.) Any person who obstructs or attempts to obstruct any officer acting in the discharge of his duty under this Act, or refuses or neglects to answer any question put by any such officer relating to any income belonging to such person or as to any deductions claimed or allowed in respect of such income or any part thereof, or gives any false or evasive answer, or in any manner whatsoever fails to comply with any of the provisions of this Act for which no penalty is expressly provided, shall be liable to a penalty not exceeding fifty pounds.

(2.) If any company makes default in complying with any provision of this Act, such company or the public officer thereof shall, where no other penalty is provided by this Act, be liable to a penalty not exceeding five pounds for every day during which such default continues:



And every director and manager of the company who knowingly and wilfully authorises or permits such default shall be liable to the like penalty. PART VI.—  
GENERAL PRO-  
VISIONS.

**83.** All penalties imposed under this Act shall be recoverable in a summary way before any two justices upon the complaint of any person appointed by the Commissioner either generally or for the purpose of any particular case, and when recovered shall be paid into the Consolidated Revenue. Procedure  
to recover  
penalties.  
[77.]

\* In any such proceeding for a penalty, if the justices convict the defendant they may, in addition to any penalty, order him to pay such costs as they think reasonable, including in such costs such expenses as have been incurred in connection with the issue and service of process and the prosecution of the complaint.

**84.** The Commissioner may stay or compound proceedings for any penalty, and may reward any person who informs of any offence against this Act or assists in the recovery of any penalty. Compound-  
ing penalties,  
&c.  
[78.]

† **85.** Notwithstanding anything in any Act to the contrary, any complaint for any offence committed or penalty incurred under this Act may be brought, heard, and determined at any time within six years next after the date when the offence was committed or the penalty was incurred. Offences  
under this  
Act may be  
prosecuted  
within six  
years.  
[79.]

**86.** No action for anything done or omitted to be done by the Commissioner, or any officer or person appointed or employed under this Act, in the execution of his duty shall be brought, unless the same is commenced within six months after the act or omission complained of was done or omitted to be done; and no such action shall be commenced until one month's previous notice in writing thereof, and of the cause thereof, has been delivered to the defendant by the party intending to commence such action. Actions  
against  
officers.  
[80.]

‡ **87.** (1.) In all legal proceedings whatsoever judicial notice shall be taken of the signature to any official document of every person who is or has been Commissioner. Evidence.  
[81.]

(2.) A notification in the *Gazette* that any person therein named has been appointed Commissioner, or other officer for the purposes of this Act, shall be conclusive evidence of such appointment.

(3.) The production of the *Gazette* containing any notice purporting to be published by the Commissioner in pursuance of this Act, or any notice of the appointment of any officer or person under this Act, shall be conclusive evidence of such notice, publication, or appointment.

(4.) The production of any assessment or book, or of any document under the hand of the Commissioner purporting to be a copy of any such assessment or document or extract from any such book, shall be conclusive evidence of the making of the assessment, and, except as hereinafter mentioned, shall be conclusive evidence that the amount and all the particulars of such assessment appearing in such assessment, book, or document are absolutely correct:

\* Paragraph inserted by section 33 of the Amending Act of 1920.

† Printed as amended by section 34 of the Amending Act of 1920.

‡ Printed as amended by section 35 of the Amending Act of 1920.

PART VI.—  
GENERAL PRO-  
VISIONS.

Provided that in any proceedings before the Court of Review by way of objection to the assessment, or in any appeal therefrom, or in any subsequent proceedings on such appeal, the same shall be *primâ-facie* evidence only of the matters aforesaid.

(5.) The validity of any procedure under this Act, or of any assessment or any register or book or any document purporting to be made under this Act or to be signed by the Commissioner, shall not be prejudiced or affected by reason of any irregularity or informality therein, or of the fact that any of the provisions of this Act have not been complied with.

(6.) The validity of any assessment shall not be affected by reason that any of the provisions of this Act have not been complied with.

\*(7.) Any assessment and any copy thereof, certified by the Commissioner upon payment of the prescribed fee to be a true copy, and any return of any kind made by any person, by the production thereof alone and without any further evidence, shall be received as *primâ-facie* evidence of the facts therein mentioned.

(8.) The Commissioner shall not, for the purposes of demanding or recovering income tax or for any other of the purposes of this Act, be concluded or estopped by any entry appearing in any register, book, notice, or record made, kept, or given by him or any of his officers.

(9.) On the hearing of a complaint for any offence against this Act, if it is alleged in the complaint that any return has not been received by the Commissioner, such allegation shall be *primâ-facie* evidence that such return was not furnished to the Commissioner.

(10.) It shall not be necessary in any case to prove the incorporation or registration of any company or that any officer or person is or was the public officer of a company or acting in its business.

(11.) Any return made or purporting to be made or signed by or on behalf of any person or by the public officer of any company for the purposes of this Act shall, for all purposes, be deemed to be duly signed by the person or by the public officer of the company affected, as the case may be, unless such person or public officer proves that such return was not made or signed as aforesaid.

(12.) The onus of proof that any income is exempt from or not liable to payment of income tax, or is subject or entitled to any deduction, shall lie on the person claiming the benefit of such exemption, non-liability, or deduction.

Governor  
in Council  
may extend  
time for  
doing acts.

[82.]

**88.** (1.) If any act, matter, or thing prescribed to be made or done at or within a fixed time cannot be or is not so made or done, the Governor in Council may, by Order in Council from time to time, appoint a further or other time for making or doing the same, whether the time or any such further or other time within which the same ought to have been done has or has not elapsed or expired.

\* Subsection substituted for original subsection by section 35 of the Amending Act of 1920.

(2.) Any act, matter, or thing made or done within the time or further or other time appointed by such Order shall be as valid as if it had been made or done within the time prescribed.

PART VI.—  
GENERAL  
PROVISIONS.

89. In every year the Commissioner shall furnish a report to Parliament upon the operations of this Act.

Annual  
report to  
Parliament

[83.]

PART VII.—REGULATIONS.

PART VII.—  
REGULATIONS.

90. (1.) The Governor in Council may, from time to time, make Regulations with respect to all or any of the following matters, that is to say:—

[84.]

(i.) The duties of officers and persons appointed or employed under this Act or engaged in its administration, and, if necessary, the districts or places within or at which they are to act;

Duties of  
officers.

\* (ii.) Fixing the fees to be paid for copies of or extracts from any books, assessments, or writings;

Fees.

\* (iii.) The time and mode of making and furnishing returns to the Commissioner and by whom they shall be made;

Returns.

(iv.) Fixing dates upon which returns shall be sent in, assessment notices shall be given, and payments of income tax shall be made, and for the doing or performance of any other act, matter, or thing necessary to give effect to this Act;

Times.

(v.) Providing that, for avoiding duplicate taxation in any case in respect of the same period, the Commissioner may make such allowance or refund as he thinks just, and in such manner as may be prescribed;

Allowances  
and  
refunds.

(vi.) The procedure to be observed in the conduct and hearing of objections before the Court of Review, and if necessary specifying the districts or places for which the Court shall hear objections;

Objections.

(vii.) The manner and form of obtaining, adjusting, and settling returns from, by, or with any agent in Queensland of a foreign company or absentee, and prescribing such particulars and such proofs as may be thought fit, and for the purpose of making, completing, and enforcing assessments of the income of any foreign company or absentee;

Agents for  
foreign  
companies  
and  
absentees.

(viii.) Providing, where there is in this Act no provision or no sufficient provision in respect of any matter or thing necessary to give effect to this Act, in what manner and form the want of provision or insufficient provision shall be supplied; providing for any purposes, whether general or to meet particular cases, that may be convenient for the administration of this Act, or that may be desirable or necessary to carry out the objects and purposes hereof;

Generally.

(ix.) Imposing a penalty not exceeding fifty pounds for any breach of any Regulation.

Penalties.

\* Paragraphs (ii.) and (iii.) substituted for original paragraphs by section 36 of the Amending Act of 1922.

**PART VII.—  
REGULATIONS**

(2.) All such Regulations shall be published in the *Gazette*, and when so published shall be of the same effect as if they were contained in this Act, and shall be judicially noticed, and shall be laid before \*Parliament within fourteen days after the same have been published if Parliament is then sitting, or if not, then within fourteen days after the next meeting of Parliament.

**†PART VIII.**

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\* Reference to "both Houses of Parliament" omitted.

† Part VIII. (temporary provisions) repealed by section 19 of the Amending Act of 1904.

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**LAND TAX ACTS.**

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## LAND TAX ACTS.

<i>Land Tax Act of 1915</i> ... ..	6 Geo. V. No. 34
<i>Land Tax Act Amendment Act of 1918</i> ... ..	9 Geo. V. No. 3
<i>Land Tax Act Amendment Act of 1920</i> ... ..	10 Geo. V. No. 25
<i>Land Tax Act Amendment Act of 1922</i> ... ..	13 Geo. V. No. 3

An Act to Impose a Land Tax upon Unimproved Values, and for purposes incidental thereto and consequent thereon.

[ASSENTED TO 29TH DECEMBER, 1915.]

**B**E it enacted by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of Queensland in Parliament assembled, and by the authority of the same, as follows:—

### PART I.—PRELIMINARY.

1. This Act may be cited as "*The Land Tax Act of 1915.*"

2. This Act is divided into Parts, as follows:—

PART I.—PRELIMINARY;

PART II.—ADMINISTRATION;

PART III.—THE LAND TAX;

PART IV.—RETURNS, ASSESSMENTS, AND LIABILITY;

PART V.—APPEALS;

PART VI.—ACQUISITION OF LAND;

PART VII.—COLLECTION AND RECOVERY OF TAX;

PART VIII.—MISCELLANEOUS.

3. In this Act, unless the context otherwise requires, the following terms have the meanings respectively assigned to them, that is to say:—

"Absentee"—A person who does not ordinarily reside in Australia: the term includes a person who—

(a) Is absent from Australia at the time when the ownership of his land for the purposes of this Act is determined; or

(b) Has been absent from Australia during more than half of the period of twelve months immediately preceding that date,

unless he satisfies the Commissioner that he ordinarily resides in Australia: the term does not include a public officer of the Commonwealth or of a State who is absent in the performance of his duty;

"Agent" includes every person who in Australia, for or on behalf of any person out of Australia (herein called "the principal"), has the control or disposal of any land belonging to the principal, or the control, receipt,

PART I.—  
PRELIMINARY.  
Short title.

Parts of Act.

Interpreta-  
tion.  
Comm.  
ss. 3, 42,  
2 Edw. VII.  
No. 10, s. 3.  
Absentee.

Agent.

PART I.—  
PRELIMINARY.

- or disposal of any rents, issues, or proceeds derived from any such land: \*the term also includes any person declared by the Commissioner as hereinafter provided to be an agent of a taxpayer.
- Assessment.** "Assessment"—An estimate of the value of any land liable to taxation under this Act as well as the amount of tax imposed thereon respectively: the term includes all matters comprised in any return required by or under this Act;
- Australia.** "Australia"—The Commonwealth of Australia and any Territory under the authority of the Commonwealth;
- Commissioner.** "Commissioner"—The Commissioner of Land Tax or of Taxes: the term includes the Assistant Commissioner and any Deputy Commissioner;
- Company.** "Company" includes all bodies or associations corporate or unincorporate: so far as relates to bodies corporate, the term includes every body corporate, howsoever incorporated, and whether under the laws of Queensland or elsewhere, and wherever its head or principal office or principal place of business may be;
- Improved value.** "Improved value"—In relation to land, the capital sum which the fee-simple of the land might be expected to realise if offered for sale on such reasonable terms and conditions as a *bonâ fide* seller would require;
- Joint owners.** "Joint owners"—Persons who own land jointly or in common, whether as partners or otherwise: the term includes persons who have a life or greater interest in shares of the income from the land;
- Land tax.** "Land tax"—The land tax imposed as such by and as assessed under this Act;
- Mortgage.** "Mortgage" includes any charge whatsoever upon land, or any interest therein, howsoever created, for the securing of money;
- Mortgagee.** "Mortgagee" includes every person entitled at law or in equity to a mortgage or any part thereof;
- Notice.** "Notice"—A notice in writing given by causing the same to be personally served on any person or by leaving the same at his usual or last known place of abode or business in Queensland, or by sending the same by post addressed to such usual or last known place of abode or business; and in the case of a company—a notice given by being served upon or sent by post or delivered to the public officer of the company at the prescribed address for service, or if there is no such address then by serving, leaving, or sending the same at or to any office or place where the company carries on business in Queensland;
- Owner; Owned.** "Owner," in relation to land, includes every person who, jointly or severally—  
(a) Is entitled to the land for any estate of freehold in possession; or

\* Words to end of definition inserted by section 2 of the Amending Act of 1922

- (b) Is entitled to receive, or is in receipt of, or if the land were let to a tenant would be entitled to receive, the rents and profits thereof, whether as beneficial owner, trustee, mortgagee in possession, or otherwise; and includes every person who by virtue of this Act is deemed to be the owner: the term "Owned" has a meaning corresponding with that of "Owner";

PART I.—  
PRELIMINARY.

Notwithstanding any conveyance, transfer, declaration of trust, settlement, or other disposition of land, whether made before or after the passing of the Act, the person making the same shall, so long as he remains or is in possession or in receipt of the rents and profits of the land, whether on his own account or on account of any other person, be deemed (though not to the exclusion of any other person) to be the owner of the land;

Where, before or after the passing of this Act, an agreement has been made for the sale of land, whether the agreement has been completed by conveyance or not—

- (a) The buyer shall be deemed to be the owner of the land (though not to the exclusion of the liability of any other person) so soon as he has obtained possession of the land; and
- (b) The seller shall be deemed to remain the owner of the land (though not to the exclusion of the liability of any other person) until possession of the land has been delivered to the purchaser;

- "Person" includes a company; Person.
- "Prescribed"—Prescribed by this Act; Prescribed.
- "Public notice"—Notice published in the *Gazette* or in some newspaper generally circulating in the locality where notice is prescribed to be given; Public notice.
- "Taxpayer"—Every person liable to pay land tax, whether on his own behalf or in a representative capacity: in reference to any return with regard to a taxpayer's own land, the term includes every person required by this Act to furnish such return; Taxpayer.
- "This Act"—This Act and any regulations made thereunder; This Act.
- "Trustee," in addition to every person appointed or constituted trustee by act of parties, or by order or declaration of a Court, or by operation of law, includes— Trustee.
- (a) An executor or administrator, guardian, committee, receiver, or liquidator, and any public officer acting as curator in intestacy or insanity;
- (b) Every person having or taking upon himself the administration or control of land affected by any express or implied trust, or acting in any fiduciary capacity, or having the possession, control, or management of the land of a person under any legal or other disability;
- "Unimproved value"—In relation to land, the capital sum which the fee-simple of the land might be expected to Unimproved value.



PART I.—  
PRELIMINARY.Value of im-  
provements.

realise if offered for sale on such reasonable terms and conditions as a *bonâ fide* seller would require, assuming that the improvements (if any) thereon or appertaining thereto and made or acquired by the owner or his predecessor in title had not been made;

“Value of improvements”—In relation to land, the added value which the improvements give to the land at the date of valuation irrespective of the cost of the improvements:

Provided that the added value shall in no case exceed the amount that should reasonably be involved in bringing the unimproved value of the land to its improved value as at the date of assessment.

PART II.—  
ADMINISTRATION.Com-  
missioner  
and other  
officers.  
Comm. s. 4.  
2 Edw. VII.  
No. 10, s. 4.

## PART II.—ADMINISTRATION.

4. (1.) For the due administration of this Act, the Governor in Council may from time to time appoint a fit and proper person to be the Commissioner of Land Tax, and a like person to be Assistant Commissioner of Land Tax.

(2.) Whenever by reason of the absence or illness of the Commissioner or Assistant Commissioner, or for other sufficient reason, it is expedient so to do, the Governor in Council may appoint a fit and proper person to act as the Deputy of the Commissioner or Assistant Commissioner; and during the term of his office such Deputy shall have all the powers and authorities and shall perform all the duties of the Commissioner or Assistant Commissioner, and shall for the purposes of this Act be deemed in all respects to be the Commissioner or Assistant Commissioner.

(3.) The Governor in Council may from time to time appoint such assessors, receivers, and other officers as may be necessary for carrying out this Act.

(4.) The Commissioner may, with the approval of the Governor in Council, delegate to the Assistant Commissioner or any other person any powers, duties, and functions by this Act conferred or imposed upon him.

(5.) Until other appointment the Commissioner of Income Tax appointed under “*The Income Tax Act of 1902*”<sup>\*</sup> shall be the Commissioner of Land Tax, and his official designation for the purposes of that Act and this Act shall be “Commissioner of Taxes.”

The Commissioner and all officers appointed under the last-mentioned Act shall be deemed to be officers duly appointed under and for the purposes of this Act.

5. In any action or in any proceeding whatsoever under this Act, the Commissioner may appear either personally, or by a barrister or solicitor, or by some officer in the public service.

The appearance of any such officer and his statement that he so appears by authority of the Commissioner shall be sufficient evidence of such authority for all purposes.

Com-  
missioner or  
officers may  
appear in  
proceedings.  
2 Edw. VII.  
No. 10, s. 74.Report by  
Com-  
missioner.  
2 Edw. VII.  
No. 10, s. 83.

6. The Commissioner shall furnish to the Treasurer annually, for presentation to Parliament, a report on the operations of this Act.

<sup>\*</sup> 2 Edw. VII. No. 10, *supra*.

PART III.—THE LAND TAX.

7. This Act applies to all lands within Queensland which, whether before or after the passing of this Act, have been alienated from the Crown for an estate in fee-simple.

PART III.—  
THE LAND  
TAX.  
Application  
of Act to all  
alienated  
land.

This Act shall not apply to any land in process of alienation from the Crown or which has been contracted to be so alienated until a deed of grant in fee-simple for the same has been issued.

8. Subject to this Act, land tax shall be levied and paid upon the unimproved value of all lands within Queensland which are owned by taxpayers, and which are not exempt from taxation under this Act.

Land tax on  
unimproved  
value.  
Comm. s. 10.

9. The rate of the land tax shall be as hereunder set out, that is to say—

Rate of land  
tax.

If the taxable value—

Is less than £500	.. .. .	1d. in each and every £.
Is £500 or over, but is less than £1,000	.. .. .	1½d. in each and every £.
Is £1,000 or over, but is less than £2,000	.. .. .	1¾d. in each and every £.
Is £2,000 or over, but is less than £2,500	.. .. .	2d. in each and every £.
Is £2,500 or over, but is less than £3,000	.. .. .	2¼d. in each and every £.
Is £3,000 or over, but is less than £4,000	.. .. .	2½d. in each and every £.
Is £4,000 or over, but is less than £5,000	.. .. .	2¾d. in each and every £.
Is £5,000 or over, but is less than £10,000	.. .. .	3d. in each and every £.
Is £10,000 or over, but is less than £20,000	.. .. .	3½d. in each and every £.
Is £20,000 or over, but is less than £30,000	.. .. .	4d. in each and every £.
Is £30,000 or over, but is less than £50,000	.. .. .	4½d. in each and every £.
Is £50,000 or over, but is less than £60,000	.. .. .	5d. in each and every £.
Is £60,000 or over, but is less than £75,000	.. .. .	5½d. in each and every £.
Is £75,000 or over	.. .. .	6d. in each and every £.

And in addition—

On all undeveloped land—

In respect of the financial year beginning	}	Nil.		
1st July, 1915 .. .. .				
In respect of the financial year beginning	}	1d. in each and every £ of the taxable value.		
1st July, 1916 .. .. .				
In respect of the financial year beginning			}	1½d. in each and every £ of the taxable value.
1st July, 1917 .. .. .				
In respect of the financial year beginning	}	2d. in each and every £ of the taxable value.		
1st July, 1918 .. .. .				
In respect of each financial year thereafter	}	2d. in each and every £ of the value, and in assessing such value no amount of exemption shall be deducted.		

For the purposes of this section, “undeveloped land” means all land which has ~~no~~ in or upon it improvements of the value of at least one-fourth of the unimproved value of the land; and, in valuing improvements for this purpose, the value of all stock ordinarily depastured on the land may be taken into account as an improvement: Provided that any land may in any year be exempted from the said tax on undeveloped land by the Commissioner if, owing to drought or other sufficient cause, he deems it just and proper so to do, or if the Commissioner is satisfied that the land is

\* Printed as amended by section 2 of the Amending Act of 1920 and section 3 of the Amending Act of 1922.

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being put to good use. Land from which timber is being removed for commercial use shall not be treated as undeveloped, provided the Commissioner is satisfied that a reasonable amount is being removed each year.

**Super tax.**

**\*9A.** In addition to the land tax provided by this Act, land tax (called the super land tax) shall be levied and paid for the financial year beginning on the first day of July, one thousand nine hundred and seventeen, and in and for each financial year thereafter until the close of the financial year ending on the thirtieth day of June one thousand nine hundred and twenty-three, upon the unimproved value of lands, the taxable value whereof is two thousand five hundred pounds or over, at the rate as hereunder set out, that is to say—

If the taxable value—

Is £2,500 or over but less than £3,000	.. ..	1d. in each and every £
Is £3,000 or over but less than £4,000	.. ..	1½d. in each and every £
Is £4,000 or over	.. ..	2d. in each and every £

The super land tax for the financial year beginning on the first day of July, one thousand nine hundred and seventeen, shall be assessed and paid in the financial year beginning on the first day of July, one thousand nine hundred and eighteen, and for all purposes of this Act shall be deemed part of the land tax levied in and for the financial year beginning on the first day of July, one thousand nine hundred and seventeen, and to that extent this Act shall have retrospective operation.

The super land tax for the financial year beginning on the first day of July, one thousand nine hundred and eighteen, and for each financial year thereafter while such tax is leviable, shall be assessed and paid, together with the land tax levied in and for the same years respectively, and for all purposes of this Act shall be deemed part thereof.

**Levy of land tax.**

**10.** (1.) Land tax shall be levied in and for the financial year beginning on the first day of July, one thousand nine hundred and fifteen, and each financial year thereafter.

**Date and place of payment.**  
2 Edw. VII.  
No. 10, s. 9.

(2.) Land tax shall be paid on such day or days, and either in one sum or by instalments of equal or varying amounts, and at such place or places, as may be prescribed.

**Taxable value.**  
Comm.  
s. 11.

**11.** (1.) Land tax shall be payable by the owner of land upon the taxable value of all the land owned by him, and not exempt from taxation under this Act.

(2.) The taxable value of all the land owned by a person is—

(a) In the case of an absentee or a company, the total sum of the unimproved value of each parcel of the land‡;

\* Section 9A inserted by section 2 of the Amending Act of 1918.

† Words from "until" to "twenty-three" substituted for "during the continuance of the present War and the financial year next succeeding the financial year in which peace is proclaimed" by section 4 of the Amending Act of 1922, and it is provided that this amendment shall be deemed to have been made on the twenty-ninth day of June, one thousand nine hundred and twenty-one.

‡ Words "if such total sum exceeds £300" repealed by section 3 of the Amending Act of 1920.

(b) In the case of an owner not being an absentee or a company, the balance of the total sum of the unimproved value of each parcel of the land, after deducting the sum of three hundred pounds:

\*Provided that when land is being used for agricultural, dairying, or grazing purposes by the owner of the land personally (not being an absentee or a company), the following exemptions shall be allowed in lieu of the exemption of £300 provided in paragraph (b) hereof:—

- (i.) If the unimproved value does not exceed £1,500, the exemption shall be the value of the land
- (ii.) If the unimproved value is £1,501, the exemption shall be .. .. . £1,499
- If the unimproved value is £1,502, the exemption shall be .. .. . £1,498
- If the unimproved value is £1,503, the exemption shall be .. .. . £1,497
- If the unimproved value is £1,504 the exemption shall be .. .. . £1,496
- If the unimproved value is £1,505, the exemption shall be .. .. . £1,494
- And the exemption shall decrease in the same ratio, so that for each £5 by which the unimproved value exceeds £1,500 the exemption shall be reduced by £6, until the exemption is reduced to £300 at an unimproved value of £2,500.
- (iii.) If the unimproved value is over £2,500, the exemption shall be .. .. £300

For the purposes of this paragraph, land shall be deemed to be used by the owner of the land personally—

- (a) Where he is actually by himself, whether with or without the assistance of members of his family or others working the land;
- (b) Where he manages the land or the land is worked by members of his family, whether with or without the assistance of others;
- (c) If a trustee, where he personally manages the working of the land;
- (d) If the land is worked on the share system and he is one of the sharers;
- (e) If the land is jointly owned, where, as one of the joint owners, he is actually by himself, whether with or without the assistance of members of his family or others working the land; and, in this case, he shall be deemed to be working so much of the land as is represented by his share in the joint ownership.

If land not exceeding an unimproved value of £2,500 is held by or on behalf of one or more persons beneficially entitled to such land, and one or more of such beneficiaries is actually working the

\* Provisions to the end of this subsection inserted by section 5 (1) of the Amending Act of 1922. A provision inserted by section 3 of the Amending Act of 1918 was repealed by section 5 (2) of the Amending Act of 1922.

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land, he or they shall be deemed to be personally using as owner or owners so much of the land as is represented by his or their respective shares.

When a taxpayer is entitled to an exemption under this paragraph and is the owner of other land which is not being used for the purposes herein specified, he shall be entitled to the exemption herein provided or to an exemption of £300 as provided in paragraph (b) hereof, whichever is the greater sum; but he shall not be entitled to both exemptions; and the rate of tax applicable in such case on the taxable value of all the land of such owner shall be the rate which would be applicable if such owner were only entitled to the exemption of £300 as provided in paragraph (b) hereof. But when the unimproved value of all the land of such owner is over £1,500 the tax payable shall be not less than the tax would be if all such land were being used for the purposes herein specified—agricultural, dairying, or grazing purposes.

If the owner of any land having an unimproved value exceeding £2,500, but not exceeding £5,000 and situated not less than twelve miles from the nearest railway line, proves to the satisfaction of the Commissioner that he regularly and personally cultivates for crops in connection with his agricultural or dairying or grazing pursuits part of his said land, he shall in respect of the unimproved value of the said part be entitled to the like exemption from land tax as is provided by this subsection in respect of land used for agricultural, dairying, or grazing purposes, and the terms and conditions of that exemption shall be applicable so far as they can apply.

(3.) Every part of a holding which is separately held by any occupier or owner shall be deemed to be a separate parcel.

Date of  
ownership  
for purposes  
of tax.  
Comm.  
s. 12.

**12.** Land tax shall be charged on land as owned at midnight on the thirtieth day of June immediately preceding the financial year in and for which the tax is levied:

Provided that an owner of the land who, before the thirtieth day of September, one thousand nine hundred and fifteen, has sold or agreed to sell or conveyed part of the land or has sold or agreed to sell or conveyed all the land to different persons, shall, if the Commissioner is satisfied that the sale, agreement, or conveyance was *bonâ fide* and not for the purpose of evading the payment of land tax, be separately assessed for the year ending on the thirtieth day of June, one thousand nine hundred and sixteen, in respect of the land so sold or agreed to be sold or conveyed to any one person, and be charged with land tax in respect of that land as if it were the only land owned by him.

Land  
exempted  
from tax.  
Ib. ss. 13, 14.

**13.** (1.) The following lands shall be exempt from taxation under this Act, namely:—

- (i.) All land owned by the Commonwealth of Australia or the State, or by a local or other public authority;
- (ii.) All land owned by or in trust for any society registered under the laws relating to friendly societies;
- (iii.) All land owned by or in trust for any trade union, provided such land is not used to carry on a business for pecuniary profit;
- (iv.)\*

\* Paragraph repealed by section 6 of the Amending Act of 1922.

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- (v.) All land owned by or in trust for a charitable or educational institution, if the institution, however formed or constituted, is carried on solely for charitable or educational purposes and not for pecuniary profit;
- (vi.) All land owned by or in trust for a religious society, the proceeds whereof are devoted solely to the support of the aged or infirm clergy or ministers of the society or their wives or widows or children, or to religious, charitable, or educational purposes;
- (vii.) All land owned by or in trust for any person or society and used or occupied by that person or society solely as a site for—
- (a) A place of worship for a religious society, or a place of residence for any clergy or ministers or order of a religious society;
  - (b) A charitable or educational institution not carried on for pecuniary profit;
  - (c) A building owned and occupied by a society, club, or association, not carried on for pecuniary profit;
  - (d) A public library, institute, or museum;
  - (e) A show ground;
  - (f) A public cemetery or public burial ground;
  - (g) A public garden, public recreation ground, or public reserve;
  - (h) A public road;
  - (i) A fire brigade station.

(2.) With respect to land which, under this section, is exempt from land tax, the exemption shall be limited to the owner specified in this section, and shall not extend to any other person who is the owner of any estate or interest in the land. Limitation  
of  
exemption.

\*14. (1.) Notwithstanding anything contained in this Act, land owned by a Mutual Life Assurance Society shall be charged land tax at the rate of two pence in the £ on each and every £ of the unimproved value of all such land, without any exemption as provided by section eleven of this Act, and if such unimproved value in the aggregate exceeds £2,500, in lieu of super tax so long as such tax is payable, an additional land tax shall be charged at the rate of one penny in the £ on each and every £ of such value. Mutual life  
assurance  
societies.

(2) For the purposes of this section, a Mutual Life Assurance Society means any life assurance society all or part of the profits of which are divided among the policy-holders.

†14a. Land tax shall be chargeable on the value of marketable timber growing on and on the value of coal contained in any land: Provided that where timber is planted on land or natural growing timber is protected or cultivated so as to increase the value of or the growth of the timber, such operations shall be deemed to be improvements for the purposes of this Act: Tax on  
timber and  
coal.

\* Section substituted for original section by section 7 of the Amending Act of 1922.

† Section 14a. inserted by section 8 of the Amending Act of 1922.

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TAX.**

Provided further that where the owner of the land is not the owner of the timber or coal, as the case may be, the owner of the land and the owner of the timber or coal, as the case may be, shall be deemed to be joint owners of the land for the purposes of this Act, and their respective interests in the land shall be determined by the Commissioner.

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RETURNS,  
ASSESSMENTS,  
AND  
LIABILITY.**

Tax to be  
levied, &c.,  
on assess-  
ments.  
2 Edw. VII.  
No. 10, s. 10.

**PART IV.—RETURNS, ASSESSMENTS, AND LIABILITY.**

**15.** Subject to this Act, land tax shall be charged, levied, collected, paid, and enforced upon assessments made under this Act.

Taxpayer to  
furnish  
returns.  
Comm.  
ss. 15, 16.

**\*16.** (1.) For the purposes of the assessment and levy of land tax, every owner of land of the unimproved value of two hundred pounds or upwards and every absentee and every company shall in each financial year, in the prescribed manner and within the prescribed time, furnish returns setting forth a full and complete statement of all land owned by him at midnight on the thirtieth day of June then last past, and of the improved value and unimproved value of every parcel thereof, and, for the purpose of the additional tax on undeveloped land, of the value of the improvements on every parcel of land, with such other particulars as are required by the Commissioner:

Provided that, except as otherwise required by the Commissioner or prescribed, a taxpayer who in any financial year has furnished the full returns above mentioned may in each succeeding year furnish, in lieu of such full returns as above mentioned, supplementary returns setting out a full and complete statement of all land of which he has become or ceased to be the owner since the thirtieth day of June preceding the date of the last full return, and of the improved and unimproved value of every parcel thereof, and of the improvements thereon, with such other particulars as are prescribed.

(2.) In addition to the returns specified in the last preceding subsection, every person, whether a taxpayer or not, shall, as and when required by the Commissioner, make such returns or further or other returns as the Commissioner requires for the purposes of this Act.

Verification  
of returns.  
2 Edw. VII.  
No. 10, s. 45.

(3.) Every return shall be verified by any prescribed form of declaration, or in such other manner as is required by the Commissioner.

Returns  
deemed to  
be duly  
made.

(4.) Any return purporting to be made or signed by or on behalf of any taxpayer or person shall be deemed to have been duly made and signed by him until the contrary is proved.

Valuations  
of land.  
Comm.  
s. 17.

**17.** (1.) The Commissioner may, if, as, and when he thinks fit, make or cause to be made valuations of any land.

\* Printed as amended by section 9 of the Amending Act of 1922.

(2.) The Registrar-General, the Registrar of Titles, every Local Deputy Registrar of Titles, the Registrar of the Supreme Court, and every officer employed in or in connection with any Department of the Government shall, at the prescribed time and in the prescribed form, furnish to the Commissioner such information in their respective offices as may be required by him.

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LIABILITY.  
Certain  
returns and  
information  
to be  
furnished  
when  
required.  
2 Edw. VII.  
No. 10, s. 43

(3.) Every Local Authority and every officer thereof shall permit any assessor or prescribed officer without payment to take for the information of the Commissioner a copy of or extract from any valuation return, rate-book, or list of the Local Authority.

Every Local Authority shall, as and when required by the Commissioner, cause to be furnished to him such copies of or extracts from any such valuation returns, rate-books, or lists as he requires, and shall be entitled to receive payment therefor at the prescribed rate.

(4.) The Commissioner, or any officer authorised by him on that behalf, shall at all times have full and free access to all lands, buildings, places, books, documents, and other papers, and to all registers of deeds or documents of title, for the purpose of valuing or inspecting any land, or of ascertaining the ownership of any land, and for any of those purposes may make extracts from or copies of any such books, documents, or papers.

Access to  
lands,  
buildings,  
&c.  
Comm.  
s. 64.

18. (1.) From the returns and valuations so made, if any, and from any other information in his possession, or from any one or more of those sources, and whether any return has been furnished or not, the Commissioner shall cause assessments to be made for the purpose of ascertaining the amount upon which land tax shall be levied.

Assessments,  
assessment-  
registers,  
and notice.  
Comm.  
ss. 18, 24,  
2 Edw. VII.  
No. 10, ss.  
46, 50.

(2.) Such assessments shall be entered in assessment-registers\*.

(3.) As soon as conveniently may be after a taxpayer's assessment is entered in the assessment-register, the Commissioner shall cause notice in writing of the assessment, in the form and containing the particulars prescribed, to be given to the taxpayer.

19. If—

(a) Any taxpayer or person makes default in furnishing any return; or

(b) The Commissioner has reason to believe that any person (though he may have furnished no return) is a taxpayer; or

(c) The Commissioner is not satisfied with the return made by any taxpayer or person,

Assessment  
in case of  
default or  
unsatisfac-  
tory return.  
Comm.  
s. 19.

the Commissioner may make an assessment of the amount on which, in his judgment, land tax ought to be levied, and the taxpayer or person shall be liable to land tax thereon, excepting so far as he establishes, on appeal, that the assessment is excessive.

If such default is made in furnishing a return at the prescribed date or within any further time allowed by the Commissioner, there shall be added to the amount of the tax a sum equal to five pounds per centum on the same; and if such default continues for a period of sixty days after the due date or such extended date (if any), there shall be added to the amount of the tax a sum equal to ten

\* Words "in accordance with the Regulations" repealed by section 4 of the Amending Act of 1920.



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pounds per centum on the same; and such addition to the tax in either of the aforesaid cases shall be deemed to be a part of the tax and be recoverable accordingly.

\*Provided that the Commissioner may in any particular case, for reasons which in his discretion he thinks sufficient, remit the additional tax or any part thereof.

†The power conferred upon the Commissioner by this section shall be in addition to any right conferred upon him by this Act to take proceedings for and recover any penalties for failing to make returns at the proper date, or for having made an incorrect return, or, in lieu of proceedings for any such penalty, to impose a fine upon the person so offending.

Alterations  
of  
assessments.  
Comm.  
ss. 20, 21, 60.

20. (1.) Where the Commissioner has assessed any person upon the return sent in by him, without making or obtaining any independent valuation, the Commissioner, so soon thereafter as is conveniently practicable, but not after the expiration of three years from the date of the assessment, if from valuations made or obtained by him, or other information in his possession he finds that the assessment ought to have been for a greater amount, may alter the assessment accordingly, as from the date when the assessment was made.

(2.) Where the Commissioner has assessed any person, either on any return sent in by him or in the absence of any return, and at any time thereafter finds that any land in respect of which that person was liable to pay land tax was not included in the assessment, he may add to and alter the assessment accordingly, as from the date when the assessment was made.

(3.)‡ In any such case the taxpayer shall, and notwithstanding that land tax may have been paid in respect of the land, be liable to pay an amount equal to twice the difference between any land tax that he has paid and the land tax which he ought to have paid if the assessment had been originally made as altered.

If the Commissioner is satisfied that the taxpayer was not guilty of any wilful default or omission and has not done any act with intent to defraud the revenue, he may remit the whole or any part of such tax over and above the amount computed on the ordinary rate.

The power conferred upon the Commissioner by this subsection shall be in addition to any right conferred upon him by this Act to take proceedings for and recover any penalties for evading or avoiding assessment or the payment of land tax or attempting so to do.

(4.) In addition to and without prejudice to the other powers in this section contained, the Commissioner may, at any time make all such alterations in or additions to any assessment as he thinks necessary in order to insure its completeness and accuracy, notwithstanding that land tax may have been paid in respect of the land included in the assessment.

Refund of  
excess.

§(5.) If within three years after the advertised date when any land tax for a particular year became payable it is discovered that

\* Proviso inserted by section 5 of the Amending Act of 1920.

† Provision added by section 10 of the Amending Act of 1922.

‡ Printed as amended by section 6 of the Amending Act of 1920.

§ Subsection substituted for original subsection by section 11 of the Amending Act of 1922.

too much in amount has been paid for that year, whether by reason of duplicate taxation or otherwise, the Commissioner upon being satisfied thereof shall alter the assessment accordingly and order the excess to be returned to the taxpayer entitled thereto, but if the Commissioner subsequently discovers that additional tax should be paid he shall have power to recover such additional tax.

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(6.) Upon any alteration or addition to an assessment, the Commissioner shall amend the assessment-register accordingly:

Provided that every alteration or addition which has the effect of imposing any fresh liability, or increasing any existing liability, shall be notified to the taxpayer affected, and, unless made with his consent, shall be subject to appeal.

(7.) For the purposes of this section the Commissioner may, *inter alia*—

- (a) Place on or remove from an assessment the name of any person, or the particulars or valuation of any land, or
- (b) Increase or reduce the assessed value of any land.

21. The owner of any freehold estate less than the fee-simple shall be deemed to be the owner of the fee-simple, to the exclusion of any person entitled in reversion or remainder, and shall be assessed accordingly; and the Commissioner shall have the same remedies against the land for the recovery of the tax as if the taxpayer were the owner of the fee-simple.

Owner of  
freehold.  
Comm.  
s. 25.

22. The lessee or other occupier for the time being of any land shall be liable to pay the land tax on behalf of the owner, but if he pays the same he shall have the right to recover the amount thereof from the owner, and also may deduct the amount so paid from any rent due or to accrue due from him to the owner.

Lessee to  
pay the tax  
with remedy  
over.

23. No deduction from the unimproved value of any land shall be allowed in respect of any mortgage to which the land is subject, or in respect of any unpaid purchase money.

Mortgages.  
Ib. s. 31.

A mortgagor shall be assessed and liable for land tax as if he were the owner of an unencumbered estate.

24. A mortgagee, or other person owning any estate or interest in land by way of security for money, shall not be liable to land tax in respect of that mortgage, estate, or interest, but the Commissioner may require a mortgagee to pay tax on behalf of the owner, and the mortgage shall thereupon pay the same, and, if he fails so to do, shall be liable to the penalty provided by section fifty of this Act for evading taxation; and upon such payment shall have the right to recover the amount paid from the owner, and in addition such amount shall be deemed to be part of or added to the principal moneys advanced under the mortgage and shall be recoverable as such, with interest accordingly:

Mortgagees.  
Comm  
s. 32.

Provided that a mortgagee in possession of land, or any other person in possession of land by way of security for money, shall so long as such possession continues (though not to the exclusion of any other person) be deemed to be the owner of the land.

But the last preceding proviso shall not apply to any mortgagee or person in possession whose possession began before the first day of July, one thousand nine hundred and fifteen, until twelve months

\* Words from "but" to end of sentence inserted by section 12 of the Amending Act of 1922.

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ASSESSMENTS,  
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LIABILITY.

after that date; he shall, however, if the mortgagor makes default in the payment of land tax in respect of the land, pay the tax due by the mortgagor, and such payment shall be deemed to be made by him on behalf of the mortgagor:

\*Provided further that where a mortgagee is in receipt of the income from the land he shall be deemed to be in possession of the land.

Joint owners.  
Ib. s. 38.

25. (1.) Joint owners of land shall be severally assessed and liable in respect of the land (exclusive of the interest of any joint owner exempt under this Act), and the value of each owner's share shall be added to the value of all other land of which he is the owner.

(2.) Each joint owner of land shall be separately assessed and liable in respect of—

- (a) His individual interest in the land (as if he were the owner of a part of the land in proportion to his interest), together with
- (b) Any other land owned by him in severalty, and
- (c) His individual interests in any other land:

†Provided that where the jointly owned land is of an unimproved value of five thousand pounds or upwards, or where there are five or more joint owners of land, the Commissioner may, if he considers it advisable to do so, make one assessment as if the land were owned by one person, but in such case the proportional assessment on the shares in the land shall not be added to the individual assessments of the joint owners.

For the purposes of this provision—

- (a) Lands which are held in severalty for an estate in fee-simple by separate titles in the respective names of two or more persons shall be considered to be jointly owned by such persons if the lands are used by a partnership firm or company whereof such persons are members;
- (b) Land held by a trustee shall be considered to be jointly owned if there are two or more persons having a life or greater interest in shares of the income from the land.

(3.) The Commissioner may, for the purposes of this Act, declare any joint owner of land to be the agent or trustee of all other joint owners of the same land.

Land  
owned by  
companies.  
Ib. s. 39.  
Assessment  
of trustee.

26. A company shall be assessed as the owner of all land owned by it.

‡26A. A trustee shall be assessed as if the land of which he is trustee were owned by one person. But if the income from the land is payable to one beneficiary only, such beneficiary shall be assessed as the owner. If there is more than one beneficiary and any beneficiary or beneficiaries is or are entitled to a share of the income from the land and is or are in actual receipt thereof, each such beneficiary shall be separately assessed on the value of his interest in the land, and the trustee shall be assessed on the value of the remainder, if any, of the interests in the land.

\* Proviso inserted by section 7 of the Amending Act of 1920.

† Proviso inserted by section 8 of the Amending Act of 1920.

‡ Section 26A inserted by section 13 of the Amending Act of 1922.

## PART V.—APPEALS.

PART V.—  
APPEALS.

\*27. (1.) Any taxpayer or person may within the prescribed time appeal to the Land Court against any assessment by the Commissioner with respect to his land, on the ground that he is not liable for the tax or any part thereof, or that the assessment is excessive.

Appeal.  
Ib. s. 44.

(2.) For the purposes of every such appeal the powers and duties conferred and imposed upon the Land Court shall be exercised and performed by one member thereof only; but the decision of such member shall be subject to appeal to the Land Appeal Court. The Land Court, and on appeal the Land Appeal Court, shall have jurisdiction to hear and determine every such appeal, and for such purposes all the provisions of Part II, of "The Land Act of 1910," including Division V. thereof, so far as the same are applicable, shall extend to the hearing and determination of every such appeal.

†28. (1.) On the hearing of the appeal the Court may make such order as it thinks fit, and may either reduce or increase the assessment, and its order shall be final and conclusive on all parties except as provided in the last preceding section.

Power of  
Court on  
hearing of  
appeal.  
Comm.  
s. 45.

(2.) If the value of the land as finally fixed by the Court is the value at which it has been entered by the taxpayer in his land tax return or in any objection lodged by him, or is nearer to that value than to the value placed upon it by the Commissioner, costs shall be awarded against the Commissioner, otherwise costs shall be awarded against the taxpayer.

29. (1.) The fact that an appeal is pending shall not in the meantime interfere with or affect the assessment appealed from; and land tax may be levied and recovered on the assessment as if no appeal were pending.

Pending  
appeal not  
to affect  
assessment.  
Ib. s. 45.  
2 Edw. VII.  
No. 10, s. 52.

(2.) If the assessment is altered on appeal a due adjustment shall be made, for which purpose amounts paid in excess shall be refunded, and amounts shortpaid shall be recoverable as arrears.

§30. (1.) The members of the Land Court, or a majority of them, may make Rules of Court for regulating the practice and procedure in relation to appeals against assessments.

Rules of  
Court.  
Ib. s. 47.

(2.) All such rules shall—

- (a) Be notified in the *Gazette*;
- (b) Take effect from the date of notification, or from a later date specified in the Rules;
- (c) Be laid before Parliament within thirty days of the making thereof, or, if the Parliament is not then sitting, within thirty days after the next meeting of the Parliament.

\* Printed as amended by section 9 of the Amending Act of 1920.

† 1 Geo. V. No. 15, Statutes, page 8775.

‡ Printed as amended by section 10 of the Amending Act of 1920.

§ Printed as amended by section 11 of the Amending Act of 1920.

PART V.—  
APPEALS.

(3.) If \*the House of Parliament passes a resolution, of which notice has been given at any time within fifteen sitting days after the Rules have been laid before such House, disallowing any Rule, that Rule shall thereupon cease to have effect.

PART VI.—  
ACQUISITION  
OF LAND.

Power to  
acquire land  
unless  
valuation  
increased.  
Comm.  
s. 48.

## PART VI.—ACQUISITION OF LAND.

31. If the Commissioner is of opinion that the owner of any land has, in a return furnished under this Act, understated the unimproved value of the land, to the extent of twenty-five per centum or more, the following provisions shall apply:—

- (a) The Commissioner may apply to the Supreme Court for a declaration that the Crown is entitled to acquire the land under this Act.
- (b) The application shall be heard by a Judge of the Supreme Court, from whose decision an appeal shall lie to the Full Court; and the owner of the land shall be entitled to be heard.
- (c) If the Judge or Full Court—
  - (i.) Is satisfied that the owner has understated the unimproved value of the land to the extent of twenty-five per centum or more; and
  - (ii.) Is not satisfied that the undervaluation was not made with a view to evading taxation, he shall make the declaration applied for, and make such order as to costs as he thinks proper.
- (d) Thereupon the Governor in Council may acquire the land on behalf of the Crown; and for that purpose may, within a reasonable time, by proclamation, declare that the land is vested in the Crown, but subject to all leases, mortgages, and other charges affecting the land.
- (e) The effect of the proclamation shall be to vest the land in the Crown for the same estate or interest therein as the owner was entitled to at the date of the publication of the proclamation in the *Gazette*, but subject to all leases, mortgages, and other charges then affecting the land, and to entitle the owner to compensation therefor upon the basis of the improved value obtained by adding the fair value of improvements to the unimproved value stated in the return, together with the amount of ten per centum upon that improved value, by way of an allowance for compulsory dispossession.
- (f) The provisions of "*The Public Works Land Resumption Act of 1906*"† shall, so far as applicable, but subject to this Act, apply in relation to the land so acquired as if it had been acquired under that Act.
- (g) The Governor in Council may authorise the use of the land for any public purpose for which it is required; or, if it is not required for any public purpose, may authorise the disposal of it as he thinks fit.

\* Word "the" substituted for "either," the reference now being to the Legislative Assembly only. See "*The Constitution Act Amendment Act of 1922*," sections 2 and 4. Statutes, page 9956.

† 6 Edw. VII. No. 14. Statutes, page 8211.

## PART VII.—COLLECTION AND RECOVERY OF TAX.

32. Land tax for each year shall be due and payable as prescribed.

Not less than thirty days' public notice shall be given by the Commissioner of the date on which the land tax will be payable.

33. Every person who fails to pay the amount payable by him in respect of land tax before the expiration of thirty days after it has become due shall be liable by way of additional tax to a further amount of ten per centum on the amount of the tax:

Provided that the Commissioner may in any particular case, for reasons which in his discretion he thinks sufficient, remit the additional tax or any part thereof.

34. (1.) Land tax shall be deemed when it becomes due or is payable to be a debt due to the Crown and payable to the Commissioner in the manner and at the place prescribed.

(2.) Any land tax unpaid including any additional tax, whatever may be the amount thereof, shall be recoverable in any District Court or Court of Petty Sessions by the Commissioner on behalf of the Crown by action or proceeding in his own name, or in the name of any person appointed by him by a general or particular authority in that behalf.

In actions or proceedings for the recovery of land tax it shall not be competent for the defendant to question the correctness of the assessment-register.

(3.) With respect to actions in a \*District Court for the recovery of land tax, every such action shall for all purposes be deemed, within the meaning of "*The District Courts Act, 1891*," or any Act amending or in substitution for that Act, to be an action brought to recover a debt or liquidated demand only, and the provisions of such Act and the rules thereunder applicable to such a debt or demand shall apply accordingly.

(4.) With respect to proceedings in a Court of Petty Sessions for the recovery of land tax, the following provisions shall have effect:—

- (i.) When a summons for the recovery of land tax is issued and served, then, unless at least six clear days before the day appointed for the hearing a statement in writing verified on oath by or on behalf of the defendant, showing a defence on the merits, is delivered to the clerk of the court in which the summons is returnable, the Court shall make an order for the amount claimed without allowing any defence, and without the necessity of the Commissioner or any one on his behalf appearing in court or proving the liability of the defendant and the non-payment of land tax;
- (ii.) In all such cases the summons shall be served upon the defendant at least fourteen days before the day appointed for the hearing;
- (iii.) It shall be sufficient in any such proceeding if the particulars of demand state in respect of what land

PART VII.—  
COLLECTION  
AND  
RECOVERY  
OF TAX.

Date of  
payment of  
tax.

Comm.  
s. 49.  
2 Edw. VII.  
No. 10, s. 60.

Additional  
tax in case  
of default.  
Comm.  
s. 50.

2 Edw. VII.  
No. 10, s. 61.

Recovery  
of tax.  
Comm.

ss. 51, 54.  
2 Edw. VII.  
No. 10,  
ss. 62 to 66.

Procedure  
in [Supreme]  
Court.

Procedure  
in Petty  
Sessions.

\* District Courts are abolished and the Act is repealed. See now "*The Supreme Court Act of 1921*" (12 Geo. V. No. 15). Statutes, page 9787.

PART VII.—  
COLLECTION  
AND  
RECOVERY  
OF TAX.

such tax is payable, the amount sought to be recovered, and the date or dates on which the same was payable, together with such further and other particulars as the Commissioner thinks necessary to fully inform the defendant of the nature of the demand;

- (iv.) An order made when either party does not appear may be set aside upon such terms as to costs or otherwise as the Court in which application is made to set aside the same thinks fit, and in such case the Court may hear and determine the proceedings in respect of which such order was made.

Procedure  
under Crown  
Remedies  
Act.

(5.) Nothing in this Act contained shall limit or prevent the enforcement of any claim for land tax by His Majesty in the manner provided by "*The Crown Remedies Act of 1874*,"\* or any Act amending or in substitution for that Act.

No  
limitation.

(6.) No statute of limitations now or hereafter in force shall bar or affect any action, proceeding, or remedy for the recovery of land tax.

Substituted  
service.  
Comm.  
s. 52.

**35.** If, in any proceedings against a taxpayer for the recovery of land tax, the defendant—

- (a) Is absent from Australia and has not to the knowledge of the Commissioner after reasonable inquiry in that behalf any attorney or agent in Australia on whom service of process can be effected; or
- (b) Cannot after reasonable inquiry be found,

service of any process in the proceedings may without leave of the Court be effected on him by posting the same or a sealed copy thereof in a letter addressed to him at his last known place of business or abode in Australia or by fixing the same on a conspicuous part of the land to which the tax relates.

Provision  
when tax  
not paid  
during  
lifetime.  
Ib. s. 53.

**36.** The following provisions shall apply in any case where, whether intentionally or not, a taxpayer escapes full taxation in his lifetime by reason of not having duly made full and complete returns:—

- (a) The Commissioner shall have the same powers and remedies against the executors and administrators of the taxpayer in respect of the estate of the taxpayer as he would have had against the taxpayer in his lifetime.
- (b) The executors and administrators shall make such returns as the Commissioner requires for the purpose of a full assessment.
- (c) The assessment shall be at the rates payable in respect of the years for which the tax ought to have been paid, and the amount payable shall (where the taxpayer's default was intentional) be treble the amount of the difference between the tax so assessed and the amount actually paid by the taxpayer, and shall be a first charge on all the taxpayer's estate in the hands of the executors and administrators.

\* 38 Vic. No. 13. Statutes, page 548.

- (d) No lapse of time shall prevent the operation of this section, and the Commissioner may take all such proceedings and exercise all such powers and remedies for the purpose of giving effect to this section and recovering the treble tax as in the case of ordinary assessments and taxation.

PART VII.—  
COLLECTION  
AND  
RECOVERY  
OF TAX.

**37.** (1.) Land tax shall until payment be a first charge upon the land taxed in priority over all other encumbrances whatever other than land tax due to the Commonwealth, and notwithstanding any disposition of the land it shall continue to be liable in the hands of any purchaser or holder for the payment of the tax so long as it remains unpaid:

Tax to be a  
first charge  
on land.  
Comm.  
s. 56

Provided that no such charge shall be of effect as against a *bonâ fide* purchaser for value who at the time of purchase made inquiry of the Commissioner as prescribed, and was informed there was no liability.

(2.) Where the Commissioner thinks it advisable to register the charge, he may lodge with the proper Registrar of Titles a certificate under his hand describing the land charged, and stating that there are arrears of land tax payable in respect thereof; and the Registrar shall register it in the register and as nearly as may be in the manner in which dealings with land are registered, and shall deal with and give effect to the certificate as if it were an instrument of charge or encumbrance duly executed.

**38.** Every person who under this Act pays any tax for or on behalf of any other person shall be entitled to recover the same from that other person as a debt, together with the costs of recovery, or to retain or deduct the same out of any money in his hands belonging or payable to that other person.

Recovery of  
tax paid on  
behalf of  
another  
person.  
Ib. s. 57.

PART VIII.—MISCELLANEOUS.

**39.** The public officer of a company appointed under section thirty of "*The Income Tax Act of 1902*"\* shall also be and be deemed to have been appointed the public officer of such company under and for the purposes of this Act; and the provisions of the said section thirty shall apply to this Act as if this Act were expressly mentioned therein.

PART VIII.—  
MISCEL-  
LANEOUS.

Public  
officer of  
company.  
Comm.  
s. 61.

2 Edw. VII.  
No. 10, s. 30.

**40.** Whenever as to any particular land—

- (i.) More than one person appears or claims to be liable or qualified to pay land tax; or
- (ii.) A question arises as to the person liable to pay land tax; or
- (iii.) A question arises as to whether a person is liable to pay or is chargeable with land tax, and whether on his own behalf, or as trustee, or agent of any other person;

Commis-  
sioner to  
determine  
doubtful  
cases.

2 Edw. VII.  
No. 10, s. 36.

the Commissioner may decide the matter in question, subject, however, to appeal as herein provided.

Pending the final decision of the matter, all the persons appearing to be liable to pay land tax in respect of any particular land shall be jointly and severally responsible and liable for the proper discharge of the duties imposed by this Act on taxpayers.

\* 2 Edw. VII. No. 10, *supra*.



PART VIII.—  
MISCELLANEOUS.  
Land tax of  
Commissioner.  
Ib. s. 38.

**41.** The land tax of the Commissioner shall be assessed by such person and in such manner as the Governor in Council may by notification in the *Gazette* appoint in that behalf, and such person shall have the like powers in respect thereof as are by this Act conferred on the Commissioner in respect of any land; and the Commissioner shall have the like right of appeal against assessment as any other taxpayer.

Judges not  
disqualified  
by reason of  
liability to  
be assessed  
for tax.  
Ib. s. 58.

**42.** No Judge or police magistrate shall solely on account of his liability to be assessed under this Act, or of his liability to land tax, be deemed to be interested in or be debarred from dealing with any matter upon which he may be called upon to adjudicate under this Act.

Agents and  
trustees.  
Comm.  
s. 62.

**43.** With respect to every agent, and with respect also to every trustee, the following provisions shall apply:—

- (a) He shall be answerable as taxpayer for the doing of all such things as are required to be done by virtue of this Act in respect of the land held by him in his representative capacity and the payment of land tax thereon.
- (b) He shall in respect of such land make the returns and be assessed thereon, but in his representative capacity only, and each return and assessment shall, except as otherwise provided by this Act, be separate and distinct from any other.
- (c) If he is an executor or administrator, the returns shall be the same, as far as practicable, as the deceased person if living would have been liable to make.
- (d) Where as agent or trustee he pays land tax, he is hereby authorised to recover the amount so paid from the person in whose behalf he paid it, or to deduct it from any money in his hands belonging to that person.
- (e) He is hereby authorised and required to retain from time to time, out of any money which comes to him in his representative capacity, so much as is sufficient to pay the land tax which is or will become due in respect of the land.
- (f) He is hereby made personally liable for the land tax payable in respect of the land if while the tax remains unpaid he alienates, charges, or disposes of any real or personal property which is held by him in his representative capacity, but he shall not be otherwise personally liable for the tax.
- (g) If he is a trustee he may raise whatever moneys are necessary in order to pay the land tax by mortgage or charge with or without power of sale of any real or personal property held by him as such trustee, and may apply the money so raised or any other moneys in his possession as such trustee in paying the tax.
- (h) He is hereby indemnified for all payments which he makes in pursuance of this Act or by requirements of the Commissioner.

- (i) For the purpose of insuring the payment of land tax the Commissioner shall have the same remedies, against all land or other property of any kind vested in or under the control or management or in the possession of any agent or trustee, as he would have against the land or other property of any other taxpayer in respect of land tax, and in as full and ample a manner.

PART VIII.—  
MISCELLANEOUS.

†43A. The Commissioner may declare any person in Queensland who holds money or may in future hold money on behalf of or is liable to pay money to a person liable to land tax to be the agent of such person for all or any of the purposes of this Act other than the making of returns and other matters in connection therewith.

Commissioner may declare agent.

44. (1.) Every contract, covenant, agreement, undertaking, or arrangement made or entered into, in writing or orally, whether before or after the passing of this Act, shall, so far as it has or purports to have the purpose or effect of in any way, directly or indirectly—

Contracts to evade tax void. Comm. ss. 30, 63. 2 Edw. VII. No. 10, s. 73.

- (a) Altering the incidence of any land tax; or
- (b) Relieving any person from liability to pay any land tax or make any return; or
- (c) Defeating, evading, or avoiding any duty or liability imposed on any person by this Act; or
- (d) Preventing the operation of this Act in any respect,

be absolutely void, but without prejudice to its validity in any other respect or for any other purpose.

45. (1.) The Commissioner may by notice in writing require any person, whether a taxpayer or not, to attend and give evidence before him, or before any officer authorised by him in that behalf, concerning any land or assessment, and to produce all books, documents, and other papers whatever in his custody or under his control relating thereto.

Power to obtain evidence. Comm. s. 65.

(2.) The Commissioner may require the evidence to be given on oath, and either verbally or in writing, and for such purpose he or the officer so authorised by him may administer an oath.

(3.) The regulations may prescribe scales of expenses to be allowed to persons required under this section to attend.

46. In any case where it is shown to the satisfaction of the Commissioner that a taxpayer liable to pay land tax has become insolvent, or has suffered such a loss that the exaction of the full amount of tax will entail serious hardship, or that, by reason of drought or adverse seasons or other adverse conditions, the returns from the land have been seriously impaired, the Commissioner may release such taxpayer wholly or in part from his liability, and the Commissioner may make such entries and alterations in the assessment as are necessary for that purpose:

Release of taxpayer in case of hardship. Ib. s. 66.

†Provided that application for such relief must be made by the taxpayer within six months from the date on which payment of tax was due as shown in the assessment notice or within such extended time as the Commissioner may allow.

† Section 43a inserted by section 14 of the Amending Act of 1922.

‡ Proviso inserted by section 15 of the Amending Act of 1922.

PART VIII.—  
MISCELLANEOUS.  
Obstructing  
officers or  
not  
complying  
with Act.  
Ib. s. 67.  
2 Edw. VII.  
No. 10, s. 76.

**47. (1.)** Any person who obstructs or attempts to obstruct any officer acting in the discharge of his duty under this Act, or refuses or neglects to answer any question put by any such officer relating to any land belonging to such person, or gives any false or evasive answer, or in any manner whatsoever fails to comply with any of the provisions of this Act for which no penalty is expressly provided, shall be liable to a penalty not exceeding fifty pounds.

(2.) If any company makes default in complying with any provision of this Act, such company or the public officer thereof shall, where no other penalty is provided by this Act, be liable to a penalty not exceeding five pounds for every day during which such default continues:

And every director and manager of the company who knowingly and wilfully authorises or permits such default shall be liable to the like penalty.

Offences.  
Comm.  
s. 68.

**48.\*** Any person who—

- (a) Fails or neglects to duly furnish any return as and when required by this Act or by the Commissioner; or
- (b) Without just cause shown by him, refuses or neglects to duly attend and give evidence when required by the Commissioner or any officer duly authorised by him, or to truly and fully answer any questions put to him, or to produce any book or papers required of him by the Commissioner or any such officer; or
- (c) Makes or delivers any false return, or makes any false answer, whether verbally or in writing, in relation to any matter or thing affecting his own or any other person's liability to or exemption from assessment of land tax,

shall be liable to a penalty not exceeding one hundred pounds.

It shall be a defence to a prosecution for an offence against paragraph (c) of this section if the defendant proves that the false return was made or delivered or the false answer was made through ignorance or inadvertence.

The Commissioner may in his discretion, in lieu of proceeding for a penalty for an offence against any of the provisions of this section, impose a fine upon the person so offending of an amount as follows:—

If the person so offending is not liable to pay land tax—Ten shillings;

If the person so offending is liable to pay land tax—Ten shillings or ten per centum of the amount of the land tax assessable to him, whichever is the greater.

In every case the amount of such fine shall be deemed to be land tax or a part of the land tax as the case may be, and be recoverable accordingly.

The power to impose fines hereby conferred upon the Commissioner shall be in addition and without prejudice to any power or authority conferred by this Act upon the Commissioner to make assessments (including additions to the amount of land tax in any cases of default), or to alter or to add to and alter assessments, or to take proceedings for and recover land tax.

\* Printed as amended by section 16 of the Amending Act of 1922.

**49. (1.)** Any person who, with intent to defraud, in any return understates the unimproved value of any land, shall be liable to a penalty not exceeding five hundred pounds, and also to an amount equal to treble the amount of the tax which would have been evaded if the value stated in the return had been accepted as the unimproved value of the land; or to forfeiture of the land undervalued or any part thereof.

PART VIII.—  
MISCELLANEOUS.  
Under-  
valuation of  
land.  
Ib. s. 69.

(2.) Where the value stated in the return is less, by twenty-five per centum or more, than the value as found by the adjudicating court, the value shall be presumed, in the absence of evidence to the contrary, to have been understated with intent to defraud.

**50.** Any person who by any wilful act, default, or neglect, or by any fraud, art, or contrivance whatever, evades or attempts to evade assessment or taxation, shall be liable to a penalty not exceeding five hundred pounds and treble the amount of the tax, payment whereof he has evaded or attempted to evade; or to forfeiture of the land in respect of which the offence was committed, or any part thereof.

Evading  
taxation  
Ib. s. 70.

**51. (1.)** Where, on the conviction of any person under either of the last two preceding sections, the penalty of forfeiture of any of his land has been imposed, the Governor in Council may, by proclamation, declare that the estate or interest of that person in the land is forfeited to His Majesty.

Forfeiture of  
land for  
fraudulent  
evasions,  
&c.  
Comm.  
s. 71.

(2.) The proclamation shall have the same effect as a proclamation under Part VI. of this Act, but the taxpayer shall not be entitled to any compensation.

**52.** Payment of penalties under this Act shall not relieve any person from liability to assessment and payment of any tax for which he would otherwise be liable.

Penalties not  
to relieve  
from tax.  
Ib. s. 72.

**53.** Whoever aids, abets, counsels, or procures, or by act or omission is in any way directly or indirectly knowingly concerned in the commission of any offence under this Act, shall be deemed to have committed that offence, and shall be punishable accordingly.

Aiding or  
abetting  
offences.  
Ib. s. 73.

**54.** All penalties imposed under this Act shall be recoverable in a summary way under "*The Justices Acts, 1886 to 1909*,"\* upon the complaint of any person appointed by the Commissioner either generally or for the purpose of any particular case, and when recovered shall be paid into the Consolidated Revenue.

Procedure  
to recover  
penalties.  
2 Edw. VII.  
No. 10, s. 77.

**55.** The Commissioner may stay or compound proceedings for any penalty.

Compounding  
penalties.  
Ib. s. 78.

**56.** Notwithstanding anything in any Act to the contrary, any complaint for any offence committed or penalty incurred under this Act may be brought, heard, and determined at any time within six years next after the date when the offence was committed or the penalty was incurred.

Offences  
under this  
Act may be  
prosecuted  
within six  
years.

**57.** No action for anything done or omitted to be done by the Commissioner, or any officer or person appointed or employed under this Act, in the execution of his duty shall be brought, unless the same is commenced within six months after the act or omission

Actions  
against  
officers.  
Ib. s. 80.

\* 50 Vic. No. 17 and amending Acts. Statutes, pages 1132 *et seq.*

† Section substituted for original section by section 17 of the Amending Act of 1922.

PART VIII.—  
MISCELLANEOUS.

complained of was done or omitted to be done; and no such action shall be commenced until one month's previous notice in writing thereof, and of the cause thereof, has been delivered to the defendant by the party intending to commence such action.

Evidence.  
2 Edw. VII.  
No. 10, s. 81.  
Comm.  
ss. 22, 23.

58. (1.) In all legal proceedings whatsoever judicial notice shall be taken of the signature to any official document of every person who is or has been Commissioner.

(2.) A notification in the *Gazette* that any person therein named has been appointed Commissioner, or other officer for the purposes of this Act, shall be conclusive evidence of such appointment.

(3.) The production of the *Gazette* containing any notice purporting to be published by the Commissioner in pursuance of this Act, or any notice of the appointment of any officer or person under this Act, shall be conclusive evidence of such notice, publication, or appointment.

(4.) The production of any assessment-register or book, or of any document under the hand of the Commissioner purporting to be a copy of or extract from any such register or book, shall be conclusive evidence of the making of the assessment, and, except as hereinafter mentioned, shall be conclusive evidence that the amount and all the particulars of such assessment appearing in such register, book, or document are absolutely correct:

Provided that in any proceedings on appeal the same shall be *primâ-facie* evidence only of the matters aforesaid.

(5.) The validity of any procedure under this Act, or of any assessment or any register or book or any document purporting to be made under this Act or to be signed by the Commissioner, shall not be prejudiced or affected by reason of any irregularity or informality therein, or of the fact that any of the provisions of this Act have not been complied with. The omission to give any notice of assessment shall not invalidate the assessment.

(6.) Assessment-registers and all entries made therein, or a copy of or extract from any such register certified by the Commissioner upon payment of the prescribed fee, to be a true copy or extract, or any return of any kind made by any person, by the production thereof alone and without any further evidence, shall be received as *primâ-facie* evidence of the facts therein mentioned.

(7.) The Commissioner shall not, for the purposes of demanding or recovering land tax or for any other of the purposes of this Act, be concluded or estopped by any entry appearing in any register, book, notice, or record made, kept, or given by him or any of his officers.

(8.) On the hearing of a complaint for any offence against this Act, if it is alleged in the complaint that any return has not been received by the Commissioner, such allegation shall be *primâ-facie* evidence that such return was not furnished to the Commissioner.

(9.) It shall not be necessary in any case to prove the incorporation or registration of any company or that any officer or person is or was the public officer of a company or acting in its business.

(10.) Any return made or purporting to be made or signed by or on behalf of any person or by the public officer of any company for the purposes of this Act shall, for all purposes, be deemed to be duly signed by the person or by the public officer of the company affected, as the case may be, unless such person or public officer proves that such return was not made or signed as aforesaid.

PART VIII.—  
MISCELLANEOUS.

(11.) The onus of proof that any land is exempt from or not liable to payment of land tax, or is subject or entitled to any deduction, shall lie on the person claiming the benefit of such exemption, non-liability, or deduction.

\*(12.) If an owner of land has made a return stating that he was the owner of land on a certain day, and has not subsequently notified the Commissioner of the sale or disposal of that land, the production of the said return or of a copy thereof certified by the Commissioner to be a correct copy shall be *prima-facie* evidence in any proceedings that he is still the owner of that land, and the Commissioner shall not be required to produce any evidence other than such return or certified copy to prove that the person making the return is still the owner of the land.

59. (1.) If any act, matter, or thing prescribed to be made or done at or within a fixed time cannot be or is not so made or done, the Governor in Council may, by Order in Council from time to time, appoint a further or other time for making or doing the same, whether the time or any such further or other time within which the same ought to have been done has or has not elapsed or expired.

Governor in Council may extend time for doing acts.  
2 Edw. VII. No. 10, s. 82.

(2.) Any act, matter; or thing made or done within the time or further or other time appointed by such Order shall be as valid as if it had been made or done within the time prescribed.

60. (1.) The Governor in Council may from time to time make Regulations with respect to all or any of the following matters, that is to say:—

- (i.) The duties of officers and persons appointed or employed under this Act or engaged in its administration, and, if necessary, the districts or places within or at which they are to act; Duties of officers.
- (ii.) The forms of books, assessment-registers, notices, certificates, and instruments mentioned in this Act, or necessary to give effect thereto; fixing fees to be paid for copies of or extracts from any such books, registers, or writings; Forms.
- (iii.) The forms of returns to be furnished to the Commissioner and the contents thereof, and by whom the same shall be made, and the time and mode of making and furnishing the same; Returns.
- (iv.) Fixing dates upon which returns shall be sent in, assessment notices shall be given, and payments of land tax shall be made, and for the doing or performance of any other act, matter, or thing necessary to give effect to this Act; Times.

\* Subsection inserted by section 18 of the Amending Act of 1922.

PART VIII.—  
MISCEL-  
LANEOUS.  
Allowances  
and refunds.

Appeals.

Agents for  
foreign  
companies  
and  
absentees.

Generally.

Penalties.

- (v.) Providing that, for avoiding duplicate taxation in any case in respect of the same period, the Commissioner may make such allowance or refund as he thinks just, and in such manner as may be prescribed;
- (vi.) The procedure to be observed in the conduct and hearing of appeals before the Court of Appeal;
- (vii.) The manner and form of obtaining, adjusting, and settling returns from, by, or with any agent in Queensland of a foreign company or absentee, and prescribing such particulars and such proof as may be thought fit, and for the purpose of making, completing, and enforcing assessments of the land tax of any foreign company or absentee;
- (viii.) Providing, where there is in this Act no provision or no sufficient provision in respect of any matter or thing necessary to give effect to this Act, in what manner and form the want of provision or insufficient provision shall be supplied; providing for any purposes, whether general or to meet particular cases, that may be convenient for the administration of this Act, or that may be desirable or necessary to carry out the objects and purposes hereof;
- (ix.) Imposing a penalty not exceeding fifty pounds for any breach of any Regulation.

(2.) All such Regulations shall be published in the *Gazette*, and when so published shall be of the same effect as if they were contained in this Act, and shall be judicially noticed, and shall be laid before Parliament within fourteen days after the same have been published if Parliament is then sitting, or, if not, then within fourteen days after the next meeting of Parliament.

9 GEO. V.  
No. 3.  
THE LAND  
TAX ACT  
AMENDMENT  
ACT OF 1918.

An Act to Amend "The Land Tax Act of 1915" by Imposing a Super Tax on the Unimproved Value of certain Land and Amending Section 11 thereof in a certain particular.

[ASSENTED TO 6TH SEPTEMBER, 1918.]

**B**E it enacted by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of Queensland in Parliament assembled, and by the authority of the same, as follows:—

Short title  
and  
construction  
of Act.

1. This Act may be cited as "*The Land Tax Act Amendment Act of 1918*," and shall be read as one with \*"*The Land Tax Act of 1915*," herein referred to as the Principal Act.

†2 and 3.

\* 6 Geo. V. No. 34, *supra*.

† Section 2 enacted section 9A of the Principal Act, and section 3 amended section 11 of the Principal Act, and was itself repealed by section 5 of the Amending Act of 1922.

An Act to Further Amend "The Land Tax Act of 1915"  
in certain particulars.

10 GEO. V.  
No. 25.  
THE LAND  
TAX ACT  
AMENDMENT  
ACT OF 1920.

[ASSENTED TO 8TH MARCH, 1920.]

**B**E it enacted by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of Queensland in Parliament assembled, and by the authority of the same, as follows:—

1. This Act may be cited as "*The Land Tax Act Amendment Act of 1920*," and shall be read as one with \*"*The Land Tax Act of 1915*," herein referred to as the Principal Act.

Short title  
and  
construction  
of Act.

†2 to 11.

An Act to Amend the Land Tax Acts in certain  
particulars.

13 GEO. V.  
No. 3.  
THE LAND  
TAX ACT  
AMENDMENT  
ACT OF 1922.

[ASSENTED TO 7TH AUGUST, 1922.]

**B**E it enacted by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Assembly of Queensland in Parliament assembled, and by the authority of the same, as follows:—

1. This Act may be cited as "*The Land Tax Act Amendment Act of 1922*," and shall be read as one with \*"*The Land Tax Act of 1915*," herein referred to as the Principal Act.

Short title  
and  
construction  
of Act.

†2 to 18.

19. The amendments of the Principal Act made by this Act shall have effect with respect to all land owned on and after the thirtieth day of June, one thousand nine hundred and twenty-two.

Operation of  
amend-  
ments.

\* 6 Geo. V. No. 34, *supra*.

† Section 2 amended section 9; section 3 amended section 11; section 4 amended section 18; section 5 amended section 19; section 6 amended section 20; section 7 amended section 24; section 8 amended section 25; section 9 amended section 27; section 10 amended section 28; and section 11 amended section 30 of the Principal Act.

‡ Section 2 amended section 3 of the Principal Act; section 3 amended section 2 of the Act of 1920; section 4 amended section 9A of the Principal Act; section 5 amended section 11 of the Principal Act and repealed section 3 of the Act of 1918; section 6 amended section 13; section 7 amended section 14; section 8 enacted section 14A; section 9 amended section 16; section 10 amended section 19; section 11 amended section 20; section 12 amended section 24; section 13 enacted section 26A; section 14 enacted section 43A; section 15 amended section 46; section 16 amended section 48; section 17 amended section 56; and section 18 amended section 58 of the Principal Act.



## Queensland.



### INCOME TAX.

An Act to further Amend "The Income Tax Act of 1902" in certain particulars.

14 Geo. V.  
No. 42.  
THE INCOME  
TAX ACT  
AMENDMENT  
ACT OF 1923.

[ASSENTED TO 23RD NOVEMBER, 1923.]

**B**E it enacted by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Assembly of Queensland in Parliament assembled, and by the authority of the same, as follows:—

1. This Act may be cited as "*The Income Tax Act Amendment Act of 1923*," and shall be read as one with \*"*The Income Tax Act of 1902*" and its several amendments (herein collectively referred to as the Principal Act).

2. In the definition of "Income derived from personal exertion" in section three of the Principal Act, after the words "trust estate" the words "the term does not include interest on money unless the taxpayer's principal business consists of the lending of money, or rents" are inserted.

Also, in the definition of "Net income," after the words "two hundred" the words "and fifty" are inserted.

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\* 2 Edw. VII. No. 10 and Amending Acts.

Amendment  
of s. 7.

3. The following amendments are made in section seven of the Principal Act:—

(1.) In subparagraph (a) of paragraph (iv.) of subsection one, the figures “£200” are repealed and the figures “£250” are inserted in lieu thereof.

(2.) In subparagraph (b) of the said paragraph (iv.), the figures “£200” wherever they occur are repealed and the figures “£250” are inserted in lieu thereof; also all words from and including “The amount of £200” to the end of the paragraph are repealed and the following words are inserted in lieu thereof:—“The amount of £250 shall be exempt if the net income does not amount to more than £252. The amount of £249 shall be exempt if the net income is £253 and the amount of exemption shall be reduced by £1 for each £3 of the net income in excess of £253, so that there shall not be any exemption if the net income is £1,000. In deducting the amount of such exemption the income derived from the produce of property, if any, shall be first resorted to.”

(3.) In subsection three, the words “except where otherwise expressly provided” are repealed; also in subparagraph (ii.) after the words “Of all reserves” the words “(including in such reserves all amounts standing to the credit of profit and loss account)” are inserted; also the word “and” which follows the words “invested in the assets of the business” is repealed and the words “which were” are inserted in lieu thereof; also, after the words “has been so paid” the following words are inserted:—

“For the purpose of giving effect to this subsection, the Commissioner shall calculate the average value of the assets so used or of the total assets, as the case may be, by adding the value of such assets or total assets, as the case may be, at the beginning of the year to the value of such assets or total assets, as the case may be, at the end of such year and dividing the result by two.”

(4.) Paragraph (iii.) of subsection seven is repealed.

(5.) In paragraph (b) of subsection eight, the words “and the payment of interest from time to time accruing on such debentures” are repealed.

4. After section seven of the Principal Act the following sections are inserted:—

Definition.

“[7A.] In sections 7B and 7C hereof, “loan” includes a conversion loan and a loan raised for the redemption or repayment of an existing loan.”

1923.

*Income Tax Act Amendment Act.*

[7B.] Notwithstanding anything contained in any State Act, the interest on any loan raised after the date of the coming into operation of this section, by the State, or by any authority constituted by or under any State law, shall be subject to income tax, and for the purpose of that taxation shall be deemed to be part of the income of the respective persons to whom the interest is payable.

Liability of interest on State loans to income tax.

This section shall come into operation on a date to be fixed by the Governor in Council by Proclamation published in the *Gazette*.

[7C.] (1.) Subject to subsection two of this section, the interest accruing on loans raised in Queensland, after the thirty-first day of December, one thousand nine hundred and twenty-three, by the Government of any Country or Dominion outside the Commonwealth or by any authority constituted by or under any law of any such Country or Dominion, shall be subject to income tax in the same manner as if it were income derived from a source within Queensland.

Liability of interest on foreign loans to tax.

(2.) Subsection one of this section shall not apply in relation to any interest unless either—

- (a) The interest is received directly or indirectly by a person resident in Queensland; or
- (b) The person to whom the interest is paid or credited is, apart from this section, a taxpayer within the meaning of this Act.

(3.) For the purposes of this section a loan shall be deemed to have been raised in Queensland if subscriptions to the loan were invited in Queensland by public advertisement, by the issue of a prospectus, or otherwise."

5. In section nine of the Principal Act the figures "£200" wherever they occur are repealed, and the figures "£250" are respectively inserted in lieu thereof.

Amendment of s. 9.

6. In paragraph (vii.) of section thirteen of the Principal Act, after the word "Australia" the words "Provided that this exemption shall not extend to income so arising or accruing as interest on any State loan or Commonwealth loan in cases where by this Act or any enactment of the Parliament of the Commonwealth in force interest on any such loan is made chargeable with the payment of income tax" are inserted.

Amendment of s. 13.

*Income Tax Act Amendment Act.* 14 GEO. V. No. 42,

Amendment  
of s. 14.

7. The following amendments are made in section fourteen of the Principal Act :—

(1.) In subsection one under heading (I.), the words “whether or not arising or accruing from any business carried on by the taxpayer where such real property was purchased or acquired by him during the year in which the sale took place or the six years prior thereto” are repealed and the following words are inserted in lieu thereof :—

“(i.) In connection with any business carried on by the taxpayer ; or

(ii.) In all other cases where such real property was purchased or acquired by him during the year in which the sale took place or the six years prior thereto.”

Also, before the proviso thereto the following proviso is inserted :—

“Provided that if any standing crop is sold with a property, any profit derived from the sale of such crop shall be taxable irrespective of the number of years during which the property was owned by the vendor.”

Also, after the word “provided” in the proviso thereto the word “further” is inserted.

(2.) After subsection two under heading (I.), the following subsection is inserted :—

“(2A.) For the purpose of the foregoing subsections one and two under this heading (I.) the cost to the vendor of property sold (other than a growing crop, stock-in-trade or live stock) which has been acquired by the vendor as a beneficiary or as an executor or administrator in the estate of a deceased person, shall be deemed to be the cost price of such property to such deceased person, and the date on which such property was purchased or acquired by such deceased person shall be taken for the purposes of this Act to be the date on which such beneficiary, executor, or administrator, purchased or acquired such property.”

(3.) Subsection five under heading (I.) is repealed and the following subsection is inserted in lieu thereof :—

“(5.) Five per centum of the capital amount of a retiring allowance or gratuity paid in a lump sum.”

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*Income Tax Act Amendment Act.*

(4.) The following amendments are made in subsection seven under heading (I.) :—

In paragraph (a) the words “or to any beneficiary under any will or in the distribution of an intestate estate; or” are repealed.

Paragraph (b) is repealed, and the following paragraph is inserted in lieu thereof :—

“(b) The transfer to any beneficiary under any will or in the distribution of an intestate estate or the taking over by an executor or administrator on the death of a taxpayer of any live stock and produce owned by a taxpayer, who, up to the date of his death, had taken advantage of the provisions of section twenty-two of this Act.”

Also, the words “subparagraph (a) or (b) or (c)” are repealed, and the words “subparagraph (a) or (c)” are inserted in lieu thereof; also, after the words “and in the case of live stock” the words “to which subparagraph (b) refers” are inserted.

(5.) The following proviso is inserted at the end of subsection two under heading (II.) :—

“Provided further that if the consideration aforesaid received is received by a beneficiary, executor, or administrator in the estate of a deceased person, such beneficiary, executor, or administrator shall be entitled to all allowances to which such deceased person would under this subsection have been entitled if he had been alive.”

(6.) Subsection four under heading (II.) is repealed.

(7.) Subsection six under heading (II.) is repealed.

8. The following amendments are made in subsection one of section fifteen of the Principal Act :— <sup>Amendment of s. 15.</sup>

(1.) In paragraph (iii.) the words “and any interest actually paid by him in that year on any mortgage of his residence” are repealed.

(2.) In paragraph (v.), the word “twenty-six” wherever it occurs (except the word “twenty-six” after the words “If the income of a wife does not exceed”) is repealed and the word “forty” is respectively inserted in lieu thereof.

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*Income Tax Act Amendment Act.* 14 GEO. V. No. 42,

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(3.) In paragraph (viii.), the words "the life of any of his children or his own life" are repealed and the words "his own life or that of his wife or children" are inserted in lieu thereof.

(4.) In paragraph (x.) the proviso is repealed.

(5.) In paragraphs (x.) and (xi.), the word "including" is repealed and the word "excluding" is respectively inserted in lieu thereof.

(6.) After paragraph (xxiii.) the following paragraph is inserted:—

“(xxiv.) So much of the gross income which is not exempt from tax as is paid in calls on shares in a mining company or syndicate carrying on mining operations in Queensland for gold, silver, base metals, rare minerals, or oil, or in any company or syndicate carrying on afforestation as its principal business.”

Amendment  
of s. 17.

9. In section seventeen of the Principal Act the last paragraph is repealed.

10. After section seventeen of the Principal Act the following section is inserted:—

Co-operative  
companies,  
&c.

“[17A.] (1.) In any case where, for the purpose of ensuring regularity of price or for the purpose of distribution amongst its producing shareholders, a co-operative company dealing with butter, cheese, bacon, fruit, or wheat, or any other primary products used for food purposes, distributes, within nine months after the close of any year for which such company makes a return of income, any profits made during that year, such company shall not be liable to pay income tax on the amount of such profits so distributed for such purpose.

(2.) In any case where a Primary Producers' Co-operative Association or Primary Producers' Co-operative Federation, registered under \**The Primary Producers' Co-operative Associations Act of 1923*,” distributes or transfers to a reserve fund, within nine months after the close of any year for which such registered Association or Federation makes a return of income, any profits made during that year, such registered Association or Federation shall not be liable to pay income tax on the amount of such profits so distributed or transferred :

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\* 14 Geo. V. No. 45.

1923.

*Income Tax Act Amendment Act.*

Provided that nothing contained in this section shall exempt any shareholder or member from payment of tax on any amounts received by him in cash or in shares by way of distribution of profits."

11. In section twenty-one of the Principal Act, the words "But additions to stock resulting from natural increase shall be reckoned in their first year as being equal to one-fourth of the then value put upon the same class of full grown stock" are repealed and the following words are inserted in lieu thereof:—"For the purpose of this section "value" in the case of live stock means such value or values as may be determined from time to time by the Commissioner."

12. In paragraph (ii.) of section thirty-four of the Principal Act, the words "may pay to the Commissioner" are repealed and the words "shall pay to the Commissioner" are inserted in lieu thereof.

13. In section fifty-four of the Principal Act, the words "of ten per centum of the amount of tax assessable to him" are repealed and the words "at the rate of ten per centum per annum upon the amount of tax assessable to him, to be computed from the date on which such return or information was due till the date on which such return or information was received by the Commissioner" are inserted in lieu thereof.

14. Section sixty-six of the Principal Act is repealed and the following section is inserted in lieu thereof:—

"[66.] If any income tax remains unpaid at the expiration of the due date, additional tax shall be payable at the rate of ten per centum per annum upon the amount of tax unpaid, to be computed from the expiration of the due date till the date of payment:

Provided that the Commissioner may in any particular case, for reasons which in his discretion he thinks sufficient, remit the additional tax imposed or any part thereof:

Provided further that the Commissioner may extend the time for payment of any tax on such terms as he considers reasonable."

15. After subsection three of section seventy-seven of the Principal Act, the following subsection is inserted:—

"(3A.) Any person who after conviction for an offence against this Act continues to commit any act or be guilty

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*Income Tax Act Amendment Act.* 14 GEO. V. No. 42, 1923.

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of any failure or default in respect of which he was convicted, shall be liable to a penalty of not less than fifty pounds nor more than five hundred pounds."

Amendment  
of s. 78.

**16.** In subsection two of section seventy-eight of the Principal Act, after the words "two hundred" the words "and fifty" are inserted.

Periods of  
assessment.

**17.** The first period for which assessments of income shall be made under the Principal Act as amended by this Act shall commence on the first day of July, one thousand nine hundred and twenty-two and end on the thirtieth day of June, one thousand nine hundred and twenty-three, and all subsequent annual periods shall be reckoned from that period, and to that extent this Act shall have retrospective operation, to the intent that the Principal Act as amended by this Act shall apply to all incomes for the first period commencing and ending as aforesaid, and for every subsequent annual period, and to the assessment, levy, payment, and recovery of tax thereon.



Queensland.



LOCAL AUTHORITIES.

An Act to Amend \**The Local Authorities Acts, 1902-1922* in certain particulars, and to Repeal †*The Undue Subdivision of Land Prevention Act of 1885*, and for other consequential purposes.

14 Geo. V.  
No. 25.  
THE LOCAL  
AUTHORITIES  
ACTS  
AMENDMENT  
ACT OF 1923.

[ASSENTED TO 12TH NOVEMBER, 1923.]

BE it enacted by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Assembly of Queensland in Parliament assembled, and by the authority of the same, as follows:—

(6)c

1. This Act may be cited as "*The Local Authorities Acts Amendment Act of 1923*," and shall be read as one with \**The Local Authorities Acts, 1902-1922*," herein collectively referred to as the Principal Act.

Short title  
and  
construction  
of Act.

2. The following amendments are made in section seven of the Principal Act:—

Amendment  
of s. 7.

(1.) Before the definition of "Animals" the following definition is inserted:—

"Alignment"—The boundary line between any road and any land abutting thereon.

Alignment.

(2.) The definition of "Elector" is repealed, and the following definition is inserted in lieu thereof:—

"Elector"—A person named as such in an Electoral Roll compiled pursuant to ‡*The Elections Act of 1915* and enrolled on a Voters' Roll compiled under this Act or on an Electoral Roll in use in an undivided area as a Voters' Roll.

Elector.

(3.) The words "the term includes any road with the meaning of §*The Diseases in Stock Act of 1915*" any Act amending or in substitution for that Act" added to the definition of "Road."

• 2 Edw. VII. No. 19 and Amending Acts.

† 49 Vic. No. 15.

‡ 6 Geo. V. No. 13.

§ 6 Geo. V. No. 16.

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(4.) After the definition of "Structure" the following definition is inserted:—

Subdivision,  
&c.

" "Subdivision," "subdivide," and similar expressions mean and refer to dividing land into parts, whether the dividing is—

- (a) By sale, conveyance, transfer, or partition; or
- (b) By any agreement dealing or instrument *inter vivos* (other than a lease for any term not exceeding five years without right of renewal) rendering different parts thereof immediately available for separate disposition or separate occupation; or
- (c) By procuring the issue of a certificate of title under \**"The Real Property Acts, 1861 to 1887,"* in respect of a part of the land."

(5.) The following provision is added to the section:—

Width of  
road.

"The width of a road shall be ascertained by measuring at right angles to the course thereof from the alignment on each side of the road."

Amendment  
of s. 12.

3. The following subsection is added to section twelve of the Principal Act:—

"(4.) Provided further that in any case where at least thirty-five per centum of all the electors, a poll of whom was taken, have voted at such poll, the Governor in Council may by Order in Council direct that no action shall be taken by the Local Authority contrary to the wishes of the electors as so ascertained for such period of time as may be fixed by such Order or until by the taking of another poll on the same question under this section it is ascertained that the electors have changed their wishes."

Amendment  
of s. 13.

4. In the third paragraph of subsection one of section thirteen of the Principal Act, after the word "members" the words "including the Mayor" are inserted.

In the third paragraph of subsection two of the said section, after the word "members" the words "including the Chairman" are inserted.

1923.

*Local Authorities Acts Amendment Act.*

5. Section fifteen of the Principal Act is repealed and the following section is inserted in lieu thereof:—

Amendment  
of s. 15.

“[15.] Any person, whether male or female, who is not under any of the disabilities hereinafter specified, and who under this Act is qualified to be enrolled for any Area in Queensland, shall be qualified to be nominated as a candidate and to be elected or appointed and to act as Chairman or a member of the Local Authority of any Area within Queensland, but only so long as he continues to hold such qualification.

At any election in a divided area a person shall not be qualified to be a candidate for the office of Chairman and also for the office of ordinary member.”

6. Subsection four of section seventeen of the Principal Act is repealed.

Amendment  
of s. 17.

7. Section nineteen of the Principal Act is repealed and the following section is inserted in lieu thereof:—

Amendment  
of s. 19.

“[19.] If the Area is not divided, the members, including the Chairman, shall be elected by the electors of the Area, and the member who at the election receives the greatest number of votes shall be the Chairman. If the member who receives the greatest number of votes before acting as Chairman resigns that office without resigning the office of member, or if no poll was required to be taken, the Local Authority shall, at its first meeting or some adjournment thereof, appoint a member to be Chairman.

In a divided Area the Chairman shall be elected by the electors of the whole Area, and the other members shall be elected for each division by the electors of such division.”

8. Section twenty-one of the Principal Act is repealed, and the following section is inserted in lieu thereof:—

Amendment  
of s. 21.

“[21.] (1.) For the purpose of every triennial election it shall be the duty of the Returning Officer to compile a Voters' Roll for the Area or each division, as the case may require, and in doing so he shall observe the following rules:—

- (i.) The Voters' Roll shall consist of the names of all electors enrolled up to the immediately preceding thirty-first day of December on

*Local Authorities Acts Amendment Act. 14 GEO. V. No. 25,*

the Electoral Roll or Rolls of the Electoral District or Districts comprised within the Area or Division, as the case may be ;

- (ii.) The Voters' Roll shall be in the form prescribed for the said Electoral Rolls, and shall be a correct alphabetical roll showing the names, numbered in regular arithmetical order, beginning with one, of all electors :

Provided that in an undivided Area the Returning Officer shall, wherever practicable, use the Electoral Roll or Rolls (as compiled up to the immediately preceding thirty-first day of December) of the Electoral District or Districts comprised within the Area as the Voters' Roll for such Area, with such eliminations from or corrections in such Electoral Roll or Rolls as may be necessary in consequence of the boundaries of the Area not being conterminous with such Electoral District or Districts, and in such case the preparation of a separate Voters' Roll in the form prescribed by the foregoing provisions of this subsection shall not be necessary.

(2.) The Returning Officer shall furnish copies of the Voters' Roll (or of any Electoral Roll or Rolls to be used as a Voters' Roll) to any person requiring them, on payment of a sum not exceeding one shilling for every copy thereof.

(3.) Electoral Registrars throughout the State shall, upon the application of a Returning Officer under this Act, place their rolls and all papers, documents, and information in their possession at the disposal of such Returning Officer, and shall advise and furnish such assistance to such Returning Officer as may be reasonably required to facilitate the preparation of Voters' Rolls or the use of Electoral Rolls as Voters' Rolls."

Amendment  
of s. 22.

9. In subsection two of section twenty-two of the Principal Act, the word "March" is repealed and the word "April" is inserted in lieu thereof.

Amendment  
of s. 24.

10. Section twenty-four of the Principal Act is repealed, and the following section is inserted in lieu thereof :—

Extra-  
ordinary  
vacancy.

"[24.] When any extraordinary vacancy arises in the office of Chairman or member the Local Authority shall, at a special meeting called for the purpose, appoint a qualified person to be Chairman or member in his stead.

1923.

*Local Authorities Acts Amendment Act.*

If a sitting member is appointed to be Chairman to fill an extraordinary vacancy, he shall forthwith vacate his office as member, whereupon an extraordinary vacancy in that office shall arise, and the Local Authority shall appoint a qualified person to be a member in his stead.

If after the expiration of fourteen days from the time appointed for the special meeting as aforesaid no Chairman or member, as the case may be, is appointed, the Governor in Council may appoint a qualified person to fill such vacancy :

Provided that before the expiration of such time, on the request in writing under their hands of an absolute majority of the members so to do, the Governor in Council may appoint a qualified person to fill such vacancy.

A person appointed under this section to fill any extraordinary vacancy shall, subject to this Act, hold office for the remainder of the period for which his predecessor was elected or appointed."

**11.** The following provision is added to section twenty-seven of the Principal Act :— Amendment of s. 27.

"The Governor in Council shall appoint some person to carry on until the first meeting of the new Council all works authorised or commenced before the dissolution of the Council, and to pay all expenses connected therewith and all administration and office expenses ; and for this purpose such person shall, until that meeting, be deemed to be the Local Authority, and may exercise all the powers thereof."

**12.** In section thirty-two of the Principal Act, after the words "Local Authority" the words "or Joint Local Authority" are inserted ; and after the words "Local Fund" the words "or Common Fund" are inserted. Amendment of s. 32.

**13.** The following provision is added to section forty-four of the Principal Act :— Amendment of s. 44.

"From and after a date to be fixed in that behalf by the Governor in Council, by Order in Council published in the *Gazette*, it shall not be competent for any Local Authority to appoint as Clerk any person who is not the holder of a certificate granted under the foregoing regulations : Provided that nothing in this

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provision shall apply to the continuance in office as Clerk by a Local Authority of any person who is not the holder of such certificate."

Amendment  
of s. 57.

14. In section fifty-seven of the Principal Act, all words after the words "within the Area" to the end of the said section are repealed.

15. After section fifty-seven of the Principal Act the following sections are inserted:—

Classifica-  
tion of  
roads.

"[57A.] (1.) Roads shall be classified by the Local Authority in relation to the use which they are required to serve.

(2.) The classification of roads shall be as follows:—

- (a) Principal roads ;
- (b) Secondary roads ;
- (c) Residential roads, being roads primarily for access to residences ;
- (d) Lanes, being roads primarily for access to the back of premises ;
- (e) Pathways, being roads exclusively for foot-passengers and such classes of vehicles drawn or propelled by foot-passengers as may be prescribed.

(3.) The provisions of this Act with respect to the classification of roads shall, unless inconsistent with the context, be deemed to include alteration of classification and reclassification.

Minimum  
standard  
width of  
roads.

[57B.] (1.) There shall be a minimum standard width for each class of roads, that is to say—

- (a) For a principal road, eighty feet ;
- (b) For a secondary road, sixty-six feet ;
- (c) For a residential road, sixty-six feet ;
- (d) For a lane, twenty-two feet ;
- (e) For a pathway, twelve feet.

(2.) In the case of a road in existence on the first day of January, one thousand nine hundred and twenty-four, the fact that the road is less than the minimum standard width for a particular class shall not preclude it from being assigned to that class.

1923.

*Local Authorities Acts Amendment Act.*

[57c.] (1.) Subject to this Act every new road shall— New roads opened.

- (a) Be classified before it is opened ; and
- (b) Be opened to or beyond the minimum standard width for its class.

(2.) Provided that in the case of a new residential road the Local Authority may, on such terms as it deems proper, permit the opening of a residential road of less than the minimum standard width :

But any such residential road shall not have less space than four feet for a footway on each side and fourteen feet between the footways, together with such turning and passing places of additional width for vehicles as the Local Authority may determine.

[57d.] (1.) The Local Authority shall cause to be prepared a road map and road register of the Area. Road map and register.

- (2.) The road map shall show—
  - (a) Every road ; and
  - (b) Every such road which has been classified or aligned, or the levels of which have been fixed ; and
  - (c) The classification of the roads classified.
- (3.) The road register shall show—
  - (a) Every road ; and
  - (b) Every such road which has been classified or aligned, or the levels of which have been fixed ; and
  - (c) Full particulars of the classification, alignment, and levels as fixed from time to time.

(4.) The said map and register may contain such other particulars as may be prescribed or as the Local Authority may determine.

(5.) From time to time as new roads are opened, or as roads are classified, or as unaligned roads are aligned, or as levels are fixed, these facts shall be shown and entered upon the said map and register.

(6.) The said map and register shall be open to inspection.

(7.) Upon application and payment of the prescribed fee, any person may obtain from the Local Authority a copy of or extract from the said map or register, or a certificate under the hand of the proper officer of the Local

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Authority as to the classification, alignment, or levels of any road, or as to the fact that the classification, alignment, or levels has or has not been fixed.

(8.) This section shall apply only to Cities and Towns: Provided, nevertheless, that the Governor in Council may at any time, by Order in Council, apply the whole or any specified part of this section to any Shire or specified part of a Shire.

Powers as  
to roads.

[57E.] (1.) Without limitation of any other power conferred by this Act the Local Authority may—

- (a) Make surveys for a new road;
- (b) Open and construct a new road;
- (c) Increase the width of a road to any width deemed necessary;
- (d) Divert a road;
- (e) Cause to be raised or lowered the soil of a road;
- (f) In any case where a rearrangement of roads has been made in any locality in a City or Town (or in any locality in a Shire to which the provisions of this paragraph have been extended by Order in Council), close, with the approval of the Governor in Council, any existing road which is no longer required; and thereupon, notwithstanding any other Act to the contrary, the land comprised in such road so closed shall become vested in the Local Authority and may be sold or otherwise dealt with by it, and the proceeds of any such sale or other dealing shall be paid into the Local Fund;
- (g) For such purposes and for such time as may be necessary, temporarily close any road.

(2.) The power of the Local Authority to provide any road shall include the power to provide—

- (a) Any bridge, causeway, or other work over any water or depression crossing the line of the road; and
- (b) Any ferry, ford, or other work over water crossing the line of the road.”

Amendment  
of s. 59.

**16.** In section fifty-nine of the Principal Act, after the word “aqueducts” the words “aviation stations”



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are inserted; also, after the words "rubbish depots" the words "saleyards for the sale of animals" are inserted.

17. After section 59A of the Principal Act, the following section is inserted:—

"[59B.] Notwithstanding the provisions of any other Act, where the Local Authority has, after the passing of "*The Local Authorities Act Amendment Act of 1923*," entered into an agreement to take or acquire any estate or interest of any person in any land required, and in such case the compensation made or to be made has been agreed on between the Local Authority and such person and is of the amount or value of one thousand pounds or upwards, no such agreement shall have any force or effect or be binding upon the parties until the same, setting forth the true and full compensation which has been made or is agreed to be made to such person in respect of such taking or acquirement, has first been submitted to the Minister for his approval, and the Minister, notwithstanding any such agreement or that the compensation agreed upon has been made by the Local Authority to such person, may, in his discretion, require that the compensation to be made for such taking or acquirement shall be left to be determined under \*"*The Public Works Land Resumption Acts, 1906 to 1917*," and upon such requirement such compensation shall be determined accordingly, and may be determined at an amount or value less than one thousand pounds, and the compensation so determined shall be the compensation to be made for such taking or acquirement; and if compensation has already been made pursuant to any such agreement and is less than the compensation so determined, the Local Authority shall pay over the balance due to such person, and if the compensation so made is more than the compensation so determined, such person shall refund the excess to the Local Authority."

Resumption  
agreements  
to be  
approved by  
Minister.

18. Section eighty-three of the Principal Act is repealed, and the following sections are inserted in lieu thereof:—

Widening of  
roads.

"[83.] (1.) Without limitation of any other power conferred by this Act, the Local Authority may increase the width of any road by including in the carriage-way

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the whole or a part of the footway, and acquiring from an owner of abutting land the whole or a part of a new footway, subject (if deemed proper) to any reservation of all or any of the rights hereunder specified in favour of such owner.

(2.) Any land required for widening a road in accordance with this section may be acquired subject to a reservation of such of the following rights in favour of the owner as the Local Authority may at or before the time of acquisition determine, that is to say—

- (a) A right to the ownership, possession, occupation, and use of any existing building room or cellar, so far as the same is at a specified height or depth above or below the level of the new footway, and subject to the right of the Local Authority to make such structural alterations thereof as may be deemed necessary by it;
- (b) A right to erect any building in accordance with this Act at a specified height above the level of the new footway and extending thereover, and to own, possess, occupy, and use the same;
- (c) A right of support for any structure as mentioned in paragraph (a) or paragraph (b) of this subsection.

Realign-  
ment.

[83A.] (1.) The Local Authority may cause any aligned road to be realigned in order to widen the road.

Any realignment under this section may be carried into effect—

- (a) By the acquisition of the necessary land; or
- (b) Under the next succeeding subsection hereof.

(2.) The Local Authority may serve notice upon the owners of lands affected by the realignment; until such notice is served the interests of such owners shall not be affected by the realignment.

After such notice has been given the owner of any land or building or work affected by the realignment shall not construct, build, place, reconstruct, rebuild, replace, or repair any building or work or portion of a building or work standing upon the land between the old alignment and the new:

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Provided that the Local Authority may approve of the execution of minor and not substantial repairs in order to permit of the reasonable preservation of any existing building or work.

The land between the old alignment and the new shall not be taken by the Local Authority or form part of the road unless or until such land has been cleared of buildings and structures and the Local Authority has compensated the owners and occupiers, as next hereinafter provided, for any injurious effects as hereinafter provided, but upon making such compensation the land in respect of which it has been made shall forthwith be deemed to be dedicated as part of the road.

Compensation for any injurious effects suffered by reason of the realignment may be claimed, but shall be limited to payment of the value of the land taken by reason of the realignment, and such value shall be ascertained and such compensation shall be payable as of the date when such land is cleared of buildings and structures by the owner or occupier, whether for the purpose of rebuilding to the new alignment or not.

(3.) Nothing herein shall be construed to prevent the Local Authority from at any time purchasing or resuming any or all of the lands affected by the realignment.

[83B.] The Local Authority may control and regulate, and may undertake—

- Local Authority may regulate the roads, subdivisions, &c.
- (a) The planning of new roads and subdivisions;
  - (b) The rearrangement of existing roads and of parcels of land taken or acquired by it;
  - (c) The improvement and embellishment of the Area.

[83c.] (1.) A new road shall not be opened by any private person or company, and land shall not be subdivided by any private person or company except in accordance with this Act.

New roads and subdivisions by private persons.

(2.) For the purposes of this section any road which does not give access at both ends to either a principal road, secondary road, or residential road, shall be deemed to be a blind road.

Blind road.

(3.) A road other than a pathway shall not be opened as a blind road—

Opening blind roads.

- (a) Unless there is also provided at least one pathway to give access from the blind end into a principal road, secondary road, or residential road; or

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- (b) Unless such road gives access at its blind end to a railway station, wharf, reserve, river-bank, lake, sea-beach, or the shore of any tidal water; or
- (c) Except where, in exceptional circumstances, the Local Authority approves.

A pathway shall not be opened as a blind road unless one end communicates with a principal road, or secondary road, or residential road, and the blind end gives access to a railway station, wharf, reserve, river-bank, lake, sea-beach, or the shore of any tidal water.

Junctions.

(4.) At any junction or intersection made by opening any road, the person opening the road shall make provision for the planning of the corners formed at such junction or intersection to the satisfaction of the Local Authority, in such manner as will facilitate the flow of traffic:

Provided that nothing in subsections three and four hereof shall apply where the land is not within a township or within a shire or division of a shire declared by the Governor in Council to be a residential district.

Number of houses in residential district.

(5.) The Local Authority may, with respect to any residential district or other specified part of the Area approved by the Governor in Council in that behalf, fix the number of houses per acre which shall be the maximum standard number permitted in any future subdivision of land within that district or part of the Area:

Provided that the standard number of houses shall be so fixed as to provide a minimum area for each house of sixteen perches.

In ascertaining the area for the purpose of applying such standard, the whole area of the land proposed to be subdivided, including any proposed roads, reserves, open spaces, and the like, shall be embraced.

In any subdivision made after a maximum standard number of houses per acre has been fixed, there shall not be a greater number of separate parcels per acre than the maximum standard number so fixed: Provided that in any particular case of subdivision the Local Authority may vary the maximum standard number where by agreement with the Local Authority special provision is made for roads, reserves, open spaces, and the like.

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Until a residential district has been declared by the Governor in Council, as hereinafter provided, or other specified part of the Area has been approved by the Governor in Council as aforesaid, and until a maximum standard number of houses per acre has been fixed within such district or part of the Area, no map or plan of subdivision of land in which any allotment or portion of such land is shown as of less area than sixteen perches shall be approved or registered; and not more than one house shall, after the passing of "*The Local Authorities Acts Amendment Act of 1923*," be erected or rebuilt or re-erected or be substantially rebuilt or re-erected on an allotment or portion of land unless with the approval of the Local Authority.

(6.) A road shall not be opened, and, in a case where a subdivision provides for the opening of a road, land shall not be subdivided, until—

Preliminary  
to opening  
road, &c.

- (a) An application in respect thereof, accompanied by plans and specifications thereof (which plans of a subdivision, if the Local Authority so requires, shall show the contours of the land and all known flood levels) has been approved under this Act; and
- (b) The roads have been constructed and drained to the satisfaction of the Local Authority in accordance with the approved application, plans, and specifications, and with any conditions attached to any such approval; and
- (c) The applicant has placed in the road permanent survey marks in the position and manner and of the character required by the Local Authority; and
- (d) The clerk has certified to the applicant that the requirements of this Act, other than the requirement for the registration of plans, have been complied with; and
- (e) A plan of the road or of any subdivision containing the road (such plan bearing the signatures of all necessary parties, a statement containing such particulars as may be necessary to identify the title to the land comprised in such plan, and a notation of approval under the seal of the Local Authority

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and being accompanied by the aforesaid certificate) has been registered in the office of the Registrar of Titles.

Works of  
drainage, &c.

(7.) Any applicant, instead of executing the work of constructing and draining the roads, as hereinbefore provided, may either—

- (a) Pay to the Local Authority such sum as may be agreed upon with the Local Authority as the cost of executing such work, and agree with the Local Authority as to when such work shall be executed by the Local Authority ; or
- (b) Give to the Local Authority security to the satisfaction of the Local Authority that he will execute such work within such time as may be fixed by the Local Authority.

Preliminaries to  
subdivision.

(8.) In a case where a subdivision does not provide for the opening of a road, land shall not be subdivided until—

- (a) An application in respect thereof, accompanied by plans (which plans, if the Local Authority so requires, shall show the contours of the land and all known flood levels) has been approved under this Act ; and
- (b) The clerk has certified to the applicant that the requirements of this Act, other than the requirement for the registration of plans, have been complied with ; and
- (c) A plan of the subdivision (such plan bearing the signatures of all necessary parties, a statement containing such particulars as may be necessary to identify the title to the land comprised in such plan, and a notation of approval under the seal of the Local Authority and being accompanied by the aforesaid certificate) has been registered in the office of the Registrar of Titles.

Registered  
plans to be  
deposited.

(9.) A copy of every such registered plan shall be deposited at the office of the Local Authority and there recorded, and upon any failure so to do within one month after such plan has been so registered the applicant shall be liable to a penalty not exceeding twenty pounds.

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Every sale lithograph or print relating to such sub-<sup>Sale</sup>divided land shall show the contours of the land and all <sup>lithographs.</sup> known flood levels in accordance with the plans submitted to the Local Authority where such particulars have been required to be shown on such plans.

(10.) Applications under this section shall be sub-<sup>Applications,</sup>mitted to the Local Authority. <sup>&c.</sup>

The Local Authority may approve of any such application, or approve, subject to conditions, or disapprove.

The Local Authority shall cause notice to be given to the applicant of its decision.

In the case of an approval given subject to conditions or of a disapproval, the reasons therefor shall be stated in the notice.

(11.) In respect of any application for approval of the opening of a road, the Local Authority shall take into <sup>Matters to be</sup>consideration— <sup>considered in</sup> <sup>approving</sup> <sup>opening of</sup> <sup>road.</sup>

- (a) The situation and planning of the road in relation to public convenience, present and prospective, and to inter-communication with neighbouring localities within or without the Area ; and
- (b) The method of draining the road necessary in the circumstances, present and prospective, and the disposal of the drainage ; and
- (c) Whether or not the owner will transfer or convey to the Local Authority in fee-simple for a nominal consideration any necessary drainage reserves ; and
- (d) The character or construction of the roads necessary in the circumstances, present and prospective ; and
- (e) Whether or not kerbing, guttering, and foot-paths should be provided ; and
- (f) The treatment of junctions or intersections of roads ; and
- (g) The classification of the road ; and
- (h) Whether the district is a residential district ; and
- (i) The necessity for the planting of trees with tree-guards in the roads ; and

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(j) If any proposed new road will be a lane, whether or not a lane should be permitted, in the circumstances.

Or in  
approving  
subdivision.

(12.) In respect of any application for approval of a subdivision of land (whether the subdivision involves the opening of a road or not) the Local Authority shall take into consideration—

- (a) The size and shape of each separate parcel ; and
- (b) The length of road frontage of each separate parcel ; and
- (c) The situation and planning of the separate parcels in relation to public convenience, present and prospective ; and
- (d) The existing and proposed means of access to each separate parcel ; and
- (e) Whether or not the owner will transfer or convey to the Local Authority in fee-simple for a nominal consideration any necessary drainage reserves ; and
- (f) Whether the district is or probably will be a residential district ; and
- (g) Whether the land or any part thereof is low lying so as not to be reasonably capable of being drained or is not fit to be used for residential purposes ; and
- (h) The maximum standard number of houses to the acre, if any, fixed by the Local Authority ; and
- (i) The amount of public garden and recreation space to be provided in the land to be subdivided :

Provided that nothing in this subsection except paragraph (d) hereof shall apply where the land is not within a township, or within a district which is or probably will be a residential district.

Gas mains,  
&c.

(13.) (i.) The Local Authority may, when giving its approval for the opening of any road, specify in the approval and cause to be indicated on the plan the position in which water and gas or electric mains shall be placed when laid in the road, and the position where the gutters or road-drains are to be constructed :



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Provided that before the Local Authority proceeds to indicate on the plan such position relating to any mains, the representatives of the water, gas, or electric interests shall be consulted in order to determine the suitability of such position.

When water or gas or electric mains are thereafter laid in such road by any person, whether under the authority of any statute or otherwise, they shall, unless the Local Authority otherwise permits, be laid in the positions so indicated.

(ii.) Where any person opens a new road or subdivides any land fronting any existing road which is not then constructed in some permanent manner, the Local Authority may require such person to make such provision (by laying conduits across the road at suitable intervals) as will enable gas, water, and electric service pipes to be laid to connect the mains with the various parcels of land fronting the road and owned by that person without digging up the constructed carriage-way of the road. Any such conduit shall be laid in such manner as the Local Authority may require.

(iii.) The laying of pipes pursuant to this subsection shall be deemed to be a portion of the work of the construction and drainage of a new road, and the other provisions of this section shall apply thereto accordingly.

(iv.) This subsection shall come into force in an Area or part of an Area as and when specified in that behalf by the Governor in Council by Order in Council, but shall not, so far as it relates to water mains, apply or be made to apply to the District, for the time being, of the Metropolitan Water Supply and Sewerage Board.

(14.) As soon as the plan of any road or of any subdivision containing a road has been registered in the office of the Registrar of Titles, the road shall be deemed to be opened as a road and thereby to be dedicated accordingly. Dedication of road.

(15.) Any approval given under this section shall lapse at the end of two years from the date thereof or such longer period as may be fixed in the approval, if the requirements of this section have not been complied with in respect of— Lapse, &c., of approval.

- (a) The construction and draining of roads ; and
- (b) The giving of security ; and

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- (c) The making of payments to the Local Authority in respect of the making, draining, and marking of roads.

The Local Authority may if good cause is shown grant an extension or renewal of such approval beyond such period, and the foregoing provisions of this subsection shall apply to any extension or renewal under this section as if such extension or renewal were an original approval.

Such approval may also be cancelled by the Local Authority upon application by the holder of the approval at any time before the plan of the road or subdivision is registered in the office of the Registrar of Titles.

On such lapse or cancellation the Local Authority shall refund any unexpended balance of moneys paid to the Local Authority in respect of the execution of works in connection with such approval.

Appeals.

(16.) Any applicant for approval to open any new road or to subdivide any land may appeal to the Minister against the decision of the Local Authority or any neglect or delay of the Local Authority to give, within forty days (or such further time as the Minister may allow) after service of his application, a decision with respect thereto.

The Minister, or some person being an authorised surveyor appointed by him in that behalf, may summon witnesses, administer an oath, hear evidence, and determine the matter, having regard to this Act, the by-laws, the circumstances of the case, and the public interest.

The decision of the Minister or such person appointed by him as aforesaid upon any such appeal shall be final, and shall be binding upon the Local Authority and the appellant, and for the purposes of this Act shall be deemed to be the final decision of the Local Authority.

The costs of such appeal shall be in the discretion of the Minister or such person appointed by him as aforesaid.

Default.

(17.) If any person fails to execute any work which it is his duty to execute under this section, the Local Authority may execute the work and may recover the expenses incurred from such person.

Restriction  
on  
registration  
of  
instruments.

(18.) It shall not be lawful for the Registrar of Titles to register any instrument dealing with land in a subdivision made after the first day of January one thousand nine hundred and twenty-four, unless the plan of subdivision (with all roads, if any), has been certified

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to by the proper officer appointed by the Local Authority for that purpose, or unless in one of the cases following, that is to say—

- (a) When the instrument is a deed of grant from His Majesty ;
- (b) When the instrument, whether relating to land held under the provisions of \**"The Real Property Acts, 1861 to 1887,"* or not, is executed in pursuance of an agreement in writing made before the first day of January, one thousand nine hundred and twenty-four, and conforms in all respects with the requirements of the law relating to the subdivision of land in force at the time of the execution of such instrument, and such agreement is produced to the Registrar of Titles at the time of registration, and the date of making the agreement is proved to his satisfaction ;
- (c) When the instrument is an application to bring a portion of land under the provisions of \**"The Real Property Acts, 1861 to 1887 "* ;
- (d) When the instrument is a conveyance or transfer of land to his Majesty or any person on behalf of His Majesty, or on account of the Public Service.

(19.) It shall be lawful for the Registrar of Titles to require the purchaser of any portion of land who also is the registered proprietor of land contiguous thereto to surrender the certificate of title or deed of grant for such last-mentioned parcel of land and take out a new certificate of title including such last-mentioned parcel of land and the portion of land purchased by him. Surrender  
in certain  
cases.

(20.) Nothing in this section shall—

- (i.) Preclude the opening of any road in accordance with any approval which was given by the Local Authority before the first day of January, one thousand nine hundred and twenty-four ; or
- (ii.) Preclude the subdivision of any land in accordance with—
  - (a) Any approval which was given by the Local Authority before the first day of January, one thousand nine hundred and twenty-four ; or

Prior  
savings.

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- (b) Any plan of subdivision which was made before the first day of January, one thousand nine hundred and twenty-four, and which fulfils in all respects the requirements of the law relating to the subdivision of land in force at the time of the making of such plan ; or
- (iii.) Preclude the registration by the Registrar of Titles of any instrument relating to land fronting any such road or in any such subdivision as last aforesaid ; or
- (iv.) Be deemed to render any agreement to sell, let, or otherwise dispose of any land illegal or void by reason merely that it is entered into before an application in respect of the subdivision has been approved by the Local Authority, but the agreement shall be deemed to be made subject to such approval being obtained ; or
- (v.) Affect or prejudice any estate, right, title, or interest of any person who is not a party to the opening and dedication of the road unless the opening and dedication might have been lawfully made by the parties thereto without his concurrence ; or
- (vi.) Apply to roads opened at the request of the Local Authority.

Dwelling-houses on low-lying land.

[83D.] It shall not be lawful for any person upon land which is so situated as not, in the opinion of the Local Authority, to be reasonably capable of being drained, to erect any building to be used wholly or in part as a dwelling, or to adapt any building to be used wholly or in part as a dwelling, except with the express permission of the Local Authority, and, if such permission is given, subject to and in accordance with the conditions and restrictions prescribed by by-laws which the Local Authority may from time to time make in that behalf, which by-laws the Local Authority is hereby empowered to make."

Repeal of s. 84.

19. Section eighty-four of the Principal Act is repealed.

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20. In the third paragraph of subsection two of section ninety-five of the Principal Act the following words are inserted :—

“ and for the extirpation and destruction of noxious weeds or plants growing on the road so enclosed by such gate and to keep such road free from the same.”

21. Section one hundred and five of the Principal Act is repealed.

22. The following amendments are made in subsection (i.) of section one hundred and eleven of the Principal Act :—After the word “ pound ” the word “ nearest ” is repealed and the words “ most convenient ” are inserted in lieu thereof. After the word “ land ” (where it first occurs) in the said subsection, the words “ or if such land is equidistant or nearly so from two such pounds, then to either of them ” are repealed. In paragraph six of the said subsection the word “ nearest ” is repealed.

The following amendments are made in subsection (ii.) of section one hundred and eleven of the Principal Act :—

In the second paragraph, after the word “ claimed ” the words “ (except a statement of the time and place of intended sale) ” are inserted.

The third paragraph is repealed, and the following paragraph is inserted in lieu thereof :—

“ He shall at the expiration of the said period of four days, if the animal is not sooner released, either—

- (a) Deliver it to such poundkeeper as aforesaid to be impounded ; or
- (b) Deliver it to the proprietor and may demand the charges and fees next hereinafter mentioned, and if the proprietor fails to pay the same immediately on demand the amount thereof shall be recoverable in the same manner as is provided in the next succeeding subsection for the recovery of damages.”

23. Section one hundred and twenty of the Principal Act is amended as follows :—

- (a) The words “ cattle, horses, or sheep ” are repealed and the word “ animals ” is inserted in lieu thereof ;

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- (b) The word "ten," wherever it occurs, is repealed, and the word "three" is respectively inserted in lieu thereof;
- (c) Paragraph (c) of the proviso is repealed.

Amendment  
of s. 122.

**24.** After the first paragraph of section one hundred and twenty-two of the Principal Act, the following paragraph is inserted:—

"Provided that if in the opinion of the Chairman or an officer of the Local Authority appointed in that behalf any animal impounded is not of such value that when sold in ordinary course the proceeds would be sufficient to defray the fees, rates, and charges under this Act, it may be sold on the sale day next after the fifth day after it was impounded."

The following proviso is added to section one hundred and twenty-two of the Principal Act:—

"Provided that the Mayor or Chairman of the Local Authority having jurisdiction over the pound, upon being satisfied that an animal in such pound is by reason of disease, injury, starvation, or any other cause, too infirm to be of further service or that if such animal were offered for sale there would be no reasonable prospect of selling it, may by order under his hand authorise the destruction of such animal, and thereupon such animal, if not released from the pound, may be destroyed, and all fees, rates, and charges due in respect of the impounding of the animal, together with all reasonable expenses incurred in connection with its destruction, may be recovered by the Local Authority from the owner as a debt."

Repeal of  
s. 124.

**25.** Section one hundred and twenty-four of the Principal Act is repealed:

Provided that the said section shall remain in force in each Area until the Local Authority of such Area has made by-laws regulating the time, place, and mode of selling impounded animals or until the first day of July, one thousand nine hundred and twenty-four, whichever is the earlier date.

**26.** After section one hundred and thirty-nine of the Principal Act, the following section is inserted:—

Wrongful  
possession of  
impounded  
animals.

"[139A.] Any person who is found in possession of any animal which has been impounded, and which has escaped or has been unlawfully let out of or has been unlawfully rescued from any pound, and who does not

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forthwith upon the demand of the poundkeeper deliver such animal to be again impounded, shall be liable to pay all fees, rates, and charges payable in respect thereof, and in addition, to a penalty not exceeding twenty pounds. Upon proof of such demand as aforesaid being made by the poundkeeper with respect to any animal which has been impounded, it shall lie upon the defendant to prove his right to retain possession of the animal as against the poundkeeper and all other persons."

27. After section one hundred and forty-eight of the Principal Act the following section is inserted:—

"[148A.] The Local Authority may from time to time take, purchase, erect, rent, contract for the use of or otherwise provide within the Area land and dwelling-houses as residences for all or any of the employees of the Local Authority, and permit the occupation thereof by any such employees upon such terms and conditions as it may determine."

Power to provide residences for employees.

28. After section one hundred and fifty-one of the Principal Act the following sections are inserted:—

"[151A.] The Local Authority may advertise the advantages of the Area to attract settlers or tourists."

Attraction of settlers.

[151B.] (1.) The Local Authority may establish, maintain, and regulate public aviation stations for the starting, landing, housing, and repair of aerial craft."

Aviation.

(2.) The Local Authority may make charges for the use of an aviation station, or for services rendered thereat or in connection therewith.

[151c.] The Local Authority may pay such sum or sums as it may deem fit towards the expenses of any litigation in respect of matters of common interest to Local Authorities generally."

Litigation for common interest.

29. After section one hundred and fifty-four of the Principal Act the following section is inserted:—

"[154A.] The Local Authority may, out of the Local Fund, pay in any year to any benefit or provident fund established for the benefit of its own employees by way of grant or subsidy such amount as it thinks proper."

Power to subsidise employees' benefit fund.

30. Subsection ten of section one hundred and fifty-eight of the Principal Act is repealed."

Amendment of s. 158.

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In subsection eleven of the said section the words "and the Workers' Compensation Fund respectively" are repealed.

Amendment  
of s. 159.

**31.** After subsection five of section one hundred and fifty-nine of the Principal Act, the following subsection is inserted:—

"(6.) For the purposes of this section the terms "market places" and "markets" shall include saleyards for the sale of animals."

Amendment  
of s. 167.

**32.** The following amendments are made in section one hundred and sixty-seven of the Principal Act:—

(i.) At the beginning of subsection three the words "Except with respect to the plant commonly known as water hyacinth, which by this Act is declared to be a noxious plant," are inserted; also, after the word "conferred" the words "with respect to any weed or plant" are inserted.

(ii.) In subsection four, after the word "owner" the words "or in any case at the option of the Local Authority, upon both the owner and the occupier or person in charge" are inserted; also, the words "one month" are repealed and the words "ten days" are inserted in lieu thereof.

(iii.) In subsection five, the words "one month" are repealed and the words "ten days" are inserted in lieu thereof; also the following words are added to the said subsection: "and in addition all persons upon whom a notice under subsection four of this section has been served and each of them shall be liable to a penalty not exceeding twenty pounds, and to a daily penalty not exceeding twenty shillings for each day during which such weed or plant has not been extirpated and destroyed."

(iv.) Paragraph (b) of subsection six is repealed, and the following paragraph is inserted in lieu thereof:—

"(b) In all other cases from the occupier thereof, or, at the option of the Local Authority, from the owner."

The following proviso is added to the said subsection:—

"Provided always that the Local Authority shall have no right of recovery as aforesaid against the owner of land, unless he is also the occupier thereof, if notice under subsection four of this section has not been served upon him."



1923. *Local Authorities Acts Amendment Act.*

**33.** After section one hundred and eighty-six of the Principal Act the following sections are inserted:—

“ [186A.] (1.) The Governor in Council may, on the application of the Local Authority— Residential districts.

- (a) Declare by Order in Council any defined part of the Area to be a residential district ; and
- (b) Prohibit the erection in such district of any building for use for the purposes of such trades, industries, manufactures, shops, and places of public amusement as may be described in the Order ; and
- (c) Prohibit the use of any building in such district for any such purposes as last aforesaid ; and
- (d) Prohibit the erection or use of advertisement hoardings in such district ; and
- (e) Regulate the class, quality, or description of buildings that may be erected or permitted to continue (whether erected before or after the passing of “ *The Local Authorities Acts Amendment Act of 1923* ”) in such district.

(2.) Nothing in this section shall preclude the continuance of the use of any building for any purpose for which such building was used at the date of the Order aforesaid, or for such other purpose as the Local Authority may in the circumstances deem reasonable.

[186B.] (1.) The Governor in Council may, on the application of the Local Authority, by Order in Council, in and with respect to any part of the Area to be defined by such Order— Building, &c., in defined part.

- (a) Limit the use and occupation of lands and buildings ;
- (b) Limit the height of buildings ;
- (c) Limit the proportion of area of each parcel of land which may be covered by buildings ;
- (d) Regulate the size of parcels of land.

(2.) Notwithstanding any such Order in Council, any person for a period not exceeding five years may continue to use any building existing within any such part for any purpose for which that building is used at the date of such Order ; and may continue to use any unbuilt-upon land for any purpose for which that land is used at the date of such order :

*Local Authorities Acts Amendment Act. 14 GEO. V. No. 25,*

Provided that upon the destruction of any such building (intentional or unintentional) or upon the discontinuance for six months from any cause of such use of any such building or land, the right of continuance given by this subsection shall cease.

Building not to be erected or used in contravention of Act.

[186c.] (1.) A building shall not be erected or used in contravention of this Act.

Any building erected or used in contravention of this Act shall be deemed to be an unlawful building and may be dealt with accordingly.

(2.) A building erected for any purpose other than residential shall not subsequently be occupied or used for residential purposes without the prior consent of the Local Authority.

Restrictions on erection of buildings.

[186d.] The Local Authority may disapprove of the erection of any building in a manner not in accordance with this Act upon any land—

- (a) Fronting a road opened after the first day of January, one thousand nine hundred and twenty-four; or
- (b) Subdivided after the first day of January, one thousand nine hundred and twenty-four.

Building lines, &c.

[186e.] (1.) Subject to this Act the Local Authority may fix building lines.

(2.) A building shall not be erected or be re-erected or be substantially erected or re-erected between the building line and any road or reserve.

(3.) In any case where a road less than sixty-six feet wide is opened after the first day of January, one thousand nine hundred and twenty-four, the building line (whether fixed by the Local Authority or not) shall be at a distance of not less than thirty-three feet from the middle line of the road.

(4.) Until by-laws are made by the Local Authority fixing building lines, by-laws made under paragraph twenty-six of subdivision six of the Fourth Schedule to this Act shall continue in force until the Local Authority makes such by-laws.

(5.) It shall not be lawful to erect or re-erect or substantially erect or re-erect a dwelling-house fronting a lane laid out or opened before the first day of January, one thousand nine hundred and twenty-four, at a less distance than thirty-three feet from the middle line of such lane."

1923. *Local Authorities Acts Amendment Act.*

**34.** After subsection six of section two hundred and nineteen of the Principal Act, the following subsection is inserted :— Amendment  
of s. 219.

“(7.) For the purposes of this section the Brisbane Tramway Trust, constituted under \**“The Brisbane Tramway Trust Act of 1922,”* shall be deemed to be and from the first day of January, one thousand nine hundred and twenty-three, to have been a tramway company within the meaning of this section, and the provisions of this section shall apply accordingly.”

**35.** Subsection two of section two hundred and twenty of the Principal Act is repealed and the following subsection is inserted in lieu thereof :— Amendment  
of s. 220.

“(2.) In full satisfaction and discharge of all rates due and payable in respect of such main pipes so laid down or constructed, there shall in every year be paid to the Local Authority, according to the actual length of such pipes and the internal diameter thereof, sums at the rate per mile hereunder mentioned, that is to say—

	£	s.	d.
If the diameter does not exceed three inches ..	1	0	0
If the diameter exceeds three inches but does not exceed six inches .. .. .	2	0	0
If the diameter exceeds six inches but does not exceed nine inches .. .. .	4	0	0
If the diameter exceeds nine inches .. .. .	8	0	0

For the purposes of this section, main pipes shall be deemed to mean main gas pipes, and shall include the principal pipe running lengthwise and extending seventy-five feet or over in any section of a road or lane as distinguished from the smaller pipes supplied from it :

Provided that where any such main pipes are laid in any road which forms the boundary between two Areas, each Local Authority shall be entitled to be paid one-half of the amount of rate payable in respect of such main pipes.”

**36.** In the last paragraph of section two hundred and twenty-six of the Principal Act, after the word “minimum” the words “or is made under the rule contained in subsection three of section two hundred and eighteen of this Act” are inserted. Amendment  
of s. 226.

*Local Authorities Acts Amendment Act.* 14 GEO. V. No. 25,

Amendment  
of s. 233.

**37.** The proviso to subsection one of section two hundred and thirty-three of the Principal Act contained in the second paragraph thereof, is repealed and the following provision is inserted in lieu thereof:—

“ Provided that in any area the Local Authority may make and levy a general rate less in amount, in respect of farm land which is not in demand for building sites or residential areas, and which, in the opinion of the Local Authority, is being reasonably used for the purpose of primary production, than the general rate made and levied on other lands, but no such general rate in respect of such farm land shall be less than one halfpenny in the pound.”

Amendment  
of s. 239.

**38.** The proviso to section two hundred and thirty-nine of, the Principal Act contained in the second paragraph thereof is repealed.

Amendment  
of s. 250.

**39.** In subsection six of section two hundred and fifty of the Principal Act, after the word “ sailor ” the words “ or is the widow of a person or a widowed mother of an unmarried son, whose death was the result of, or aggravated by, war service ” are inserted.

Amendment  
of s. 255.

**40.** In the first paragraph of section two hundred and fifty-five of the Principal Act, the word “ five ” is repealed and the word “ eight ” is inserted in lieu thereof.

The proviso to the said section is repealed.

Amendment  
of s. 263.

**41.** In section two hundred and sixty-three of the Principal Act, the word “ four ” is repealed and the word “ two ” is inserted in lieu thereof.

Amendment  
of s. 268.

**42.** In subsection one of section two hundred and sixty-eight of the Principal Act, the word “ seven ” is repealed and the word “ three ” is inserted in lieu thereof.

Amendment  
of s. 276.

**43.** The first paragraph of section two hundred and seventy-six of the Principal Act is repealed, and the following paragraph is inserted in lieu thereof:—

“ Whenever any person or any agent sells or agrees to sell any land, he shall give notice in writing of such sale or agreement for sale within thirty days after the execution of the instrument of transfer or of such agreement, as the case may be, to the Local Authority, specifying the description of the land, the amount of consideration paid or agreed to be paid, and the full name and address of the purchaser.”

1923. *Local Authorities Acts Amendment Act.*

In the second paragraph of the said section, after the word "specifying" the word "the" is repealed and the words "the description of the land, and the full" are inserted in lieu thereof.

The following provision is added to the said section :—

"Whenever any person has given to the Local Authority any notice of sale under the foregoing provisions of this section and subsequently for any reason whatsoever the sale of the land in question is not completed and the title thereto remains in or reverts to or devolves upon the person who has given such notice, such person shall forthwith give notice in writing of that fact to the Local Authority within thirty days after the date of the cancellation or other termination of the agreement for sale.

Any person who fails to give any notice required to be given to the Local Authority under this section shall be liable to a penalty not exceeding twenty pounds.

The Local Authority may fix and collect a fee not exceeding one shilling from any person who desires to inspect in the valuation book of the Local Authority the entries relating to any parcel of land other than—

- (a) Land in respect of which he is the owner, lessee, or occupier, or the agent authorised in writing by the owner; or
- (b) Land adjoining thereto."

44. After the first day of January, one thousand nine hundred and twenty-four, no further loans shall be granted to a Local Authority under the provisions of No further loans under Local Works Loans Acts.  
\**"The Local Works Loans Acts, 1880 to 1918."*

45. Section two hundred and ninety-three of the Principal Act is repealed, and the following section is inserted in lieu thereof :—

"[293.] Subject to this Act, the Local Authority may Loans from Consolidated Revenue. from time to time borrow money from the Consolidated Revenue of Queensland for the purposes of this Act on the security of the rates and revenues of the Local Authority.

The amount that may be so borrowed, the purposes for which the same may be borrowed, the period of the loan, and the rate of interest payable thereon, shall be such as shall be fixed by the Governor in Council.

*Local Authorities Acts Amendment Act. 14 GEO. V. No. 25,*

Loans to be repaid by half-yearly instalments.

Every loan so advanced under the provisions of this Act shall be liquidated by the payment to the Treasurer by the Local Authority on the first days of January and July respectively in every year of such instalments of principal and interest at the prescribed rate as will permit the said loan to be wholly redeemed within the prescribed period of the said loan, and such sums shall continue to be payable until all the moneys advanced from time to time by the Treasurer, together with the interest accruing thereupon, have been so paid.

Adjustment.

The Treasurer may at any time make any adjustment which he considers necessary to be made with respect to the period of any loan or the calculation of interest thereupon or with respect to any other matter requiring adjustment.

The provisions of sections two hundred and forty-six and two hundred and forty-seven of this Act shall also apply to every such loan."

Amendment of s. 296.

46. In the second paragraph of section two hundred and ninety-six of the Principal Act the words "and confirmed" are repealed.

Amendment of s. 304.

47. In section three hundred and four of the Principal Act the words "and shall be confirmed at a subsequent special meeting of the Local Authority" are repealed.

Amendment of s. 305.

48. In section three hundred and five of the Principal Act the words "in the *Gazette* and also" are repealed.

Amendment of s. 376.

49. In section three hundred and seventy-six of the Principal Act the words "This section does not apply to the Victoria Bridge over the River Brisbane" are repealed.

50. The following subsection is added to section four hundred and seven of the Principal Act :—

Classification of roads.

"(13.) The classification, alignment, and levels of any road may be proved by the production of the road register or a certificate under the hand of the proper officer of the Local Authority as to the classification, alignment, or levels.

The fact that the classification, alignment, or levels of any road has or has not been fixed may be proved by the production of the road register showing the fact or a certificate under the hand of the proper officer of the Local Authority as to the fact.

1923. *Local Authorities Acts Amendment Act.*

A certificate purporting to be made for the purposes of this subsection and to be signed by an officer of the Local Authority shall, unless the contrary is proved, be deemed to be a certificate under the hand of the proper officer of the Local Authority within the meaning of this subsection."

**51.** In paragraph (ii.) of subsection five of section four hundred and twelve of the Principal Act, the words "in a prepaid letter" are repealed. Amendment of s. 412.

**52.** In subsection two of section four hundred and twenty-three of the Principal Act, the words "and are in arrear for three years and upwards" are repealed. Amendment of s. 423.

**53.** After section four hundred and twenty-six of the Principal Act, the following section is inserted:—

"[426A.] Notwithstanding the provisions of any Act or Order in Council to the contrary, an Electric Authority which is not the Local Authority having jurisdiction over the road in question shall not construct, fix, or place in any such road above ground any box or feeder-pillar for the purposes of use in connection with the supply of energy or the examining, testing, regulating, measuring, or controlling of the supply of energy (including any apparatus for the proper ventilation of any such box or feeder-pillar) except with the consent in writing of such Local Authority: Restriction on certain works of Electric Authorities.

Provided that if such Electric Authority is of opinion that any such consent of such Local Authority has been unreasonably withheld, the Electric Authority shall have the right to appeal to the Minister, and the Minister or some competent person appointed by him in that behalf shall inquire into and determine the matter, having regard to the circumstances of the case and the public interest. And such determination shall be final and binding on the parties, and shall be observed."

**54.** The Third Schedule to the Principal Act is amended as follows:— Amendment of Sch. III.

(i.) The following provision is added to rule one: " "Voters' Roll" includes every Electoral Roll to be used at any election in an undivided Area as a Voters' Roll."

(ii.) In rule five, paragraph (c) is repealed.

(iii.) In rule six the word "twenty-eight" is repealed and the word "forty-two" is inserted in lieu thereof.

(iv.) In rule fourteen the word "less" is repealed and the word "later" is inserted in lieu thereof.

Amendment of Sch. IV.

55. The following amendments are made in Schedule IV. of the Principal Act:—

(1.) The following paragraph is added to subdivision two:—

(viiiA.) Regulating and prescribing the time, place, and mode of selling impounded animals.

(2.) The following words are added to paragraph (vi.) of subdivision six:—

“and fixing the minimum area and frontage of land upon which any building may be erected: Provided that such minimum area for a house shall be not less than sixteen perches.”

(3.) Paragraph (xvi.) of the said subdivision is repealed, and the following paragraph is inserted in lieu thereof:—

(xxvi.) Subject to this Act, fixing building lines and the distance from the middle line of any road within which buildings shall not be erected, and preventing the erection of dwelling-houses so that the front elevation thereof faces any lane or pathway.

Building lines, &c.

(4.) The following paragraph is added to subdivision thirty-one:—

(iii.) The establishment, regulation, licensing, and control of saleyards for the sale of animals.

(5.) The following paragraphs are added to subdivision fifty-one:—

(iii.) Regulating, controlling, and supervising the opening and breaking up of roads by any authority or person authorised by law to provide public services in, on, along, under, or over such roads.

Opening up roads.

(iv.) Prescribing the particulars which shall be shown on the road map and in the road register, and the fees payable for copies of or extracts from such map or register, or certificates as to classification, alignment, or levels.

Road maps and registers.

(v.) The regulation of the weight of loads or of the use of roads.

Weight of loads, &c.

(6.) After paragraph (xxix.) of subdivision sixty-three, the following paragraph is inserted:—

(xxx.) Defining the classes of vehicles that may be drawn or propelled by foot passengers upon or along pathways.

Vehicles on pathways.

(7.) Subdivision sixty-five is repealed, and the following subsection is inserted in lieu thereof under the following subheading:—

EXPENSES OF MEMBERS.

Allowances to members.

(i.) Prescribing the expenditure to members (including the Chairman or President), out of the Local Fund or Common Fund, of expenses incurred by them and allowances in attending meetings of the Local Authority or Joint Local Authority. Provided that—

(a) No payments by way of expenses shall be made to any member in excess of the actual money expended by the member in ex-



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 1923. *Local Authorities Acts Amendment Act.*


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member in payment of the fare by coach, railway, steam-boat or other public conveyance (or in lieu thereof a sum of one shilling per mile computed for one way only), for the distance actually and necessarily travelled by the nearest practicable route between the residence of the member and the place of meeting ; and

- (b) No allowance for attending meetings, exclusive of actual travelling expenses or expenses computed under paragraph (a), shall exceed one guinea per day for each sitting day ; and
- (c) No such payments to any member in any year shall in the aggregate exceed fifty pounds. But this provision shall not be construed so as to affect any allowance to the Chairman or President granted under this Act.

(ii.) Prescribing the payment to members (including the Chairman or President) out of the Local Fund or Common Fund of reasonable expenses incurred by them in and in connection with the inspection of works or any necessary journey having for its object the furtherance of the business of the Local Authority.

56. \**"The Undue Subdivision of Land Prevention Act of 1885"* is repealed.

Repeal of  
49 Vic.  
No. 15.

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• 49 Vic. No. 15.

# Queensland.



An Act to Amend "The Local Authorities Acts, 1902-1920" in certain particulars, and to Amend "The Victoria Bridge Act of 1897" and "The Fire Brigades Act of 1920" in certain particulars.

13 Geo. V.  
No. 36.  
THE LOCAL  
AUTHORITIES ACT  
AMENDMENT  
ACT OF 1922.

[ASSENTED TO 18TH OCTOBER, 1922.]

(7)

BE it enacted by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Assembly of Queensland in Parliament assembled, and by the authority of the same, as follows:—

1. This Act may be cited as "*The Local Authorities Acts Amendment Act of 1922*," and shall be read as one with \*"*The Local Authorities Acts, 1902-1920*," herein collectively referred to as the Principal Act. Short title and construction of Act.

2. In subsection three of section thirty-three of the Principal Act, the word "annual" is repealed, and the word "triennial" is inserted in lieu thereof. Amendment of s. 33.

3. After section fifty-nine of the Principal Act the following section is inserted:— No compensation for interim works.

"[59A.] In all cases where a Local Authority has by resolution declared that it is necessary that any land should be acquired from the owners and occupiers thereof by or on behalf of the Local Authority for any of the purposes of this Act or of any other Act, and notice pursuant to any Act of the intention to so acquire the same has been served on the respective owners and occupiers of such land, and at any time within six months from the latest date of the service of such notice on any such owner or occupier the land is acquired by or on behalf of the Local Authority under the provisions of any Act, then in estimating the amount of compensation to be paid to any person entitled to an estate or interest

in the said land regard shall not be had to any expenditure made or obligation incurred on or in connection with or in any way relating to any construction, improvement, alteration, or other work commenced, continued, or done on the said land or any building thereon after the date of the service of the said notice :

Provided that if any such work had been commenced and is in progress on the date of service of such notice, regard shall be had in estimating such compensation to any expenditure made or obligation incurred—

- (a) For securing or making safe or protecting the work already done ; or
- (b) For preventing danger to persons or property ;  
or
- (c) With the permission of the Local Authority.”

Amendment  
of s. 185.

4. In the first paragraph of section one hundred and eighty-five of the Principal Act, the words “the Council of a Town” are repealed, and the words “any Local Authority” are inserted in lieu thereof ; also, the words “such Town” are repealed, and the words “its Area” are inserted in lieu thereof.

Amendment  
of s. 216.

5. The following words are added to paragraph (iv.) of section two hundred and sixteen of the Principal Act :—  
“but this exemption shall not include land let or demised to any person or corporation by a Local Authority or its predecessor in title :

Provided nevertheless that land let or demised to any person or Corporation by a Local Authority, under an agreement entered into before the first day of October, one thousand nine hundred and twenty-two, shall be exempted from the payment of rates during the period of such agreement.”

Amendment  
of s. 267.

6. The following provision is added to section two hundred and sixty-seven of the Principal Act :—

“In such case the Registrar of Titles, upon production to him of a certificate under the hand of the Chairman and sealed with the seal of the Local Authority that a period of twenty-five years has elapsed since possession was taken of land under the foregoing provisions of this Act, and that no person has performed the conditions

entitling him to demand a release of the land, shall register the Local Authority as the proprietor of the land, notwithstanding any Act to the contrary, and notwithstanding the non-production of the instrument of title, and without any advertisement or other notification of such non-production, and shall issue to the Local Authority a certificate of title thereto, and shall cancel or otherwise deal with any theretofore-existing deed of grant, certificate of title, or other instrument of title relating thereto, and for the purposes aforesaid any land may be brought under the provisions of \* "The Real Property Acts, 1861 to 1887."

7. In subsection two of section two hundred and sixty-eight, the words "and in some newspaper" are hereby repealed. Amendment of s. 268.

8. The following provision is added to section two hundred and seventy-one of the Principal Act:— Amendment of s. 271.

"The costs and expenses of the Registrar above-mentioned shall be—

- (a) The cost of advertising the prescribed notices in the *Gazette* and newspapers ;
- (b) Judgment expenses according to the following scale:—

	£	s.	d.
In cases where the amount of the judgment does not exceed £10	..	0	1 0
In cases where the amount of the judgment exceeds £10, but does not exceed £20	..	..	0 2 0
In all other cases	..	..	0 3 0

- (c) Execution expenses according to the following scales:—

For issuing the warrant—

In cases where the sum to be levied does not exceed £10	..	..	0 1 0
In cases where the sum to be levied exceeds £10, but does not exceed £20	..	..	0 2 0
In all other cases	..	..	0 3 0

For executing the warrant—

In cases where the sum levied does not exceed £20	..	..	0 5 0
In all other cases—			
For the first £20	..	..	0 5 0
For each additional £1	..	..	0 0 3"

Amendment  
of s. 283.

9. In subsection six of section two hundred and eighty-three of the Principal Act, the words "in the *Gazette* and" are repealed.

Amendment  
of s. 309.

10. In section three hundred and nine of the Principal Act, the words "For temporary accommodation" are repealed.

Amendment  
of s. 369.

11. Subsection nine of section three hundred and sixty-nine of the Principal Act is repealed, and the following subsection is inserted in lieu thereof:—

"Subject as aforesaid, every member shall remain in office until the conclusion of the next ensuing triennial elections of the Local Authority which has elected him."

Subsection ten of the said section is repealed.

Amendment  
of s. 412.

12. In subsection one of section four hundred and twelve of the Principal Act, after the word "process" the word "summons" is inserted; also after the word "under" the words "or for any of the purposes of" are inserted.

The following provision is added to the said subsection:—

"(iv.) In the case of a summons (but without excluding the operation of the foregoing provisions), by forwarding the same by post in a registered letter addressed to such person at his usual or last-known place of abode—and in such case the production of a receipt purporting to be the registration receipt for such letter, together with oral testimony by the clerk or other officer of the Local Authority authorised by it in that behalf as to the contents of such letter, shall be sufficient proof of service of the summons."

Amendments  
of Victoria  
Bridge Act.

13. (1.) In section eight of \*"*The Victoria Bridge Act of 1897*" the words "between the first and thirty-first day of March in every alternate year" are repealed, and the words "after the conclusion of every triennial election under "*The Local Authorities Acts, 1902 to 1922*" are inserted in lieu thereof.

(2.) In section nine of the said Act the word "biennial," where it twice occurs, is repealed, and the word "triennial" is inserted in lieu thereof.

14. The following amendments are made in \*"*The Fire Brigades Act of 1920*" :—

(i.) In section one the definition of "Local Authority" is repealed, and the following definitions are inserted in lieu thereof :—

" "Local Authority"—The Council of a City, Town, or Shire constituted under the Local Authorities Act ;

"Local Authorities Act"—"*The Local Authorities Acts, 1902-1920*," and any Act amending or in substitution for those Acts or any of them."

(ii.) In the second paragraph of subsection (ii.) of the proviso to section three all words after the word "subject" where it secondly occurs are repealed, and the words "all land, plant, materials, and other assets of the dissolved Board or held in trust for such Board shall absolutely vest in the Board; and all obligations and liabilities of the dissolved Board shall devolve upon and shall be discharged by the Board, and all trusts relating to all such land shall be determined and the land shall be absolutely vested in the Board constituted under this Act, and on delivery of a copy of the notification in the *Gazette* constituting the Board to the Registrar of Titles, he shall thereupon register the land in the name of the Board and issue a certificate of title therefor" are inserted in lieu thereof.

(iii.) In subsection one of section six, the words "in the month of March in every third year" are repealed, and the words "within sixty days after the completion of each triennial election under the Local Authorities Act of members of the Local Authority or Local Authorities having jurisdiction within the district" are inserted in lieu thereof.

(iv.) In subsection two of section ten of the Act and in section fifteen of Part III. of the Schedule, the words "*The Local Authorities Acts, 1902 to 1917*" are repealed, and the words "the Local Authorities Act" are inserted in lieu thereof.

(v.) In the first paragraph of subsection four of section fourteen, the words "for reinsurance during the year last past within the District" are repealed, and the words "during the year last past for reinsurance within the State to companies contributing to the Fire Brigade Board on such reinsurance premiums" are inserted in lieu thereof.

In the second paragraph of the said subsection four, the words "for reinsurance by such company within the District during the year last past" are repealed, and the words "by such company during the year last past for reinsurance within the State" are inserted in lieu thereof.

# THE LOCAL AUTHORITIES ACTS, 1902-1920.

(2 Edw. VII. No. 19; 3 Edw. VII. No. 7; 5 Edw. VII. No. 31; 1 Geo. V. No. 22; 3 Geo. V. No. 16; 4 Geo. V. No. 24; 5 Geo. V. No. 17; 8 Geo. V. No. 19; and 11 Geo. V. No. 11.)

NOTE.—By section 23 of the amending Act of 1920 it is prescribed that in all copies of “*The Local Authorities Acts, 1902-1920*,” thereafter printed by the Government Printer, the Parts, subdivisions, sections, and subsections thereof shall be renumbered so as to be in consecutive numerical or alphabetical order as the case may require throughout, and all specific references to any Part, subdivision, section, or subsection, or other provision by its number or alphabetical letter in any enactment contained in the amending Act or in any other Act shall be amended by the substitution of the proper number or letter of the reprinted Act.

These requirements have been observed in this reprint. The original sections of the Act before renumbering are indicated in the margin in black type. Verbal amendments in the body of the Act made pursuant to these requirements are indicated by †.

## An Act to Consolidate and Amend the Laws relating to Local Authorities.

[ASSENTED TO 26TH DECEMBER, 1902.]

**B**E it enacted by the King’s Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of Queensland in Parliament assembled, and by the authority of the same, as follows:—

### PART I.—PRELIMINARY.

PART I.—  
PRELIMINARY.

1. This Act may be cited as “*The Local Authorities Act of 1902*.” Short title.  
[1.]

2. Except as is herein otherwise provided this Act shall commence and take effect on and from the thirty-first day of March, one thousand nine hundred and three. Commencement of Act.  
[2.]

3.† \*This Act is divided into Parts and Subdivisions as follows:— Division of Act.  
[3.]

PART I.—PRELIMINARY:

PART II.—AREAS:

PART III.—CONSTITUTION OF LOCAL AUTHORITIES; QUALIFICATION OF MEMBERS AND VOTERS; OUSTER FROM OFFICE:

*Subdivision I.—Constitution of Local Authorities;*

*Subdivision II.—Qualification and Election of Chairman and Members;*

*Subdivision III.—Ouster from Office;*

PART IV.—CHAIRMAN:

PART V.—PROCEEDINGS:

*Subdivision I.—Meetings;*

*Subdivision II.—Committees;*

*Subdivision III.—Records;*

*Subdivision IV.—Officers:*

\* Consequentially amended by section 22 (i.) of the amending Act of 1920.



PART I.—  
PRELIMINARY.

## PART VI.—POWERS AND DUTIES:

- Subdivision I.—Office;*
- Subdivision II.—Contracts;*
- Subdivision III.—General Powers and Jurisdiction;*
- Subdivision IV.—Alignment of Roads;*
- Subdivision V.—Powers of Maintenance;*
- Subdivision VI.—Levels of Roads;*
- Subdivision VII.—Opening and Closing Roads;*
- Subdivision VIII.—Licensed Gates in Shires;*
- Subdivision IX.—Miscellaneous Provisions as to Roads;*
- Subdivision X.—Impounding;*
- Subdivision XI.—Traffic;*
- Subdivision XII.—Miscellaneous Powers;*
- Subdivision XIII.—Markets;*
- Subdivision XIV.—Lighting, Hydraulic Power, &c.;*
- Subdivision XV.—Noxious Weeds, &c.;*
- Subdivision XVI.—Inspectors of Local Works:*

## PART VII.—BUILDINGS:

- Subdivision I.—First Class Sections;*
- Subdivision II.—Dangerous and Neglected Structures;*
- Subdivision III.—General Provisions:*

## PART VIII.—BY-LAWS:

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**PART XIV.—TRAMWAYS:**

- Subdivision I.—Tramway Area;*
- Subdivision II.—Loans;*
- Subdivision III.—Tramway Rate;*
- Subdivision IV.—Accounts;*
- Subdivision V.—Powers of Construction, &c.:*

**PART XV.—AGRICULTURAL DRAINAGE:****PART XVI.—JOINT ACTION:**

- Subdivision I.—Constitution of Joint Local Authorities;*
- Subdivision II.—Powers of Joint Local Authorities;*
- Subdivision III.—Expenses of Joint Boards;*
- Subdivision IV.—Joint Action in other cases:*

**PART XVII.—GENERAL PROVISIONS:**

- Subdivision I.—Exercise of Powers by Government;*
- Subdivision II.—Legal Proceedings;*
- Subdivision III.—Miscellaneous Provisions;*
- Subdivision IV.—Compensation;*
- Subdivision V.—Powers for Execution of Act;*
- Subdivision VI.—Application to Joint Local Authorities.*

4. (1.) Subject to the provisions hereinafter contained, the Local Acts specified in the First Schedule to this Act are repealed to the extent in that Schedule indicated. Repeal.  
Schedule I.  
[4.]

(2.) All proceedings and things lawfully had or done, and all By-laws lawfully made by the Local Authority of an existing Area or by an existing Joint Local Authority under or in pursuance of any of the said Acts or any Act thereby repealed, shall be and continue to be of the same force and effect, to all intents and purposes, as if no such repeal had taken place, but such By-laws may be repealed or amended under this Act. Proceedings,  
By-laws, &c.

(3.) All Rates and other moneys which, having accrued due, are, at the commencement of this Act, due or payable to or leviable by the Local Authority of an existing Area or an existing Joint Local Authority, shall be and continue to be so due, payable, and leviable, and may be paid to, and received, levied, and recovered by the Local Authority or Joint Local Authority under the provisions of this Act. Rates, &c.  
due.

(4.) All penalties and forfeitures imposed under any of the said Acts, and incurred at the commencement of this Act, shall and may be enforced as if this Act had not been passed. Penalties.

(5.) All rights, liabilities, contracts, and engagements of a Local Authority or Joint Local Authority existing at the commencement of this Act shall be, and continue to be, vested in, and shall attach to, and may be enforced by or against, the Local Authority or Joint Local Authority, as the case may be. Rights and  
liabilities,  
&c.

(6.) All actions and proceedings pending at the commencement of this Act by or against a Local Authority or Joint Local Authority may be carried on and prosecuted by or against the Local Authority or Joint Local Authority, and no such action or proceeding shall abate or be discontinued or prejudicially affected by anything in this Act contained. Actions, &c.

PART I.—  
PRELIMINARY.  
Rights of  
Treasurer.

(7.) All rights, powers, and authorities which, at the commencement of this Act, have accrued to the Treasurer under any of the said Acts may be exercised and enforced as if this Act had not been passed.

Documents  
made  
evidence.

(8.) All books and documents made evidence under any of the said Acts shall continue evidence to the same extent as if this Act had not been passed.

Existing  
licenses,  
registrations,  
and permits.

(9.) All licenses, registrations, and permits issued, made, or granted by a Local Authority or Joint Local Authority before the commencement of this Act, under or in pursuance of any of the said Acts, shall continue in force for the period, if any, specified in such licenses, registrations, or permits unless the same are sooner suspended, cancelled, or revoked under or in pursuance of this Act.

Reference to  
repealed  
Acts.

(10.) When in any enactment reference is made to any provision of any of the said Acts, or any of the Acts thereby repealed, it shall be taken, unless the context otherwise indicates, that such reference is to the corresponding provision of this Act, and such enactment shall be construed accordingly.

Existing  
Municipalities  
and  
Divisions.  
[5.]

5.† (1.) Save as hereinafter mentioned, this Act shall apply to all existing Municipalities (other than existing Shires) as if they had been constituted Towns under this Act, and to all existing Shires and divisions as if they had been constituted Shires under this Act.

Existing  
Local  
Authorities.

(2.) Subject to this Act, the Local Authority of every existing Area shall consist of the number of members of which it consists at the commencement of this Act, and the members shall be assigned to the respective divisions of the Area (if any) in the same manner as heretofore, until such number or assignment is altered under this Act.

Area of  
Brisbane.

(3.)‡ The boundaries of the Area of Brisbane shall be the boundaries existing at the commencement of this Act, and such Area shall continue to be divided into five wards having the boundaries existing at the commencement of this Act.

The number of aldermen assigned to each of the wards shall continue to be two. Every alderman shall, subject to this Act, continue to hold office for two years, and one of the aldermen assigned to each ward shall retire annually under this Act:

Provided that the Governor in Council may at any time under this Act alter the boundaries of such Area or of any ward, or the number of wards, or the number of aldermen, or the number of aldermen assigned to each ward.

Existing  
Joint Local  
Authorities.

(4.) The Joint Local Authorities heretofore constituted under the provisions of "*The Local Authorities (Joint Action) Act of 1886*" § shall, unless or until dissolved under this Act, be and remain Joint Local Authorities for the purposes of this Act, and shall, so far as is necessary, be deemed to have been constituted under this Act. But the Areas thereof and the powers thereof may be altered and varied under this Act.

Saving of  
certain  
enactments  
and powers.  
Schedule II.  
[6.]

6. (1.) Except as by this Act is otherwise expressly provided, nothing herein contained shall be construed to repeal or otherwise

\* Consequentially amended by section 22 of the amending Act of 1920.

† See further "*The City of Brisbane Enlargement Act of 1902*" (2 Edw. VII. No. 28), Statutes, page 4043.

‡ 50 Vic. No. 16, repealed by section 4 (1) of this Act.

prejudicially affect any of the Acts mentioned in the Second Schedule to this Act, or any powers, authorities, privileges, duties, or obligations conferred or imposed upon any person, company, or corporation under the provisions thereof.

(2.) All powers given to a Local Authority under this Act shall be deemed to be in addition to and not in derogation of any other powers conferred upon such Local Authority by any other Act, and such other powers may be exercised in the same manner as if this Act had not been passed.

7.\* In this Act, unless the context otherwise indicates, the following terms have the meanings set against them respectively, that is to say:—

- “Animals”—Cattle, horses, camels, sheep, goats, and swine; Animals.
- “Area”—The district in which a Local Authority or Joint Local Authority, as the case may be, has jurisdiction, including any place under the control of the Local Authority or Joint Local Authority outside the boundaries of the Area; Area.
- “Boundary Bridge”—A bridge over a river, creek, or other watercourse which, or one side of which, forms the boundary between two Areas, or a bridge over any such river, creek, or watercourse situated at a point where two or more Areas, not being all on the same side of such river, creek, or watercourse are conterminous: the term includes a ford, causeway, or other crossing in a similar location; Boundary bridge.
- “Boundary Road”—A road which, or one side of which, forms the boundary between two Areas; Boundary road.
- “Building”—Any fixed structure which is either wholly or in part enclosed by walls and which is roofed; Building.
- “By-laws”—By-laws made under the authority of this Act: the term when necessary includes By-laws duly made by a Local Authority or Joint Local Authority under the authority of any repealed Act; By-laws.
- “Cattle”—Bulls, cows, oxen, heifers, steers, and calves; Cattle.
- “Chairman”—The person acting for the time being as the Mayor of the council of a Town or as the Chairman of the council of a Shire: the term when necessary includes a deputy Mayor or deputy Chairman; Chairman.
- “Clerk”—The person appointed by the Local Authority to act as Town Clerk or clerk of the Shire, or the person appointed by the Joint Local Authority to act as its clerk, as the case may be: the term includes the officer for the time being performing the duties of the clerk; Clerk.
- “Commissioner”—The Commissioner for Railways appointed for the time being under the authority of the laws in force relating to the construction, maintenance, and management of railways; Commissioner.
- “Common Fund”—The common fund of a Joint Board; Common fund.

\* Printed as amended by sections 2 and 27 (1) of the amending Act of 1910, section 2 of the amending Act of 1913, and section 22 (iii.) of the amending Act of 1920.

**PART I.—  
PRELIMINARY.**  
Component  
Local  
Authority.

Conter-  
minous.

Council.

Division.

Elections  
Act.

Elector.

Electoral  
registrar.

Electric line.

Ferry.

Fire-resisting  
materials.

“Component Local Authority”—One of the Local Authorities, of which or of whose representatives a Joint Local Authority is composed;

“Conterminous”—When two or more Areas are so situated that each one of the Areas is adjacent to another Area, or is only separated from it by a river, creek, or water-course, all the Areas are “conterminous” within the meaning of this Act;

“Council”—The Council of a Town or Shire;

“Division”—A ward of a Town or a division of a Shire;

“Elections Act”—“*The Elections Act of 1915*”<sup>\*</sup> and any Act amending or in substitution for that Act;

“Elector”—A person resident in the Area or division or part of the Area in question, and whose name is enrolled on an electoral roll compiled pursuant to the Elections Act in respect of such residence qualification;

“Electoral registrar”—The person appointed to perform in an Electoral district, or division of such district, the duties imposed on electoral registrars by the Elections Act;

“Electric Line”—A wire or wires conductor, or other means used for the purpose of conveying, transmitting, transforming, or distributing electricity, with any casing, coating, covering, tube, pipe, pillar, pole, post, frame, bracket, or insulator enclosing, surrounding, or supporting the same, or any part thereof, or any apparatus connected therewith for the purpose of conveying, transmitting, transforming, or distributing electricity, but not a telegraph or telephone line;

“Ferry” includes a punt or floating bridge;

“Fire-resisting Materials”—The following materials, namely:—

(i.) Brickwork, constructed of good bricks, well burnt, hard and sound, properly bonded, and solidly put together—

(a) With good mortar compounded of good lime and sharp clean sand, hard clean broken brick, broken flint, grit, or slag; or

(b) With good cement; or

(c) With cement mixed with sharp clean sand, hard clean broken brick, broken flint, grit, or slag;

(ii.) Stone suitable for building purposes by reason of its solidity and durability;

(iii.) Iron, steel, and copper;

(iv.) Slate, tiles, brick, and terra-cotta, when used for coverings or corbels;

(v.) Flagstones, when used for floors over arches, but not exposed on the underside, and not supported at the ends only;

<sup>\*</sup> 6 Geo. V. No. 13, Statutes, page 6779.

- (vi.) Concrete composed of broken brick, stone chippings, or ballast, and lime, cement, or calcined gypsum, when used for filling in between joists of floors; and
- (vii.) Any material from time to time declared by a By-law of the Local Authority to be fire-resisting.
- “Goods”—Goods, chattels, merchandise, materials, stone, timber, or other articles; Goods.
- “Horses”—Horses, mares, geldings, colts, and fillies, asses, and mules; Horses.
- “Improved Land”—The site or curtilage of any building, or any garden, lawn, yard, court, park, plantation, planted walk, avenue, or nursery for trees, and any land under cultivation; Improved land.
- “Joint Board”—The governing body of a Joint Local Authority; Joint Board.
- “Licensed Vehicle”—Any stage carriage, or omnibus, hackney carriage, motor, coach, car, cab, wagon, lorry, cart, van, dray, trolley, or other vehicle in respect of which a license under the provisions of this Act or any Act hereby repealed is in force; Licensed vehicle.
- “Licensee”—The holder for the time being of any license under the provisions of this Act or any Act hereby repealed; Licensee.
- “Local Authority”—The council of a Town or of a Shire; Local Authority.
- “Local Fund”—The City Fund or Town Fund or Shire Fund, as the case may be; Local Fund.
- “Main Road”—A road which, being a main thoroughfare, passes through two or more Areas, or is a boundary road abutting upon more than two Areas, or fulfils both of these conditions; Main road.
- “Member”—A member of a Local Authority or Joint Local Authority, as the case may be; Member.
- “Minister”—The Home Secretary or other Minister of the Crown for the time being charged with the administration of this Act; Minister.
- “Newspaper”—A newspaper published in the Area, or, if no newspaper is so published, a newspaper generally circulating in or near the Area; Newspaper.
- “Noxious Weed or Plant”—Any weed or plant growing within any Area which has been declared to be a noxious weed or plant and to be a nuisance under this Act; Noxious weed or plant.
- “Occupier”—The person in actual occupation of any land; or if there is no person in actual occupation, the person entitled to possession thereof: in the case of a Gold Field or Mineral Field, the term includes any person in actual occupation of any land comprised within any gold mining lease or mineral lease or miner’s homestead lease under any form of tenancy from or by the consent or with the leave and license of the lessee; Occupier.

\* See further, as to main roads, “The Main Roads Act of 1920” (10 Geo. V. 26), Statutes, page 9265.

**PART I.—  
PRELIMINARY.**  
Omnibus.

- Open to inspection.** “Omnibus”—A vehicle drawn or propelled by animal or other power, and used for the conveyance of passengers or parcels for hire, not being a car used on a railway or tramway: the term includes a motor vehicle;
- “Open to Inspection”—Used in reference to books, documents, and writings belonging to or relating to the business of a Local Authority or Joint Local Authority—Open to inspection or for the making of any copy or extract at the office of the Local Authority or Joint Local Authority at all reasonable times during office hours by any elector of the Area or creditor, or any person acting on behalf of an elector or creditor, without payment of any fee;
- Owner.** “Owner”—The person other than His Majesty who for the time being is entitled to receive the rent of any land, or who, if the same were let to a tenant at a rack-rent, would be entitled to receive the rent thereof: the term includes any lessee from the Crown holding under a longer tenure than a tenancy from year to year, and any superintendent, overseer, or manager for such lessee residing on the holding, and in the case of a Gold Field or Mineral Field also includes the holder of a mining lease or miner’s homestead lease and the lawful occupier of a business area or residence area under the laws for the time being in force relating to mining;
- Pest.** “Pest”—Any animal or bird infesting or devouring any tree, plant, vegetable, or product thereof, or any insect or fungus infesting or causing disease to any tree, plant, vegetable, or product thereof, or any insect, matter, or thing infesting or causing disease in any animal; which has been declared a pest under this Act;
- Poundkeeper.** “Poundkeeper”—The officer appointed to be poundkeeper for the purposes of this Act: the term includes the officer for the time being performing the duties of the poundkeeper;
- Prescribed.** “Prescribed”—Prescribed by or in pursuance of this Act;
- Proprietor.** “Proprietor”—The person owning any animal, or any agent or overseer of such owner;
- Ratepayer.** “Ratepayer”—Any person who is named in the Rate-Book of an Area as an occupier or owner of rateable land;
- Registrar of Titles.** “Registrar of Titles”—Includes a local deputy Registrar of Titles;
- Regulations.** “Regulations”—Regulations made under the authority of this Act;
- Road.** “Road”—A street, road, or highway dedicated to the public, including a bridge or culvert upon a street, road, or highway;
- Sheep.** “Sheep”—Rams, ewes, wethers, and lambs;
- Shire.** “Shire”—An existing Shire or division, or a Shire constituted under this Act;
- Structure.** “Structure”—Any building, wall, fence, or other structure, or anything affixed to or projecting from any building, wall, fence, or other structure;

PART I.—  
PRELIMINARY.  
Surveyor.

- “Surveyor”—The officer appointed by the Local Authority to be surveyor for the purposes of this Act: the term includes any deputy surveyor and any officer for the time being performing the duties of the surveyor;
- “This Act” includes this Act, and any By-law, Regulation, Order in Council, Proclamation, or order or notice made or given thereunder;
- “Town”—An existing Municipality other than an existing Shire, or a City or Town constituted under this Act;
- “Tramway Area”—A tramway area defined by Order in Council under this Act;
- “Vehicle”—Any description of vehicle drawn or propelled by animal or other motive power, other than a velocipede as herein defined;
- “Velocipede”—A bicycle, tricycle, or other vehicle of similar description;
- “Watershed”—Any portion of an Area or division from which the water is drained in a common direction by reason of the natural conformation of the country or otherwise;
- “Writing” includes partly printing and partly writing, and printing, typewriting, lithography, photography, and other modes of representing and reproducing words in a visible form.
8. When any act is by this Act directed or forbidden to be done, or when any authority is given by this Act to any person to direct any act to be done, or to forbid any act 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 every person who offends against such direction or prohibition shall be deemed to be guilty of an offence against this Act.

Offence  
against Act.  
[8.]

## PART II.—AREAS.

PART II.—  
AREAS.

9. (1.) The Governor in Council may, by Order in Council—
- (i.) Constitute any portion of Queensland, which is not included in an Area, a Town or Shire, with such boundaries and by such name as are specified in the Order;
- (ii.) Unite two or more Areas into one Area;
- (iii.) Divide an Area into two or more Areas;
- (iv.) Divide or redivide an Area into divisions;
- (v.) Alter the boundaries of an Area or division by including in an Area or division part of another Area or division, and excluding it from the latter;
- (vi.) Abolish an Area or all or any of the divisions of an Area;
- (vii.) Include in an Area or division any part of Queensland which is not included in any Area;
- (viii.) Include an abolished Area in a contiguous Area;
- (ix.) Constitute the whole or any part or parts of a Town, a Shire;
- (x.) Constitute the whole or any part or parts of a Shire, a Town;
- (xi.) Alter the name of an Area.

Governor in  
Council may  
constitute,  
unite, divide,  
or abolish  
Areas.  
[9.]



PART II.—  
AREAS.  
Notice.

(2.) If it is made to appear to the Governor in Council that it is expedient to exercise any of the powers conferred by this section, the Minister shall publish a notice stating the intention of the Governor in Council to exercise such power.

Every such notice shall be published in the *Gazette* and in some newspaper.

The last day on which such notice is published in the *Gazette* shall be deemed to be the day of the publication thereof.

If within three months after the day of publication no sufficient cause is shown to the Governor in Council why the power proposed to be exercised should not be exercised, the Governor in Council may exercise such power.

Classes of  
Areas.

10. Areas are of two classes, namely—

[10.]

- (i.) Towns;
- (ii.) Shires:

City.

The Governor in Council may, by Proclamation, constitute a Town a City, and the same shall be and remain a City until the Governor in Council by Proclamation otherwise declares.

The Areas of Brisbane, Rockhampton, and Townsville respectively are hereby declared to be Cities.

Effect of  
inclusion and  
of union.

[11.]

11. (1.) When—

- (i.) An Area is abolished, and the whole of such Area is included in another Area; or
- (ii.) Two or more Areas are abolished, and the whole of such Areas is constituted one Area;

the assets and liabilities of the Area or Areas so abolished shall devolve upon the Area in which the Area or Areas so abolished has or have been included, or upon the newly constituted Area, as the case may be:

Provided that, if the abolition of an Area and its inclusion in another or in a new Area are not provided for by the same Order in Council, the Minister may, after such abolition and until such inclusion, collect, get in, sell, and give valid conveyances of the assets of the abolished Area, and apply the moneys realised by such collection, getting in, and sale (after payment thereof of expenses) in discharge of the liabilities of the abolished Area.

Effect of  
division,  
severance,  
&c.

(2.) When—

- (i.) An Area is divided into two or more Areas; or
- (ii.) A portion is severed from one Area and included in another Area; or
- (iii.) A portion is severed from one Area and is constituted an Area; or
- (iv.) An Area is constituted by the union of portions of two or more Areas; or
- (v.) In any case, in consequence of the alteration of the boundaries of Areas, it becomes necessary so to do;

the Governor in Council may, by Order in Council, declare and apportion the assets and liabilities of the respective Local Authorities, whether old or new, between them as appears to him just.

In any of the cases in this subsection mentioned, if any of the Local Authorities affected is indebted to the Treasurer in respect of moneys advanced to it by way of loan, the Governor in Council may declare and apportion the liabilities of the respective Local Authorities in respect of such loan, and may declare upon what portion or portions or upon what division or divisions of the Area of any of the Local Authorities any part of such loan shall, as between the several portions or divisions of such Area, be chargeable, but so that the whole of the apportioned part of the loan shall, as between the Local Authority and the Treasurer, be chargeable to the whole of the Area of the Local Authority.

(3.) In any of the cases mentioned in the two last preceding subsections, all By-laws in force in any Area or portion thereof abolished or severed, as the case may be, at the time of the abolition or severance shall remain in force in the portion of the Area of the new Local Authority which comprises such Area or portion thereof until they are repealed or amended under this Act.

(4.) When in consequence of the alteration of the boundaries of an Area a portion which forms part of one Area becomes a new Area or portion of another Area, then—

- (i.) The valuation (if any) last in force of the rateable land in the portion so affected shall continue to be in force until a fresh valuation thereof has been made by the Local Authority of the new Area or the Area in which such portion is included;
- (ii.) All Rates (including interest thereon, if any), which have accrued due in respect of land situated within the portion so affected, and which remain unpaid at the date of the alteration of the boundaries, shall be and remain due, payable, and leviable, and may be paid to and received, levied, and recovered by the Local Authority of the new Area or the Area in which such portion is included.

12.† (i.) The Local Authority may at any time, and shall when so directed by the Minister, take a poll of the electors of the Area or of such division or divisions thereof or part of a division or divisions as the Local Authority or the Minister, as the case may be, considers to be interested, upon any of the following questions, namely:—

- (a) The site of the office of the Local Authority;
- (b) The abolition of all the divisions of the Area;
- (c) The alteration of the boundaries of any division or divisions of the Area, whether by increasing or decreasing the number of divisions or otherwise;
- (d) Any other question relating to local government upon which the opinion of the electors is required by the Minister, or upon which ten per centum of the electors of the Area or of such division or divisions thereof or part of a division or divisions have petitioned for an expression of opinion.

(2.) When the Minister directs such poll to be taken, he shall also direct the date thereof, and give such other directions as in his

\* Section inserted by section 2 of the amending Act of 1912, and printed as amended by section 3 of the amending Act of 1913 and sections 2 and 22 (iv.) of the amending Act of 1920.

PART II.—  
AREAS.

judgment will ensure the wishes of the electors interested being duly ascertained; and the Local Authority shall comply with every such direction.

In other cases the Local Authority shall give such directions as may be necessary for taking the poll.

(3.) Provided that, unless the Governor in Council by Order in Council so directs, the taking of any poll under this section shall not be a condition precedent to the taking of any action by the Local Authority, or the Minister, or Governor in Council which it or he is empowered to take under this Act with respect to any matter.

PART III.—  
CONSTITU-  
TION  
OF LOCAL  
AUTHORITIES;  
QUALIFICATION  
OF MEMBERS  
AND VOTERS;  
OUSTER FROM  
OFFICE.PART III.—CONSTITUTION OF LOCAL AUTHORITIES; QUALIFICATION  
OF MEMBERS AND VOTERS; OUSTER FROM OFFICE.*Subdivision I.—Constitution of Local Authorities.*Sub-  
division I.—  
Constitution  
of Local  
Authorities.  
TOWNS.  
[12.]

**13.\*** (1.) Every Town shall be governed by a Council composed of a Mayor and not more than twelve members and not less than six members, as the Governor in Council from time to time declares by Order in Council.

If the Town is divided, three members shall in like manner be assigned to each ward.

If the Town is not divided, the number of members shall be seven, nine, or eleven.

The members of the Council of a Town shall be called "Aldermen."

The Chairman in the case of a Town or City shall be called "The Mayor."

The Mayor shall not be assigned to any ward. He shall be a member and an alderman by virtue of his office.

## SHIRES.

(2.) Every Shire shall be governed by a Council composed of a Chairman and not more than twelve members and not less than five members, as the Governor in Council from time to time declares by Order in Council.

If the Shire is divided, the number of members shall in like manner from time to time be assigned to each division. The number so assigned shall not be more than three for any division, and need not be the same for each division.

If the Shire is not divided, the number of members shall be five, seven, or nine.

The members of the Council of a Shire shall be called "Councillors."

The Chairman shall not be assigned to any division. He shall be a member and a councillor by virtue of his office.

CORPORATION.  
[13.]

**14.** Every Local Authority and every Joint Local Authority shall be a body corporate, with perpetual succession and a common seal, and shall, under the name for the time being assigned to it, be capable in law of suing and being sued, and of purchasing, holding, and alienating land, and of doing and suffering all such other acts and things as bodies corporate may by law do and suffer.

\* Printed as amended by section 3 of the amending Act of 1910 and section 3 of the amending Act of 1920.

*Subdivision II.—Qualification and Election of Chairman and Members.*

PART III.—  
CONSTITUTION  
OF LOCAL  
AUTHORITIES;  
QUALIFICATION  
OF MEMBERS  
AND  
VOTERS;  
OUSTER FROM  
OFFICE.  
*Subdivision  
II.—  
Qualification  
and  
Election of  
Chairman  
and  
Members.*  
Qualification  
of member.  
[14.]

15.\* Every elector of any Area within Queensland who is not under any of the disabilities hereinafter specified shall be qualified to be elected or appointed and to act as Chairman or a member of the Local Authority of any Area within Queensland, but so long only as he continues to hold such qualification.

At any election a person shall not be qualified to be a candidate for the office of Chairman and also for the office of ordinary member, and a person shall not be qualified to be a candidate for the office of Chairman at any election to fill an extraordinary vacancy in that office if and so long as he is a member of the same Local Authority, nor unless, having been such member on the occurrence of such vacancy, he has resigned the office of member within three clear days after the day on which such vacancy occurred.

16. No person who—

- (i.) Is concerned or participates in the profit of any contract with the Local Authority; or
- (ii.) Has his affairs under liquidation by arrangement with his creditors, or is an uncertificated or undischarged insolvent; or
- (iii.) Is undergoing a sentence of imprisonment, whether or not the execution of such sentence has been suspended under section six hundred and fifty-six of "The Criminal Code" ‡; or
- (iv.) Is an insane person within the meaning of the laws in force for the time being relating to insanity;

Disqualifica-  
tions.  
[15.]

shall be capable of being or continuing a member:

Provided that nothing herein shall disqualify any person from being or continuing a member solely because he is concerned or participated in a transaction with the Local Authority in respect of—

Certain acts  
not to  
incapacitate  
for  
membership.  
[15.]

- (a) A lease, sale, or purchase of lands; or an agreement for such lease, sale, or purchase; or
- (b) An agreement for the loan of money or any security for the payment of money; or
- (c) A contract entered into by an incorporated company for the general benefit of such company; or
- (d) A contract for the publication of advertisements in a public journal; or
- § (e) The sale of goods to or the performance of any work for the Local Authority *bona fide* in the ordinary course of business and not pursuant to any written contract, and not exceeding the sum or value of twenty pounds in any one year.

17.|| (1.) Subject to this Act, the Chairman and every other member shall hold office for three years.

Tenure of  
office of  
Chairman or  
members.  
[15a.]

\* Printed as amended by sections 4 and 22 (iv.) of the amending Act of 1920.

‡ 63 Vic. No. 9, Sch. 1, Statutes, page 341.

§ Paragraph inserted by section 5 (1) of the amending Act of 1910.

|| Section inserted by section 5 (2) of the amending Act of 1910 repealed, and a new section substituted by section 5 of the amending Act of 1920.

PART III.—  
CONSTITUTION  
OF LOCAL  
AUTHORITIES;  
QUALIFICATION  
OF MEMBERS  
AND  
VOTERS;  
OUSTER FROM  
OFFICE.

Subdivision  
II.—  
Qualification  
and  
Election of  
Chairman  
and  
Members.

Extra-  
ordinary  
vacancies.

When office  
is vacant.  
[16.]

Non-attend-  
ance not to  
count unless  
meeting  
actually held.

Attendance  
at lapsed  
meeting.

Disqualified  
person  
acting.

Voters

(2.) The office of Chairman or a member shall—

- (a) Commence on the day of his election or appointment thereto;
- (b) Become vacant at the conclusion of the next triennial election under this Act unless sooner vacated as herein-after provided.

(3.) Whenever at the triennial election a poll has become unnecessary in respect of any candidate, and the Returning Officer has duly declared him to be elected, he shall not be entitled to act as Chairman or member, as the case may be, until the conclusion of that election.

(4.) In case of a vacancy arising from any cause except triennial retirement as hereinbefore provided, the Chairman or member elected or appointed to fill such vacancy shall be deemed to have been elected or appointed at the same time as the last occupant of the office who was elected or appointed otherwise than to fill an extraordinary vacancy.

18. (1.) The office of a Chairman or member of a Local Authority shall be vacated—

- (i.) If he is or has become disqualified, or has ceased to be qualified, under the provisions of this Act; or
- (ii.) If, without leave obtained from the Local Authority in that behalf, he has, in the case of a Shire, been absent from three or more consecutive ordinary meetings extending over a period of three months at the least, or, in the case of a Town, been absent from four or more consecutive ordinary meetings; or
- (iii.) If he is ousted from his office by the Supreme Court;
- (iv.)\* In the case of a member, if he is appointed to be Chairman as hereinafter provided on the occasion of an extraordinary vacancy in the office of Chairman; or
- (v.)\* If he ceases for any reason to hold office before the day on which the office would ordinarily become vacant:

Provided that the non-attendance of a member at the time and place appointed for an ordinary meeting shall not be deemed to constitute absence from such meeting unless a meeting of the Local Authority at which a quorum is present is actually held on that day:

Provided further that the attendance of a member at the time and place appointed for an ordinary meeting shall be deemed to constitute presence at an ordinary meeting notwithstanding that by reason that no quorum is present no meeting is actually held on that day; and the clerk shall enter in the minute-book the names of all members who so attend.

(2.) If a Chairman or member before he is capable of acting as such, or after his office has become vacated, acts or continues to act as Chairman or member, knowing that he is not capable, or that his office has become vacated, he shall be liable to a penalty not exceeding fifty pounds.

19.†‡ The Chairman shall be elected by the electors of the Area.

\* Paragraph inserted by section 6 of the amending Act of 1920.

‡ Old sections 17 to 20 repealed, and sections 19 to 24 substituted by section 7 of the amending Act of 1920.

If the Area is not divided, the other members shall be elected by the electors of the Area. If the Area is divided, the other members shall be elected for each division by the electors of such division.

**20.†\*** (1.) At any election or poll under or for the purposes of this Act, each elector shall have one vote only.

(2.) The voting shall be by ballot.

(3.) The election or poll shall be held on a Saturday.

**21.\*** (1.) In every Area on or before the twenty-fourth day of January in every third year, the Returning Officer shall cause to be prepared from the Electoral Roll or Rolls of the District or Districts within which the Area or division, as the case may be, is situated a correct alphabetical roll, hereinafter called the Voters' Roll, showing the names, numbered in regular arithmetical order, of all electors enrolled upon the said Electoral Roll or Rolls up to the immediately preceding thirty-first day of December who are entitled to vote at elections in the Area or division, as the case may be. Such Voters' Roll, without any amendment, shall be the Voters' Roll to be used at such triennial election:

Provided that the Voters' Roll to be used at the election in July, one thousand nine hundred and twenty-one, shall show the names of all electors enrolled upon the said Electoral Roll or Rolls up to the immediately preceding thirty-first day of March who are entitled to vote at elections in the Area or division as the case may be.

Electoral Registrars throughout the State shall, upon the application of a Returning Officer under this Act, place their rolls, and all papers, documents, and information in their possession at the disposal of such Returning Officer, and shall advise and furnish such assistance to such Returning Officer as may be reasonably required to facilitate the preparation of Voters' Rolls.

(2.) The said Voters' Roll shall be in the form prescribed for the said Electoral Rolls.

(3.) The Returning Officer shall deliver the Voters' Roll to the clerk, who shall forthwith cause the same to be printed or written in a roll or book, and, in the event of it becoming necessary to take a poll on any question or election of a Chairman or a member or members, shall furnish copies to any person requiring them on the payment of a sum not exceeding one shilling for every copy thereof.

(4.) The Voters' Roll used at the triennial election shall, after the conclusion of that election, remain in force and be used at all elections and polls until a new Voters' Roll is prepared in like manner. But for the purposes of any extraordinary election or poll held on any day other than the day of the triennial election the said Voters' Roll shall be amended so as to comprise the names of all persons who are electors and whose names have been enrolled as such, in the case of an extraordinary election, not later than sixty clear days before the day of nomination for such election, or, in the case of a poll, not later than sixty clear days before the day on which the poll is to be taken.

**22.†\*** (1.) The first Chairman and other members shall be elected.

\* Old sections 17 to 20 repealed and sections 19 to 24 substituted by section 7 of the amending Act of 1920.

PART III.—  
CONSTITUTION  
OF LOCAL  
AUTHORITIES;  
QUALIFICATION  
OF MEMBERS  
AND  
VOTERS;  
OUSTER FROM  
OFFICE;  
Subdivision  
II.—  
Qualification  
and  
Election of  
Chairman  
and  
Members.  
One vote  
only.  
Voters' Roll.  
[27.]

[28.]

PART III.—  
CONSTITUTION  
OF LOCAL  
AUTHORITIES;  
QUALIFICATION  
OF MEMBERS  
AND  
VOTERS;  
OFFICE FROM  
OFFICE.  
Subdivision  
II.—  
Qualification  
and  
Election of  
Chairman  
and  
Members.  
Triennial  
elections.

The election shall be held on such Saturday in the month of July, one thousand nine hundred and twenty-one, or, in the case of a newly constituted Area, on a Saturday within three months after the date of the Order in Council constituting the Area as the Governor in Council by Order in Council appoints.

The Chairman and members in office on the first day of January, one thousand nine hundred and twenty-one, shall retain office until the conclusion of such first election.

(2.) An election of the Chairman and members shall be held on such Saturday within the first twenty-four days of March in every third year after the first election as the Returning Officer appoints.

(3.) At such first election and every subsequent triennial election the Chairman and the whole number of members shall be elected.

Rules as to  
elections.  
Schedule III.

(4.) The rules, forms, and directions contained in the Third Schedule to this Act shall, as to all matters to which they extend, regulate the proceedings in relation to elections held in pursuance of this Act.

Resignations.  
[18.]

**23.† \*** The Chairman or any other member may resign his office by writing under his hand, addressed to the clerk; and such resignation shall be complete and shall take effect from the time when it is received by the clerk.

Extra-  
ordinary  
vacancy.  
[31.]

**24.† \*** (1.) Save as hereinafter provided, when any extraordinary vacancy arises in the office of member (other than the Chairman) a separate election shall be held to fill such vacancy:

Provided that, if such extraordinary vacancy occurs within four months before the next triennial election, such extraordinary vacancy shall not be filled up.

Such election may be held on the same day as an election to fill any other extraordinary vacancy in the Local Authority or in the representation of the same division.

Such election shall be held on such Saturday, being not less than twenty and not more than fifty clear days after the occurrence of such vacancy, as the Returning Officer appoints, and in default of such appointment on the thirty-first day after the occurrence of such vacancy.

Election or  
appointment  
of Chairman.

(2.) When an extraordinary vacancy arises in the office of Chairman within two years after his election thereto, a separate election shall be held to fill the vacancy.

In other cases when an extraordinary vacancy arises in the office of Chairman, the Local Authority shall appoint a qualified person to be Chairman in his stead, who, subject to this Act, shall hold office for the remainder of the period for which his predecessor was elected.

The vacancy shall be filled at a special meeting of the Local Authority to be called by the clerk forthwith.

The clerk shall be chairman at such special meeting.

\* Old sections 17 to 20 repealed and sections 19 to 24 substituted by section 7 of the amending Act of 1920.

(3.) If a sitting member is appointed to be Chairman as hereinbefore provided to fill an extraordinary vacancy, he shall forthwith be deemed to have vacated his office as member, whereupon an extraordinary vacancy in that office shall arise.

25. Nothing herein contained shall prevent any person from being immediately, or at any time, re-elected to the office of Chairman or member, if he is capable for the time being, under this Act, of being and continuing such Chairman or member.

26. When a change is made in the number of members, or a change is made in the boundaries of an Area or division, the Governor in Council may by Order in Council declare and direct whether a new election of a member or members shall be held for the Area or any division thereof, and, if so, when such election shall be held, and whether any and which of the existing members shall go out of office, and at what time.

27.\* Notwithstanding anything in this Act contained, the Governor in Council may, upon the petition of at least one-fifth of the electors of the whole Area, by Order in Council at any time, if in his opinion circumstances have arisen rendering it necessary so to do, dissolve any Council; whereupon the following consequences shall ensue:—

- (a) The Chairman and all other members of the Council shall forthwith go out of office;
- (b) A fresh election of the Chairman and all other members of the Council shall be held by and before such returning officer, and at such time as the Governor in Council may appoint; and, if necessary, a fresh Voters' Roll shall be compiled in accordance with this Act for such election by such person and in such manner as the Governor in Council may direct, and such Roll, when compiled and certified to be correct by such person, shall be conclusive as to the right to vote, and shall not be questioned at or in connection with such election.

*Subdivision III.—Ouster from Office.*

28.† (1.) When any person declared elected to the office of Chairman or member has been elected unduly or contrary to this Act, or any person who is incapable under this Act of holding or continuing to hold any such office has been elected to or holds or exercises any such office, the Supreme Court, or a Judge thereof, may, upon the application of any five electors of the Area, grant an order calling upon such person to show cause why he should not be ousted from such office:

Provided that the applicants shall before making the application pay into Court the sum of twenty pounds as security for costs, to abide the event of the application.

(2.) If, upon the return of the order, it appears to the Court or Judge that the person so elected, or holding or exercising such

PART III.—  
CONSTITUTION  
OF LOCAL  
AUTHORITIES;  
QUALIFICATION  
OF MEMBERS  
AND  
VOTERS:  
OUSTER FROM  
OFFICE.

Subdivision  
II.—  
Qualification  
and  
Election of  
Chairman  
and  
Members.

Members may  
be re-elected.  
[21.]

New elections  
on change in  
number of  
members or  
boundaries.  
[22.]

Power to  
dissolve a  
Council.  
[22A.]

Subdivision  
III.  
Ouster from  
Office.

Disputed  
elections or  
exercise of  
office.  
[23.]

\* Section inserted by section 7 of the amending Act of 1910, and consequentially amended by section 22 (vii.) of the amending Act of 1920.

† Consequentially amended by section 22 (viii.) of the amending Act of 1920.



PART III.—  
CONSTITUTION  
OF LOCAL  
AUTHORITIES;  
QUALIFICATION  
OF MEMBERS  
AND  
VOTERS;  
OUSTER FROM  
OFFICE.  
Subdivision  
III.—  
Ouster from  
Office.

office, was elected unduly or contrary to this Act, or was at the time of his election, or while holding or exercising such office, incapable under this Act of holding or continuing to hold the same, the Court or Judge may make the order absolute, or, if the matter does not so appear, may discharge the order, and in either case with or without costs.

The person against whom any such order is made absolute shall be deemed thereby to be ousted from such office accordingly.

(3.) No such order for ousting any person as having been elected unduly or contrary to this Act shall be granted unless the application is made before the expiration of four months from the declaration of the result of the election at which such person was elected.

(4.) When any proceedings in pursuance of this section are pending in the Supreme Court, the Court or a Judge may order, from time to time, that an inquiry be held by a fit person, to be named by the Court or Judge, touching any matters of fact which it is necessary or expedient to ascertain for the purpose of dealing with the proceedings so pending, and that such person do report to the Court or Judge touching such matters. And the Court or Judge may adopt and act upon the report of the person so appointed.

(5.) Sections fifty-three to fifty-seven inclusive of the "Evidence and Discovery Act of 1867,"\* so far as the same respectively apply to the powers, rights, and liabilities conferred or imposed in the case of an order for the issue of a commission for the examination of witnesses under section fifty-three of that Act, shall be deemed to apply in the case of any inquiry in pursuance of this section in like manner as if the person ordered to report under it had been authorised and required to take examinations under that Act, and such person may call upon the clerk to produce the ballot-papers used at the election, and may inspect them.

‡ \* \* \* \* \*

PART IV.—  
CHAIRMAN.  
Chairman  
may  
authorise  
certain  
works, &c.  
[32.]

PART IV.—CHAIRMAN.

29.† § (1.) The Chairman may, unless otherwise directed by By-law or by resolution of the Local Authority, authorise any work which in his opinion is urgent, at a cost not exceeding twenty pounds or such higher limit as the Local Authority may determine.

(2.) The Chairman shall give effect to any By-law, resolution, minute, or report which has been passed or adopted by the Local Authority.

Meetings.  
[34.]

30. § (1.) The Chairman shall preside at every meeting of the Local Authority at which he is present, and if he is absent another member shall be elected at the meeting to be chairman during the absence of the Chairman from the meeting.

(2.) If an extraordinary vacancy has arisen in the office of Chairman, the members present at any meeting, other than a special meeting called for the election of Chairman, shall elect from amongst themselves a member to be and act as deputy Chairman pending the filling of such vacancy.

\* 31 Vic. No. 13. Statutes, page 723.  
† Old sections 24 and 25 repealed by section 22 (ix.) of the amending Act of 1920; old section 26 repealed by section 9 of the amending Act of 1910; and old sections 27 to 31 repealed by section 22 (ix.) of the amending Act of 1920.  
§ Old sections 32 to 34A repealed and sections 29 and 30 substituted by section 8 of the amending Act of 1920.

**31.** If the Chairman is at any time temporarily absent from the area, or if he is ill, the Local Authority may, if it thinks fit, appoint one of its members to act as deputy Chairman during the time of such absence or illness, and the deputy Chairman, while so acting, and until the Chairman returns to the Area or notifies the clerk in writing under his hand of the fact of his recovery from illness (but within the term of office of such Chairman), may do all acts that the Chairman, as such, might do.

PART IV.—  
CHAIRMAN.  
Deputy-  
Chairman.  
[35.]

**32.** The Local Authority may grant an allowance to the Chairman from the Local Fund.

Allowance to  
Chairman.  
[36.]

PART V.—PROCEEDINGS.  
*Subdivision I.—Meetings.*

PART V.—  
PROCEEDINGS.  
*Subdivision*  
*I.—*  
*Meetings.*  
First  
meeting.  
[37.]

**33.** (1.) The Council of every newly constituted Town shall hold its first meeting at some convenient place within the Area on the first Wednesday after the first election of members, or as soon afterwards as conveniently may be, at the hour of twelve o'clock noon.

(2.) The Council of every newly constituted Shire shall hold its first meeting at some convenient place within or near the Area on the second Wednesday after the first election of members, or after the notification in the *Gazette* of the appointment of the first members, as the case may be, or as soon afterwards as conveniently may be, at the hour of twelve o'clock noon.

(3.) Thereafter in every Town on the third day after the conclusion of every annual election, or on such other day as may be appointed by the By-laws, and in every Shire on such day as may be appointed by the By-laws, the Local Authority shall hold a meeting at the hour of twelve o'clock noon \*or at such hour as may be appointed by the By-laws.

**34.** The Local Authority shall have power to fix by By-laws or otherwise the times at which meetings shall be held:

Meetings of  
Local  
Authority.  
[38.]

Provided that the Council of a Town shall meet at least once in each month, and of a Shire at least once in each quarter.

Every meeting other than a meeting of a Local Authority sitting in a Committee of the Whole shall be open to the public.

**35.** (1.) No business shall be transacted at any meeting unless a majority of the whole number of members for the time being assigned to the Area are present when such business is transacted.

Quorum :  
voting.  
[39.]

All powers vested in the Local Authority may be exercised by the majority of the members present at any meeting duly held, and all questions shall be decided by a majority and by open voting.

‡For the purposes of this Act where the number of members of a Local Authority is an even number, a majority of the whole number of members shall be deemed to be present at any meeting if the Chairman and such members are present as in the aggregate constitute one-half of the whole number of members.

Upon every question the Chairman shall have a vote, and if the numbers are equally divided he shall have a second or casting vote.

Chairman's  
casting vote.

\* Words to end of section inserted by section 14 of the amending Act of 1910.

‡ Paragraph inserted by section 8 of the amending Act of 1912.

PART V.—  
PROCEEDINGS.  
Subdivision  
I.—  
Meetings.

At all meetings, save as by this Act is otherwise provided, all members present shall vote.

If a member refuses to vote, his vote shall be counted for the negative.

Voting as  
member when  
interested.

(2.) No member shall vote or take part in debate with respect to any matter in which he has directly or indirectly, by himself or his partners, any pecuniary interest.

Every member who knowingly offends against the provisions of this subsection shall be liable to a penalty not exceeding fifty pounds.

Adjournment  
of meeting.  
[40.]

36. The members present at a meeting may, from time to time, adjourn the meeting.

If a quorum is not present within half an hour after the time appointed for a meeting, the members present, or the majority of them, or any one member, if only one is present, or the clerk, if no member is present, may adjourn such meeting to any time not later than fourteen days from the date of such adjournment:

Provided that nothing herein shall be construed to prevent the adjournment of any meeting to a later hour of the same day on which such meeting was appointed to be held.

Notices of  
meetings.  
[41.]

37. All notices of any meeting, or adjourned meeting, of the Local Authority (other than of a meeting adjourned to a later hour of the same day on which such meeting was held or was appointed to be held, or to the day or second day following the day on which such meeting was held) shall be in writing, and shall be delivered, or sent by post or otherwise, to the usual place of business (if any) within the Area, or to the place of abode, of each of the members two days at least previous to the meeting.

Every such notice shall specify the time of meeting, and, in case of a special meeting, shall specify the object thereof.

No business shall be transacted at any special meeting except such as is stated in the notice thereof.

Resolutions,  
how revoked  
or altered.  
[42.]

38. A resolution of the Local Authority shall not be revoked or altered unless notice of the intention to propose such revocation or alteration is given to each of the members, in the case of a Town seven days, and in the case of a Shire fourteen days, at the least before holding the meeting at which the revocation or alteration is to be proposed.

Governor in  
Council may  
intervene.

If the number of members present at that meeting is not greater than the number present when the resolution was adopted, the resolution shall not be revoked or altered, unless the revocation or alteration is determined upon by an absolute majority of all the members.

Extravagant  
allowances,  
&c.  
[43.]

39. (1.) The Governor in Council may at any time suspend, amend, or rescind, any resolution or order of the Local Authority, or may prohibit the expenditure of any moneys from the Local Fund upon any work which he deems unnecessary, or which will in his opinion impose undue burdens upon the ratepayers of the Area or any division thereof.

(2.) If, whether in pursuance of any resolution or order of the Local Authority, or otherwise, any payment of money has been made to any member out of the Local Fund or other moneys under the control of the Local Authority which the Governor in Council

considers unnecessary, extravagant, or illegal, the Minister shall order such member to repay such money to the Local Authority forthwith or within such time as the Minister allows.

If such member does not repay such money in pursuance of such order, the order may be made an order of the Supreme Court by filing a copy thereof in the office of the Registrar of such Court, and may be enforced accordingly.

PART V.—  
PROCEEDINGS.  
Subdivision  
I.—  
Meetings.

*Subdivision II.—Committees.*

**40.** The Local Authority may, from time to time—

- (i.) Appoint out of its number committees, either for general or special purposes;
- (ii.) Delegate to a committee power to do any act or hold any inquiry;
- (iii.) Fix the quorum of a committee.

Every committee may, from time to time, appoint one of its members to be chairman thereof.

Every committee shall report to the Local Authority.

A committee may meet from time to time, and may adjourn from place to place, as it thinks proper, but no business shall be transacted at any meeting of the committee unless the quorum of members (if any), fixed by the Local Authority, and, if no quorum is fixed, two members at the least, are present.

At all meetings of a committee if the chairman is not present one of the members present shall be appointed chairman of such committee during the absence of the chairman. All questions shall be determined by a majority of the votes of the members present, including the chairman; and, if the numbers are equally divided, he shall have a second or casting vote.

Subdivision  
II.—  
Committees,  
Committees  
and quorum.  
[44.]

*Subdivision III.—Records.*

**41.** (1.) The Local Authority shall cause entries of all the proceedings of the Local Authority, and of every committee appointed by the Local Authority, with the names of the members present at each meeting, and the names of all members voting upon any question for the decision of which a division is called, to be duly made, from time to time, in books to be provided for the purpose, which shall be kept by the clerk under the superintendence of the Chairman.

Every such entry shall be signed by the chairman presiding at the meeting next succeeding the meeting at which such proceeding has taken place.

(2.) Such books shall be open to inspection.

Any person having the custody of any such book who fails to permit such inspection shall be liable to a penalty not exceeding five pounds.

Subdivision  
III.—  
Records.  
Minutes of  
proceedings  
[45.]

To be open to  
inspection.

**42.** (1.) The clerk shall be responsible for the safe custody of all books of account, agreements, receipts, vouchers, and other books, papers, and writings belonging to or relating to the business of the Local Authority; he shall make a record of the same in obedience to the direction of the Auditor-General, and shall not destroy or mutilate any of them without his sanction in writing previously obtained.

Safe custody  
of books, &c.  
[46.]

PART V.—  
PROCEEDINGS.  
Subdivision  
III.—  
Records.

\*All such books, documents, papers, and writings which are not by this Act declared to be open to inspection shall nevertheless be open to inspection by any member, unless in any case the Local Authority otherwise directs. Any person having the custody of any such books, document, paper, or writing who fails to permit such inspection shall be liable to a penalty not exceeding five pounds.

Loss or  
destruction  
of records.

(2.) Whenever any Rate Book, Valuation, Return, Voters' Roll, book of account, agreement, receipt, voucher, or other paper or writing belonging to or relating to the business of a Local Authority is destroyed or lost, the Governor in Council may, by Order in Council, direct all such acts and things to be done as he thinks best for repairing the loss, and may declare any copy of any such book, valuation, return, roll, agreement, receipt, voucher or other paper or writing, to be valid and effectual for all purposes, and may, if necessary, define the time during which such copy shall remain in force.

Returns.  
[46A.]

43.† The Local Authority shall provide the Minister, at his request, from time to time with such returns relating to matters under its jurisdiction as may be required for the purpose of statistical information, and the Minister shall fix a reasonable time within which the returns so required shall be furnished.

Any officer appointed for that purpose by the Minister shall at any time have access to the books of the Local Authority, and may examine the same for the purpose of ascertaining if such returns are correct.

Any Local Authority which neglects or refuses to furnish any return required by this section or makes a false return, and any person who impedes or obstructs any inspector or officer appointed by the Minister to perform any duty under this section, shall be liable to a penalty not exceeding fifty pounds.

The clerk and the Chairman and every member of the Local Authority who causes or is privy to any such neglect, refusal, or falsity shall also be liable to the same penalty.

This section also applies to every Joint Local Authority.

Subdivision  
IV.—  
Officers.  
Appointment  
of officers.  
[47.]

*Subdivision IV.—Officers.*

44. The Local Authority from time to time shall appoint a clerk, and may appoint an engineer, surveyor, poundkeeper, and such other officers as are necessary to assist in the execution of this Act, or any other Act whereby powers or duties are conferred or imposed upon the Local Authority.

The Local Authority may pay to its officers, out of the Local Fund, such salaries and allowances as the Local Authority may determine.

§The Governor in Council may by the regulations provide for—

- (i.) The grant of certificates of competency to persons desirous of obtaining appointment as clerk of a Local Authority;
- (ii.) The qualifications necessary for the grant of such certificates and the authority by whom the same shall be granted.

\* Paragraph inserted by section 15 of the amending Act of 1910.

† Section inserted by section 16 of the amending Act of 1910.

§ Paragraphs inserted by section 9 of the amending Act of 1920.

45. Within three months after the appointment of any officer entrusted by a Local Authority with the custody or control of moneys by virtue of his office, the Local Authority shall take sufficient security from some association or joint stock company carrying on, in Queensland, the business of a guarantee society for the faithful execution of such office by such officer; and if upon the expiration of that period such security has not been taken, the office of such officer shall forthwith be vacated.

PART V.—  
PROCEEDINGS.  
Subdivision  
IV.—  
Officers.  
Security by  
officers  
entrusted  
with moneys.  
[48.]

46. The Chairman may at any time suspend from office any officer who, in his opinion, is guilty of misconduct or neglect, and may, if necessary, temporarily appoint another officer in his place:

Suspension.  
[49.]

Provided that, at the next meeting of the Local Authority after such suspension, the Chairman shall report the matter to the Local Authority; and if the officer so suspended is dismissed by the Local Authority, no salary or allowances shall be due or be paid to him from the date of his suspension.

Every officer so temporarily appointed shall hold office and receive remuneration (which shall in no case exceed that paid to the officer so suspended) only until the Local Authority decides whether the person suspended shall be reinstated, or whether he shall be dismissed and a successor appointed in his stead.

47. Every officer or servant employed by a Local Authority who exacts or accepts, on account of anything done by virtue of his office or in relation to any matters to be done under this Act or any other Act whereby powers or duties are conferred or imposed upon the Local Authority, any fee or reward, other than the salary or allowance allowed by the Local Authority, or who is in anywise concerned or interested in any bargain or contract made by the Local Authority, shall be incapable of being afterwards employed by any Local Authority for a period of five years, and shall forfeit the sum of one hundred pounds.

Officers  
exactng or  
accepting  
fees.  
[50.]

The Local Authority, or any ratepayer, may sue for such sum by action in any court of competent jurisdiction.

Any such sum of money recovered, after payment to the plaintiff of the full costs of the action, including costs as between solicitor and client, shall be paid into the Local Fund.

48. If any officer fails, when required by the Local Authority so to do,—

- (i.) To render accounts of any moneys received by him for or on behalf of the Local Authority and of his dealings therewith; or
- (ii.) To produce and deliver up the vouchers and receipts relating to the same in his possession or power; or
- (iii.) To pay the balance thereof when so required; or
- (iv.) To deliver up to the Local Authority or to any person appointed by it to receive the same, within five days after being so required, all papers and writings, property, matters, and things in his possession or power, relating to the execution of this Act or belonging to the Local Authority;

Officers  
failing to  
render  
accounts or  
to pay  
balance and  
deliver over  
property.  
[51.]

any two Justices may upon complaint hear and determine the

PART V.—  
PROCEEDINGS.  
Subdivision  
IV.—  
Officers.

matter in a summary way, and may order such officer to render such accounts, or to deliver up such vouchers and receipts, or to pay over the balance owing by him, or to deliver up all such papers, writings, property, matters, and things, and to pay the costs of the proceedings.

If such officer neglects or refuses to obey such order, he may, by any Justice, be committed to prison for any period not exceeding six months.

Officers  
answerable  
for negli-  
gence and  
misfeasance.  
[52.]

49. If any officer has—

- (i.) Misapplied or retained or become liable or accountable for any moneys or property of the Local Authority; or
- (ii.) Has exacted or accepted, on account of anything done by virtue of his office or in relation to any matters to be done under this Act or any other Act whereby powers or duties are conferred or imposed upon the Local Authority, any fee or reward other than the salary or allowance allowed by the Local Authority, or has been or is in anywise concerned or interested in any bargain or contract made by the Local Authority; or
- (iii.) Has been guilty of any neglect, breach of duty, or misfeasance in the discharge of his office or in relation to any matters to be done under this Act or such other Act as aforesaid;

a District Court may, on the plaint of the Local Authority, inquire into the conduct of such officer, and may order him to repay any moneys or restore any property so misapplied or retained, or for which he has become liable or accountable, together with interest after such rate as the Court thinks just, and to pay such sum of money to the Local Authority by way of penalty or compensation as the Court thinks fit.

Such inquiry shall for all purposes be deemed to be and have the effect of the trial of an action (including the right to a jury) within the meaning of "*The District Courts Act, 1891*,"\* or any Act amending or in substitution for the same.

A District Court shall have jurisdiction to hold and determine any such inquiry whether the amount, property, penalty, or compensation sought to be recovered does or does not exceed two hundred pounds or the value thereof.

Proceedings  
may be taken  
after officer  
has left  
office, and  
without  
prejudice to  
remedy  
against  
sureties.  
[53.]

50. All proceedings under this Act against an officer may be had and taken and enforced against such officer after he has ceased to hold his office.

No such proceedings against an officer shall deprive the Local Authority of any remedy which it might otherwise have against any surety of such officer.

Application  
to Joint Local  
Authorities.  
[54.]

51. The six last preceding sections of this Act shall apply to Joint Local Authorities in like manner and to the same extent as if the same were specifically mentioned therein.

\* 55 Vic. No. 33, Statutes, page 575.

PART VI.—POWERS AND DUTIES.

PART VI.—  
POWERS AND  
DUTIES.  
Sub-  
division I.—  
Office.  
Public office.  
[55.]

Subdivision I.—Office.

52. (1.) The Local Authority may from time to time provide and maintain, or contract for the use of, a public office within or in the case of a Shire at a reasonable distance beyond the Area, with proper fittings and furniture, for holding the meetings and transacting the business of the Local Authority, and for the use of its officers, and for other purposes.

(2.) Upon a petition signed by at the least \*ten per centum of the electors of the Area, showing that the present site of the office of the Local Authority or that any proposed site for such office is or would be inconvenient for the general transaction of the business of the Local Authority, the Minister shall cause such inquiry to be made as he thinks necessary, and may, if he thinks fit, order such office to be removed to, or to be located at, some place designated in such order.

And the Local Authority shall forthwith take the necessary steps to obey every such order.

Subdivision II.—Contracts.

Sub-  
division II.—  
Contracts.  
How  
contracts  
may be  
entered into.  
[56.]

53. (1.) A Local Authority may enter into contracts, and every such contract may be made, varied, or discharged as follows, that is to say—

- (i.) Any contract which, if made between private persons, would by law be required to be in writing and under seal, may be made by the Local Authority in writing and under its seal, and may be varied or discharged in the same manner;
- (ii.) Any contract which, if made between private persons, would by law be required to be in writing signed by the parties to be charged therewith, may be made in writing signed by the Chairman, or by any two members acting by the direction and on behalf of the Local Authority, and may be varied or discharged in the same manner;
- (iii.) Any contract which, if made between private persons, would by law be valid, although not reduced into writing, may be made without writing by the Chairman or by any two members acting by the direction and on behalf of the Local Authority, and may be varied or discharged in the same manner.

(2.) All contracts made according to the provisions herein contained shall be effectual in law and shall be binding on the Local Authority, and all other parties thereto, their successors, executors, or administrators, as the case may be; and in case of default in the execution of any such contract either by the Local Authority, or by any other party thereto, such actions may be maintained thereon and such damages and costs recovered by or against the Local Authority, or the other parties failing in the execution thereof, as might have been maintained and recovered if the same contracts had been made between private persons only.

\* Words "ten per centum of the electors" substituted for "one-fourth of the total number of the ratepayers" by section 19 of the amending Act of 1920.



PART VI.—  
POWERS AND  
DUTIES.  
Subdivision  
II.—  
Contracts.  
Composition  
for breaches  
of contract.  
&c.

[57.]

Notice calling  
for proposals.  
[58.]

54. A Local Authority may, for such sum of money or other consideration as it thinks fit, compound with any person who has entered into any contract with the Local Authority, or by or against whom any action or other proceeding may be or has been brought against or by the Local Authority, for any cause whatsoever other than proceedings for the recovery of any Rate.

55. Except in cases of emergency, before any contract for the execution of any work or the furnishing of any goods or materials to the amount of one hundred pounds or upwards is entered into by a Local Authority, fourteen days' notice at the least shall be given in some newspaper expressing the purpose of such contract, and inviting any person willing to undertake the same to make proposals for that purpose to the Local Authority.

The Local Authority may accept the proposal which on a view of all the circumstances appears to it to be most advantageous, and may take security for the due performance of every such contract, or the Local Authority may decline to accept any such proposal.

Application  
to Joint Local  
Authorities.  
[59.]

56. The provisions of this Subdivision shall apply to Joint Local Authorities in like manner and to the same extent as if the same were specifically mentioned therein.

Subdivision  
III.—  
General  
Powers  
and  
Jurisdiction.  
Control &c.,  
of necessary  
public works  
in Area.  
[60.]

Subdivision III.—General Powers and Jurisdiction.

57. Save as hereinafter provided, the Local Authority shall be charged with the construction, maintenance, management, and control of all roads, bridges, culverts, ferries, wharves, jetties, and other necessary public works within the Area, and may from time to time open a new road, or divert any road, or \* increase the width or cause to be raised or lowered the soil of any road, and may construct any bridge or culvert in or over any road, and may, for such purposes and for such time as is necessary, close any road or bridge:

Provided that the Council of a Shire shall not be charged with the construction, maintenance, management, or control of any road, bridge, ferry, wharf, jetty, or other public work which the Governor in Council, by Proclamation, excepts from the jurisdiction of such Council.

Local  
Authority  
may accept  
gifts and  
trusts.  
[61.]

assign  
public  
same  
the

58. The Local Authority may accept a gift, conveyance, or assignment of any real or personal property for any charitable or pious purpose not connected with religious worship, and hold the same upon such trusts or for such purposes as may be declared by the donor, and may accept any gift, conveyance, or assignment of real or personal property absolutely without any limitations of trust or otherwise, and may control, manage, and improve such real and personal property.

Land and  
buildings  
for public  
purposes.  
[62.]

ere t  
with  
there  
with a  
dams,  
flood gat  
pits, gym

59. The Local Authority may from time to time take, purchase, erect, rent, contract for the use of, or otherwise provide, either within the Area or, subject to this Act, at a reasonable distance from, land and buildings to be used for or in connection with aqueducts, baths, bores, bridges, canals, cemeteries, crematories, electrical works, experimental farms, ferries, fire stations, gas works and flood warnings, fords, gas works, gravel and sand pits, gas works, and other works for conservation of hydraulic and other

\* Words

alter or" repealed by section 17 of the amending Act of 1910.

power, jetties, landing places, libraries, locks, markets, museums, offices, omnibus services, parks, appliances for the destruction or prevention of pests, pounds, public meetings, public music, pumps, quays, quarries, recreation grounds, reservoirs, roads, rubbish depôts, sewage farms, disposal works and depôts, septic tanks, slaughter-houses, sewers, viaducts, wash-houses, watercourses, water-works, wharves, weighing machines, weirs, wells, or other public purposes; and may provide the same respectively with all necessary works, appliances, machinery, furniture, fittings, conveniences, methods, and things, and control, and manage, and from time to time enlarge, renew, and repair the same, and afford the use thereof respectively to the inhabitants of the Area or any persons on such conditions, either without fee or charge or for such reasonable fees or charges as the Local Authority may by By-laws prescribe:

PART VI.—  
POWERS AND  
DUTIES.  
Subdivision  
III.—General  
Powers and  
Jurisdiction.

But save as herein otherwise provided the Local Authority shall not exercise any of the powers hereby conferred beyond its Area without the consent of the Minister.

60. The Local Authority may from time to time appropriate such portion of the Local Fund as the Minister, with or without imposing conditions, may approve towards the construction or maintenance of any work outside the Area which is likely to conduce to the efficient construction or maintenance of any road, bridge, culvert, wharf, jetty, or other public work under the control of the Local Authority.

Works  
outside Area.  
[63.]

61. (1.) The Local Authority may, subject to "The Navigation Act of 1876,"<sup>†</sup> and any Act amending the same, from time to time take, purchase, rent, contract for the use of, or otherwise provide lands situated either within or outside but adjoining to or abutting upon the boundaries of the Area and forming any part of the shores, foreshores, or other water frontages thereof, and erect, build, and construct thereon wharves and jetties, with proper roads, ways, sea walls, and approaches thereto, and waiting-rooms, sheds, conveniences, offices, and buildings, and from time to time repair, alter, add to, and improve the same; and also may take on lease, purchase, or acquire for any estate or interest, all or any wharves, or jetties, erected within or adjoining or near to the boundaries of the Area, and from time to time repair, alter, add to, and improve the same:

Power to  
acquire lands  
and erect  
wharves, &c.  
[64.]

Provided that before any such wharf or jetty is erected, built, or constructed by the Local Authority, a plan and specification thereof shall be submitted to and approved of by the Minister.

(2.) The Local Authority may from time to time let and demise or otherwise grant or permit to any person the use or occupation of all or any of its wharves, or jetties, or any portion thereof, for such time, upon such terms, and subject to such conditions, stipulations, and agreements as the Local Authority may consider advisable.

Power to let.

But no such lease, demise, grant, or permission shall, if such wharf or jetty is constructed on land which is the absolute property of the Local Authority, be for any term exceeding ten years, nor such longer term not exceeding twenty-one years as the Governor in

\* Words "omnibus services" inserted by section 27 (2) of the amending Act of 1910.

† 41 Vic. No. 3, Statutes, page 3090.

‡ Words from "or" to "approve" inserted by section 18 of the amending Act of 1910.

PART VI.—  
POWERS AND  
DUTIES.  
Subdivision  
III.—General  
Powers and  
Jurisdiction.

Council may approve, nor if the same is constructed on land held by the Local Authority on lease, or for a limited time, be for any term exceeding the term of the said lease or the said limited time.

Moreover, if such wharf or jetty is situated at the end of a road, free access over such wharf or jetty shall be allowed to all passengers landing or embarking from or on any vessel or boat not plying for hire.

Wharf at end  
of road.

[64A.]

**62.\*** Where any road at the end thereof abuts immediately upon a river, the Local Authority may, from time to time, let or demise or otherwise grant or permit to any person the use or occupation of the frontage of such road to such river for the purpose of building wharves thereon, and also so much of the said road as is necessary for the purpose of constructing the necessary roadways and approaches to such wharf, for such time and upon such terms and subject to such conditions, stipulations, and agreements as the Local Authority may consider advisable; but no such lease, demise, grant, or permission shall be for any term exceeding twenty-one years, or be granted or given, unless with the consent of the owners of the lands on both sides of the road having a frontage to the road and also having a frontage to the river.

Ferry within  
Area.

[65.]

**63.** When a river, creek, or watercourse is so situated that at any place the land forming both banks thereof is within the Area of a Local Authority, the Local Authority shall have the exclusive right to establish a ferry across such river, creek, or watercourse at such place, and to construct, control, and regulate the same and all proper approaches thereto.

Bridge or  
ferry at  
boundary of  
Area

[66.]

**64.** When a river, creek, or watercourse is so situated that at any place the land forming one bank thereof only is within the Area of a Local Authority, the Governor in Council may order and declare that any bridge or ferry across such river, creek, or watercourse, at such place and all proper approaches thereto, and so much of either bank of the river, creek, or watercourse, at such place as is necessary for the convenient construction and use of such bridge or ferry, and all proper approaches thereto, shall be under the exclusive control of such Local Authority, notwithstanding that such approaches and bank are within the Area or Areas of another Local Authority or other Local Authorities, and may exclude the same from the jurisdiction of such other Local Authority or Local Authorities.

Local  
Authority  
may let ferry  
for fourteen  
years.

[67.]

**65.** (1.) The Local Authority having control of a ferry may let such ferry, either alone or together with any land vested in or under the control of the Local Authority which may be required for the purposes of such ferry, for any term not exceeding fourteen years, for such rent and upon such terms and subject to such conditions, stipulations, and agreements as the Local Authority may consider advisable:

Provided that, prior to granting any such lease for any term exceeding three years, the proposed terms and conditions thereof shall be publicly notified in some newspaper at least four times during two months.

Further  
provisions as  
to ferries.

‡(2.) The liability of a Local Authority or Joint Local Authority having the control of a ferry and its appurtenances or

\* Section inserted by section 19 of the amending Act of 1910

‡ Subsection 2 inserted by section 5 of the amending Act of 1913.

of a lessee thereof under this section shall not be deemed to be that of a common carrier, nor shall such Local Authority or Joint Local Authority or lessee have or be deemed to have any liability as an insurer of passengers, vehicles, animals, goods, or any other thing carried or conveyed by, over, or upon such ferry, or in respect of embarking or disembarking or receipt or landing or custody of the same.

The Local Authority or Joint Local Authority shall not be liable on any account whatsoever for any act or omission of any such lessee or his employees during the term of the lease of any ferry.

The Local Authority or Joint Local Authority may and is hereby empowered from time to time to make by-laws—

- (a) Limiting the amount of liability under this section of the Local Authority or Joint Local Authority having control of a ferry, or any lessee thereof, to any specified amount in respect of injury, loss, or damage occasioned to passengers, vehicles, animals, goods, or things;
- (b) Prohibiting, or authorising at owner's risk only, the carriage or conveyance by, over, or upon any ferry within the jurisdiction of the Local Authority or Joint Local Authority of any vehicle or class of vehicle or goods or class of goods or other specified things which in the opinion of the Local Authority or Joint Local Authority is or are likely to be subject to exceptional risk during transit:

Provided as follows:—

- (i.) Any such by-law may be made applicable to any particular ferry;
- (ii.) A copy of any such by-law shall be kept publicly exhibited at every landing-place of any ferry concerned, otherwise it shall not be binding upon any person.

**66.\*** The Local Authority may erect upon any land vested in it, and which for the time being is not required for any public purpose, buildings to be used for business or residential purposes, and may let and demise or otherwise grant or permit to any person the use or occupation of such buildings at such rent and subject to such conditions as the Local Authority may consider advisable.

Power to erect shops, &c., and let same.

[67A.]

**67.†** Where any land is vested in a Local Authority for an estate in fee-simple, whether such land is or is not held by the Local Authority upon trust for public purposes and not being a public park, and such land or any part thereof is for the time being not required for any public purpose, the Local Authority may, with the approval of the Governor in Council, grant to any person a lease of the land not so required, for any term not exceeding thirty years, for the erection thereon of buildings to be used for business or residential purposes at such rent and subject to such other conditions, reservations, and stipulations as the Local Authority, subject to the approval aforesaid, may consider advisable.

Power to Council to grant building leases of land not required for public purposes.

[67B.]

\* Section inserted by section 20 of the amending Act of 1910

† Section inserted by section 9 of the amending Act of 1912.

PART VI.—  
POWERS AND  
DUTIES.Subdivision  
III.—General  
Powers and  
Jurisdiction.Certain  
roads,  
bridges, &c.,  
excepted  
from control.

[68.]

**68.** Nothing herein contained shall authorise the interference of any Local Authority with any road, bridge, ferry, wharf, or jetty which was not formed, constructed, erected, acquired, or established by such Local Authority, and which is excepted from the jurisdiction of such Local Authority by a Proclamation made or to be made by the Governor in Council, or respecting which separate provision has been or shall be made by any other Act:

Provided that the Governor in Council may, by Proclamation, authorise any Local Authority to take upon itself the charge of any such road, bridge, ferry, wharf, or jetty, within the Area, or any such bridge or ferry as under the provisions hereinbefore contained may be ordered and declared to be under the control of the Local Authority.

Before the issue of any Proclamation authorising the Local Authority to take the charge of any such road, bridge, ferry, wharf, or jetty, there shall be an adjustment, to the satisfaction of the Minister, of any then existing debt, securities, or other arrangements, upon or in respect of it, as the circumstances of the case may require.

Upon any such Proclamation as last aforesaid, any existing trust or other provision for the management or control of, or other dealing with, any such road, bridge, ferry, wharf, or jetty created in pursuance of any Act then in force, or by any other competent authority, shall cease and determine.

Limited  
liability in  
respect of  
bridges and  
culverts.

[68A.]

**69.\*** No claim, remedy, or cause of action shall lie or be brought against any Local Authority or Joint Local Authority charged with the construction, maintenance, management, and control of any bridge or culvert and the approaches to any bridge or culvert, or in respect of anything done or omitted to be done by such Local Authority or Joint Local Authority (including its contractors, officers, and servants) in or in connection with the construction, maintenance, management, or control of such bridge, or culvert, or approaches, save and except only for or in respect of the negligent act of such Local Authority or Joint Local Authority (including its contractors, officers, and servants) in or about the construction or maintenance of the same.

Such Local Authority or Joint Local Authority may and is hereby empowered from time to time to make by-laws—

- (a) Limiting the amount of its liability to any specified amount in respect of injury, loss, or damage occasioned to persons, vehicles, animals, goods, or things using, passing, or being conveyed over or upon any such bridge, or culvert, or approaches;
- (b) Prohibiting, or authorising at personal or owner's risk only, the using, or passing, or conveyance over or upon any such bridge, or culvert, or approaches of any vehicle or class of vehicles (whether carrying passengers or not), or goods or class of goods, or other specified things which in the opinion of the Local Authority or Joint Local Authority is or are likely to be subject to exceptional risk during use, passage, or conveyance:

\* Section inserted by section 6 of the amending Act of 1913.

Provided as follows:—

- (i.) Any such by-law may be made applicable to any particular bridge or culvert;
- (ii.) A copy of any such by-law shall be kept publicly exhibited at every bridge or culvert concerned, otherwise it shall not be binding upon any person.

PART VI.—  
POWERS AND  
DUTIES.

Subdivision  
III.—General  
Powers and  
Jurisdiction.

**70.** (1.) The Governor in Council may, from time to time, by Proclamation, \*place under the management and control of a Local Authority any reserve, cemetery, park, foreshore, or commonage. Control of  
Reserves, &c.  
[69.]

(2.) The Governor in Council may, from time to time, by Proclamation, place under the temporary or permanent management and control of a Local Authority, any reserve, or any public works, buildings, erections, machines, implements, wells, reservoirs, or other things, which have been commenced, constructed, purchased, or provided for out of moneys appropriated by Parliament.

‡Thereupon the provisions of subsection two of section †one hundred and sixty-seven shall apply to every such reserve.

(3.) Before the issue of any Proclamation in pursuance of this section there shall be an adjustment to the satisfaction of the Minister of any then existing debt, securities, or other arrangements upon or in respect of such land, works, or things, as the circumstances of the case may require.

(4.) Upon any such Proclamation as last aforesaid any existing trust or other provision for the management or control of, or dealing with, any such land, works, or things, created in pursuance of any Act then in force or by any other competent authority, shall cease and determine.

§(5.) For the purposes of this section a reserve includes any miner's common or any land which under Part XI. of "*The Mining Act of 1898*"|| may be proclaimed as a miner's common. And whenever any such land as aforesaid is placed under the management and control of a Local Authority, the provisions of the said Part XI. of the said Act, except section one hundred and eighty-two thereof, shall be applicable and shall be administered by such Local Authority; and references therein to regulations shall be deemed to relate to the By-laws of such Local Authority, which By-laws it is hereby empowered to make. Nothing herein shall be construed to prevent the taking up or holding of mining tenements or miners' homesteads on any such land.

**71.** The Local Authority may fence in or otherwise enclose, level, drain, plant, and form walks and carriage drives through and over any reserve vested in the Local Authority or for the time being under its control, or any part thereof, and may construct dams and reservoirs for the retention and formation of sheets of water thereon, and may erect buildings and otherwise improve and ornament the same; and may do all such further acts and carry out such measures as are proper for the adaptation of such reserve to the purposes of public recreation, amusement, health, and enjoyment. Power to  
improve  
public  
reserves.  
[70.]

\* Words from "place" to "Authority" substituted for "authorise the Local Authority to assume the management and control of" by section 21 of the amending Act of 1910.

‡ Paragraph added by section 21 of the amending Act of 1910.

§ Subsection 5 added by section 21 of the amending Act of 1910.

|| 62 Vic. No. 24, Statutes, page 2178.

PART VI.—  
POWERS AND  
DUTIES.Subdivision  
III.—General  
Powers and  
Jurisdiction.

Council may  
provide  
places of  
public  
recreation.

[71.]

**72.** (1.) In order to provide for the health, amusement, and instruction of the public, the Local Authority may from time to time—

- (i.) Take, purchase, rent, contract for the use of or otherwise provide land and buildings to be used as pleasure-grounds, gardens, libraries, museums, music-halls, gymnasiums, or for any other purpose of enjoyment or recreation;
- (ii.) Lay out, improve, and plant any such land;
- (iii.) Furnish any such buildings with books, musical instruments, and works of nature or art, and with all such things as the Local Authority thinks fitting for such purposes;
- (iv.) Fix reasonable charges to be paid to the Local Fund for the use of any such land or buildings, or for lending books out of any such library.

Local  
Authority  
may aid  
hospitals,  
museums,  
libraries,  
&c.

(2.) The Local Authority may from time to time maintain or otherwise aid hospitals, \*public societies, associations, or institutes formed for ensuring the supply of milk or other perishable food or food products in a sound and pure state, schools of arts, technical schools, mechanics' or youths' institutes, museums, and public libraries not conducted for the purpose of private profit, or may with the consent of the trustees or other governing body assume control of any such school of arts, technical school, institute, museum, or library, and acquire the property thereof; and such trustees and governing bodies are hereby authorised to give such consent, and to transfer such property to the Local Authority.

Petition for  
park.

[71A.]

**73.‡** The ratepayers rated as owners of rateable land and having not less than one-fifth of all the votes of the ratepayers so rated within the Area may, by petition, request the Local Authority to purchase or otherwise provide a park.

Every such petition shall specify the locality in which such park should be situated, and every signature thereto shall be verified by the solemn declaration of some person who signed the petition. No petition unaccompanied by such declaration shall be received by the Local Authority.

Upon the receipt of such petition, the Local Authority shall direct that a poll shall be taken of the ratepayers rated as aforesaid within the Area, and shall prescribe the form of ballot-paper to be used, and shall give such other directions as may be necessary for taking the poll.

The poll shall be taken within sixty days after the receipt of the petition, and the result thereof shall be ascertained in the manner hereinafter prescribed for taking a poll on the question of a proposed loan; but in all cases voting shall be by ballot.

If, upon the poll being taken, the number of votes given against the purchase or provision of a park is greater than the number of votes given in favour of it, no action shall be taken upon the petition; but if the number of votes given in favour of the purchase or provision of a park is greater than the number of votes given

\* Words from "public" to "state" inserted by section 22 of the amending Act of 1910.

‡ Section inserted by section 10 of the amending Act of 1912.

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POWERS AND  
DUTIES.Subdivision  
III.—General  
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Jurisdiction.

against it, the Local Authority shall proceed to purchase or otherwise provide a park, as requested in the petition, and shall thereafter improve and maintain the same.

If, within six months after the resolution for the purchase or other provision of a park has been adopted on such poll, the Local Authority has failed to give effect thereto as aforesaid, the Minister, upon a memorial signed by at least twenty ratepayers rated as aforesaid, may make an order on the Local Authority, requiring it to give effect to such resolution within a time to be named in such order.

Obedience to an order so made may be enforced by action or motion for a *mandamus* at the suit of the Attorney-General on the relation of any ratepayer; or if the Minister thinks proper so to do, he may himself comply with the said order on behalf of and at the cost of the Local Authority, and in such case shall have all the powers and authorities of the Local Authority on whose behalf he is acting, including the power of borrowing on its behalf from the Treasurer as hereinafter provided.

74.\* When a park has been provided in an Area, whether before or after the first day of January, one thousand nine hundred and thirteen, the Local Authority of such Area shall have the sole management and control thereof. Who to control park. [71B.]

Subject to the By-laws of such Local Authority, such park may, nevertheless, be used by the ratepayers or inhabitants of other Areas or the general public.

75.\* When a park will be commonly used, not only by the inhabitants of the Area in which it is situated, but also by the inhabitants of any conterminous or neighbouring Area or Areas, the Local Authority proposing to provide the park shall, before purchasing or otherwise providing such park, request the Local Authority or Local Authorities of such conterminous or neighbouring Area or Areas to enter into an agreement for contributing towards the expenditure necessary in connection with the purchase, improvement, and maintenance of such park in such proportions as may be considered just, or, failing such agreement, as may be fixed by the Minister upon a reference to him in that behalf by any of such Local Authorities. Contribution toward maintenance [71C.]

Any income derived from such park shall be distributed between such Local Authorities in the same proportions as the expenditure is contributed by them.

76.†\* A Local Authority may, under and subject to the provisions of Part XIII. of this Act, borrow money from the Treasurer, unless otherwise authorised by Parliament, for the purchase, improvement, and maintenance of parks. Loans for parks. [71D.]

77.‡ In addition to and without in any way limiting the operation of any of the provisions of this Act with respect to parks, the Governor in Council may, by Order in Council, in any case where he is of opinion that in any Area insufficient provision has been made for parks and places of public recreation, declare that within a time specified in such Order provision or further and Powers of Governor in Council with respect to parks. [71E.]

\* Sections inserted by section 10 of the amending Act of 1912.

‡ Section inserted by section 7 of the amending Act of 1913.



PART VI.—  
POWERS AND  
DUTIES.  
Subdivision  
III.—General  
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Jurisdiction.

better provision in that behalf shall be made by the Local Authority of such Area, and fix a maximum capital sum to be expended by the Local Authority in providing the same; and every such Order shall be obeyed.

For the purposes aforesaid the Governor in Council may, by such Order or any amendment thereof, combine two or more Local Authorities, and in such case apportion the capital cost between them in such manner as he thinks just, and give all further necessary or consequential directions.

If the Local Authority or Local Authorities concerned has not or have not, within the time limited by any such Order, in the opinion of the Governor in Council, taken all proper steps to comply with the same, the Governor in Council may by a further Order so declare, whereupon he may comply with the said first-mentioned Order on behalf of and at the cost of the Local Authority or Local Authorities concerned, and in such case shall have all the powers and authorities of a Local Authority conferred by this Act for the purpose of providing parks, including the power of borrowing money from the Treasurer as hereinbefore provided; but it shall not be necessary for him to wait for any petition by ratepayers or take any poll of them for ascertaining their wishes.

Any loan advanced by the Treasurer for the purposes of this section shall be for such term as the Governor in Council directs not exceeding forty years, and shall be deemed to have been advanced to the Local Authority concerned, or to each of the Local Authorities concerned, in the proportion fixed by the Governor in Council, and shall be repayable accordingly.

Every park provided by the Governor in Council under this section shall be vested in and under the control of the Local Authority on whose behalf it is purchased, or if two or more Local Authorities are combined shall be vested in and under the control of such one of them as the Governor in Council declares; and in the latter case the provisions of section seventy-five hereof shall be applied so far as the same are applicable.

Expenditure  
of votes may  
be entrusted  
to Local  
Authority.

[72.]

78. The Governor in Council may, from time to time, cause to be placed to the credit of the Local Authority any sum of money appropriated by Parliament for any specific object within the Area, and not otherwise forming a part of the ordinary revenue of the Local Authority, which in the opinion of the Governor in Council may with advantage be expended by the Local Authority:

Provided that in every such case a separate detailed account of the expenditure incurred by the Local Authority upon such specific object shall, from time to time, and whenever required, be furnished to the Minister by the Local Authority and shall be laid before Parliament.

Subdivision  
IV.—  
Alignment of  
Roads.

Alignment  
of roads and  
declaration of  
encroachments.

[73.]

*Subdivision IV.—Alignment of Roads.*

79.\* (1.) Whenever it may become necessary, the Minister may cause an alignment to be made of the roads in any Town or part thereof, or of any road in any Area, and may cause maps or plans of such alignment to be prepared wherein shall be delineated the width of the roads and all encroachments thereon.

\* Printed as amended by section 23 (1) of the amending Act of 1910.

(2.) Every such map or plan, or a copy thereof, shall be transmitted to the Local Authority.

(3.) Every map or plan so transmitted shall, for a period of three months, be open to inspection.

(4.) During such period the Local Authority or any owner of rateable land affected by the proposed alignment may lodge with the Minister a written objection to any part of such map or plan.

(5.) The Minister shall, by notification in the *Gazette* and in some newspaper, appoint a day (not later than thirty days after the expiration of such period of three months) on which he or some person, being an authorised surveyor, appointed by him in that behalf, will hear and determine all objections to such map or plan. A copy of every such notification shall be served upon the owner and the occupier of any structure with respect to which any encroachment as aforesaid is alleged.

On the day so appointed the Minister or such person as aforesaid, after hearing the Local Authority and any person who is in his opinion entitled to be heard, shall determine all objections lodged and all questions of alleged encroachment as aforesaid, and shall finally fix and declare the alignment of every road.

(6.) If any existing structure is found to encroach wholly or in part upon a road as fixed and declared by the alignment thereof, the owner or occupier shall upon application be entitled to receive a diagram showing the extent of such encroachment.

(7.) If the owner of any land abutting on any road is able to establish his title to any part of the said land which the alignment aforesaid declares to be an encroachment upon, or to form part of, such road, such land shall nevertheless be taken to form part of such road, and the person deprived of such land shall be entitled to compensation in a sum which shall bear the same proportion to the value of the whole of the land as the area of the part excised by the alignment bears to the area of the whole of the land: Provided that no compensation shall be payable where the area of the land is not reduced by the alignment to a lesser area than is conveyed by the instrument of title to the land.

(8.) The Minister shall cause to be duly delineated in a map or plan the alignment and the width of the roads as finally fixed and declared, and shall sign the same, and shall cause signed copies thereof to be deposited and recorded in the Department of Public Lands, in the office of a Registrar of Titles, and in the office of the Local Authority.

80.\* If at any time before the due alignment of a road any person desires to erect any building or retaining wall, or to make any alteration of or addition to any existing building or retaining wall, abutting on such road, he shall give at least thirty days' notice to the Minister and to the Local Authority of his intention so to do; and upon payment of a fee to be fixed by By-laws (which the Local Authority is hereby empowered to make) shall be entitled to receive from the Minister a certificate of alignment of the road. As to building before alignment. [74.]

The Minister shall transmit a duplicate copy of such certificate to the Local Authority, and such certificate and duplicate shall for all purposes be conclusive evidence of the facts therein stated.

\* Printed as amended by section 23 (2) of the amending Act of 1910.

PART VI.—  
POWERS AND  
DUTIES.Subdivision  
IV.—  
Alignment  
of Roads.

It shall not be lawful to erect any such building or retaining wall or to alter or add to any such existing building or retaining wall, until such certificate has been obtained.

The amount of any fee paid under this section may be deducted from the amount of any Special Rate for the alignment of roads which may afterwards be levied in respect of the same land.

Cost of  
alignment.

[74A.]

**81.\*** The entire cost of carrying into execution the provisions of the two last preceding sections shall be borne by the Local Authority concerned, and shall constitute a debt due by the Local Authority to the Crown, which may be recovered by action in the name of the Minister in any Court of competent jurisdiction.

The Minister, before proceeding to comply with any application by a Local Authority under †section seventy-nine, may require the Local Authority to give security for the due payment of the cost to be incurred in complying with such application.

No  
encroachment  
allowed.

[75.]

**82.** After the alignment of any road, or part thereof, is fixed and declared as aforesaid, no new building or structure shall, except in pursuance of a By-law in that behalf, be erected or allowed to project or encroach upon such road or part thereof, and no building or structure which at the commencement of this Act is erected so as to encroach wholly or in part upon such road shall be rebuilt or be added to or altered to the extent of one-half thereof measured in superficial feet above the then level of the roadway except in pursuance of this Act, and no such building or structure as last mentioned shall be required to be removed until such rebuilding or addition or alteration takes place.

New roads on  
subdivision  
of land. †

[76.]

**83. (1.)** From and after the commencement of this Act, no map or plan of any subdivision of land showing any new road proposed to be opened up or dedicated within any Town, or within any such Shire or division of a Shire as the Governor in Council may by Order in Council from time to time declare, shall be deposited in the office of any Registrar of Titles unless or until such map or plan has been approved as hereinafter provided.

(2.) A copy of every such map or plan shall be submitted to the Local Authority of the Area wherein the land is situated.

§The person submitting such map or plan shall also cause to be marked, by pegs driven into the ground, the actual boundaries of every such new road, and such marks shall be there maintained until the matter is finally disposed of.

(3.) The Local Authority shall, within ‖forty-two days (or such further time as the Minister may allow) after the receipt thereof, either return such map or plan to the person from whom it was received, with a certificate that it approves of every road shown thereon, or send to him a notice in writing stating that the Local Authority objects to any such roads, and setting forth the nature of the objection and full particulars of the reasons upon which it is founded.

\* Section inserted by section 23 (3) of the amending Act of 1910.

† See also "*The Undue Subdivision of Land Prevention Act of 1885*" (49 Vic. No. 15), Statutes, page 3047.

§ Paragraph added by section 11 of the amending Act of 1912.

‖ Word "forty-two" substituted for "twenty-one" by section 24 (1) of the amending Act of 1910.

PART VI.—  
POWERS AND  
DUTIES.  
Subdivision  
IV.—  
Alignment  
of Roads.

\*In all cases where any such proposed new road is of a less width than one chain, and also is of a less width than the width of the road or roads providing access to such land before the subdivision thereof, the Local Authority may object to such proposed new road on that ground, and such objection shall be final and without appeal.

(4.) If the Local Authority so objects, it shall send the map or plan, together with a copy of the notice of objection, to the Minister or to some person, being an authorised surveyor, appointed by him in that behalf.

(5.) If the Local Authority fails within the time herein limited or such further time as aforesaid to comply with the foregoing provisions, such failure shall be taken to mean that the Local Authority approves of every road shown upon such map or plan, and the owner of the land shall thereupon be entitled to receive a certificate of approval thereof signed by the Minister or such person as aforesaid on behalf of the Local Authority.

(6.) If the Local Authority has duly given notice of objection, the Minister or such person as aforesaid, on a day appointed for that purpose by notification published in the *Gazette* and in some newspaper, not being later than forty-two days after the receipt by the Minister or such person of such map or plan, shall hear and determine any objection thereto by the Local Authority, and take into consideration any evidence tendered or representations made by any person who is, in his opinion, entitled to be heard.

(7.) After such hearing, the Minister or such person as aforesaid may either reject the map or plan or approve thereof with or without such modifications as he thinks just, and with such conditions, if any, as to clearing, grading, or opening up any such new road by the owner of the land as he thinks fit to impose in the public interest.

84. Where any authorised surveyor makes any survey of any land in an Area other than Crown land for the purpose of the transfer of or other dealing with the land so surveyed, he shall, without expense to the Local Authority, deposit in the office of the Local Authority a copy, certified under his hand to be correct, of every plan prepared by him for registration with a Registrar, and furnished to the person by whom he was employed, if he fails so to do within one month after the copy upon any road plan he shall be liable to a penalty not exceeding £100 requiring it to

Surveyors to  
deposit copy  
of plans with  
Local  
Authority.  
Subdivision  
VI.—  
Levels of  
Roads.  
Fixing level  
in Towns.  
[83.]

*Subdivision V.—Powers of Maintenance.*

85. Except as is herein provided, when a Local Authority diverts or alters a road the sides of which are fenced, or opens a new road through enclosed land, or takes away a fence for the purpose of widening a road, the Local Authority shall—

- (i.) Cause substantial fences to be made on the sides of the road which were before fenced, or on both sides of such new road if it is opened through enclosed land, or upon the side upon which the fence is so taken away; or

\* Paragraph added by section 8 of the amending Act of 1913.  
 † Words "an authorised" substituted for "a licensed" by section 11 of the amending Act of 1912.  
 § Word "forty-two" substituted for "twenty-one" by section 11 of the amending Act of 1912.  
 ¶ Section inserted by section 24 (2) of the amending Act of 1910.

if Fixing levels  
in Shires.  
[84.]

PART VI.—  
POWERS AND  
DUTIES.  
Subdivision  
V.—Powers  
of Main-  
tenance.

(ii.) Make compensation to the owner and occupier of the land:

Provided that when in the lease or grant of any land any reservation of a portion of the land comprised therein has been made for the purpose of making roads, and in such reservation the acreage of the land reserved is expressed but no specific part of the land is defined as intended to be reserved, the Local Authority may from time to time, notwithstanding that such land has been enclosed, open through such land a new road or roads not exceeding in width the roads generally existing in the Area.

And if the acreage of such new road or roads does not in the aggregate exceed the acreage of such reservation, and no part of such road or roads passes through improved land, the Local Authority shall not be required to fence any part of such road or roads, or make any compensation to the occupier or owner of the land.

And if the acreage of such new road or roads exceeds in the aggregate the acreage of such reservation, then only the excess of the former over the latter shall be taken into consideration in estimating what fencing or compensation the Local Authority shall be required to make.

Materials of  
roads, &c.,  
belong to  
Local  
Authority.  
[78.]

**86.** The materials of all roads, bridges, ferries, wharves, jetties, and other public works under the control of the Local Authority, and all things appurtenant thereto, shall belong to the Local Authority.

Temporary  
road during  
repairs, &c.  
[79.]

**87.** The Local Authority may, through any land adjoining to any ruinous part of a road, bridge, or ferry, which the Local Authority proposes to make or repair, not being improved land, make a temporary road or bridge to be made use of as a public highway whilst the old road, bridge, or ferry is being made or repaired.

The Local Authority shall make compensation to the owners and occupiers of such land for any damages which they may thereby sustain.

the Loc.

§The person Local Authority may authorise any officer or any other be marked, by person and search for, dig, raise, gather, take, and carry of every such person from any land within, or with the approval of the until the middle of the Area, not being improved land, and on and river, creek, or watercourse, any materials necessary for man. (3) or maintaining any matter or thing which the Local Authority is by this Act authorised to make or maintain; but so, nevertheless, as not to damage any structure or any road, bridge, or ford, or to divert or interrupt the course of any river or creek, and so as not to search for, dig, raise, gather, or take any such materials within fifty yards of any dwelling-house, bridge, dam, wharf, jetty, or other like structure.

The Local Authority shall make compensation to the owners and occupiers of such land for any damage which they may sustain through the exercise of any of the powers conferred by this section, including, in the case of owners, the full value of any materials so

ame

89. If any officer of the Local Authority, or any other authorised person, in the exercise of the powers conferred by this Act, makes, or causes to be made, any pit or hole in any land, the Local Authority shall forthwith—

- (i.) Cause the same to be sufficiently fenced off, and the fence to be supported and repaired during such time as the pit or hole continues open and not sloped down or filled up as herein provided;
- (ii.) After such pit or hole is opened or made, if no suitable materials are found in it, cause the same to be filled up with the earth or soil taken therefrom, and levelled;
- (iii.) Where any such materials are found, after having procured sufficient materials in such pit or hole, cause the same to be filled up, sloped down, or fenced off, and so continued.

If the provisions of this section are not complied with, the Local Authority shall be liable to a penalty not exceeding twenty pounds, which shall be paid to and retained by the person aggrieved, and shall further be liable to make good to the owner or occupier of the land any expense he may incur in doing the acts by this section required to be done by the Local Authority.

90. The Local Authority shall, during the construction, alteration, or repair of any works, vested in or carried on by the Local Authority, under or in pursuance of this Act or any other Act, take proper precautions for guarding against accident and preventing any injury to adjoining land, by shoring up and protecting the adjoining structures and land, or otherwise as may be necessary; and may cause such bars or chains to be fixed across or in any road to prevent the passage of traffic while such works are being carried on, as to the Local Authority seem proper; and the Local Authority shall cause the work, during the construction, alteration, or repair thereof by the Local Authority, to be lighted and guarded during the night, so as to prevent accidents.

Any person who takes down, alters, or removes any such bars or chains, or extinguishes any such light, without the authority of the Local Authority, shall be liable to a penalty not exceeding ten pounds.

*Subdivision VI.—Levels of Roads.*

91. Any person interested in any land abutting upon any road in a Town may give notice in writing to the Council requiring it to fix the permanent level of such road.

If the Council does not, within six months after the service of such notice, fix the level of such road, the person giving such notice and all persons claiming under him shall, in the case of every subsequent alteration of the level of such road, be entitled to compensation from the Council for any damage sustained in consequence of such alteration.

If after the level of any such road has been so fixed the Council alters the level of the ground in such road, except in conformity with the level so fixed, the Council shall make compensation to all persons injuriously affected by such alteration.

92. The Council of a Shire may, if it thinks fit, and shall, if required by the Minister, fix the permanent level of any road in the Area.

PART VI.—  
POWERS AND  
DUTIES.

Subdivision  
V.—Powers  
of Main-  
tenance.

Place from  
which  
materials  
are taken to  
be fenced, &c.

[81.]

Precautions  
where works  
in progress.

[82.]

Penalty.

Subdivision  
VI.—

Levels of  
Roads.

Fixing level  
in Towns.

[83.]

Fixing levels  
in Shires.

[84.]

PART VI.—  
POWERS AND  
DUTIES.Subdivision  
VI.—Levels  
of Roads.

If after the level of a road has been so fixed the level of the ground in such road is altered by such Council, except in conformity with the level so fixed, the Council shall make compensation to all persons injuriously affected by such alteration.

Transverse  
levels.

[85.]

**93.** Where any road traverses such uneven, broken, or sidelong ground that the adoption of a uniform level transversely throughout the entire width of such road would in the opinion of the Local Authority cause inconvenience, the Local Authority may either permanently or temporarily form any such road to different transverse levels in such manner as to divide the road so formed into separate roads, one of which may at any transverse section of the road be higher or lower than any other:

Provided that wherever the Local Authority so divides any road into separate roads, the Local Authority shall erect and maintain such fences and establish and maintain such lights as may be necessary to prevent accidents.

Subdivision  
VII.—  
Opening and  
Closing  
Roads.Opening or  
closing road  
in Shire.

[87.]

*Subdivision VII.—Opening and Closing Roads.\**

‡ \* \* \* \* \*

**94.** When it is proposed, except upon the application of the Local Authority, to open or close a road,|| under the laws in force for the time being relating to opening or closing roads, the following provisions, notwithstanding anything contained in any Act to the contrary, shall have effect, that is to say,—

- (i.) At least two months' notice in writing shall be given to the Council by the Minister of the Crown charged with the administration of the Department of Public Lands and by the persons desiring such road to be opened or closed.
- (ii.) Such notice shall specify a time within which the Council may lodge objections against the opening or closing of such road.
- (iii.) Every objection made by the Council against such opening or closing of a road shall be in writing under the seal of the Council, contain a statement of the reasons upon which such objection is founded, and be transmitted to the Minister aforesaid for presentation to the Governor in Council within the time specified in the notice.
- (iv.) On consideration of the objection the Governor in Council may make such order in respect thereof as he thinks expedient.

Subdivision  
VIII.—  
Licensed  
Gates  
in Shires.Persons  
intending to  
apply for  
licenses to  
advertise  
same.

[88.]

*Subdivision VIII.—Licensed Gates in Shires.*

**95.** (1.) When the occupier of any land in a Shire desires, for the purpose of enclosing the same, to include within the enclosure a road which passes through the land or separates it from the land held by any other person, he shall notify by advertisement published

\* See also "The Land Act of 1910" (1 Geo. V. No. 15), Part VII., Statutes, page 1347.

‡ Old section 86, relating to closing roads in Towns, repealed by section 25 of the amending Act of 1910.

§ Words "Local Authority" substituted for "Council of a Shire" by section 25 of the amending Act of 1910.

|| Words "in a Shire" repealed by section 25 of the amending Act of 1910.

not less than twice in some newspaper that he intends to apply to the Council of the Shire within which the road is situated for a license to erect a fence across such road, and in the advertisement shall give a clear description of the road and the description of gate which he proposes to erect, to admit the passage of persons travelling along the road \* (which gate shall be of such width and description as the Council, by by-law in that behalf, may determine).

PART VI.—  
POWERS AND  
DUTIES.  
Subdivision  
VIII.—  
Licensed  
Gates in  
Shires.

The last publication of such notice shall be not less than one month nor more than two months before making the application.

(2.) After due publication of such notice application may be made to the Council for a license to erect a fence across the road. License may be granted.

Upon the hearing of such application the Council shall hear and consider any objections which have been lodged in writing with the clerk, or which are made personally at the time of hearing the application, and may hear any evidence in support of the application or objections, and may thereupon grant or refuse a license as appears to it expedient.

The Council may impose in any license so issued such special conditions with regard to the description of gate as the convenience of the public requires.

(3.) Every gate erected, in pursuance of any such license, shall be painted of a uniform colour, and shall have the words "Licensed Public Gate" painted in large letters on some conspicuous part thereof. Gate to have words painted on it.

(4.) All such licenses shall continue in force until the thirty-first day of December next after the issue thereof, but may be renewed for each succeeding year on application in writing being lodged with the clerk during the currency of the existing license and upon payment of the prescribed fee. Duration of license and renewal.

The Council may refuse to renew any such license if it appears that the public convenience requires that the road should be wholly thrown open, or may impose any further conditions with regard to the description of gate.

(5.) Any person who objects to the renewal of a license to erect a fence across a road may during the month of November in any year lodge with the clerk a written statement of his objections, and of the grounds thereof, and shall send a copy of such statement to the holder of the license, and the Council shall consider the objections and hear such evidence on the subject as appears necessary, and may grant or refuse a renewal of the license at its discretion. Objections to renewals.

(6.) The Governor in Council may cancel any license to erect a fence across a road or may impose any special conditions which he thinks expedient with respect to any such fence, or may wholly exclude a road from the operation of this section. Powers of Governor in Council.

(7.) The holder of a license to erect a fence across a road shall keep the gate in good and sufficient repair, and shall also maintain the road in reasonable repair for a distance of fifty yards on each side of the gate, so that the public traffic may not be impeded or obstructed. Approaches to be kept in repair by licensee.

\* Words to end of paragraph substituted for "(which gate shall not be less than sixteen feet wide)" by section 9 of the amending Act of 1913.



PART VI.—  
POWERS AND  
DUTIES.Subdivision  
VIII.—  
Licensed  
Gates in  
Shires.Damage, &c.,  
to gate.Travelling  
stock.  
Freehold.

Leasehold.

Subdivision  
IX.—  
Miscellaneous  
Provisions  
as to Roads.Planting  
trees in  
roads.

[89.]

Refuges, &c.,  
in roads.

[90.]

Local  
Authority  
may fence  
footways for  
safety of  
passengers.

[91.]

Owners of  
railways to  
maintain  
road  
crossings.

[92.]

If the licensee neglects to keep the gate or road in such repair he shall be liable to a penalty not exceeding ten pounds, and in addition the Council may cancel the license.

(8.) Any person who wilfully or negligently damages or leaves open a licensed public gate shall be liable to a penalty not exceeding ten pounds, which may be recovered and retained by the licensee.

(9.) No person driving animals along a road through freehold land enclosed in pursuance of any such license shall depasture the same upon such land except by permission of the owner or occupier thereof, and any animals which are depastured without such permission shall be deemed to be trespassing, and may be impounded accordingly.

Nothing in this Act contained shall prevent any person from depasturing travelling stock, whether horses, cattle, or sheep, upon any land held under pastoral lease from the Crown which is enclosed in pursuance of any such license if they are depastured within the limits and in accordance with the conditions imposed by the laws in force for the time being relating to stock travelling through land held under pastoral lease from the Crown.

*Subdivision IX.—Miscellaneous Provisions as to Roads.*

**96.** (1.) The Local Authority may plant trees in any road and erect tree guards to protect the same, provided that the public traffic is not thereby unduly obstructed.

(2.) The Governor in Council may, by Order in Council, declare that any portion of a road shall be a tree reserve, provided that the portion of such road remaining available for public traffic upon any side of such reserve, including footpaths, shall in no place be thereby reduced to less than forty-four feet, and so that no such reserve shall be of a greater length than forty chains.

The Local Authority shall have the control of every such reserve, and may fence and plant and cultivate the same.

**97.** The Local Authority may from time to time place, maintain, alter, and remove in any road such raised paving or places of refuge, with such pillars, rails, or other fences, either permanent or temporary, as it thinks necessary, for the purpose of protecting public traffic, either along the road or on the footways, from injury, danger, or annoyance, or for the purpose of making the crossing of any road less dangerous to public traffic.

**98.** The Local Authority may erect such permanent or temporary fences or posts as it thinks necessary for preventing the access of cattle, horses, vehicles, or velocipedes to any footway, and for the general safety of foot passengers, and the prevention of accidents, and may from time to time paint, repair, remove, and replace the same.

**99.\*** When a railway crosses a road on a level, the owner or other person in possession of the railway shall, at his own expense, at all times maintain in good condition and repair, in such manner as the Local Authority directs, and to the satisfaction of the Local Authority, so much of the road as lies between the rails and extends six feet beyond the rails on each side thereof.

\* As to the duty of the Railway Commissioner in relation to roads, see 5 Geo. V. No. 24, section 72, Statutes, page 7246.

PART VI.—  
POWERS AND  
DUTIES.  
Subdivision  
IX.—  
Miscellaneous  
Provisions  
as to Roads.

100. (1.) If any land abutting on any road is not fenced, or if such fence is in a state of disrepair, and the Local Authority considers that the absence of or condition of such fence is likely to prove a source of danger to public traffic upon such road, the Local Authority may order that such frontage of such land be fenced or re-fenced by the owner thereof with a substantial fence of such description and material as the Local Authority directs.

Fencing land  
for public  
safety.

(2.) If upon any land abutting on any road there exists any hole, well, excavation, or other place which the Local Authority considers is likely to prove a source of danger to public traffic upon such road, the Local Authority may order that such dangerous place shall forthwith be filled in, covered, or fenced by the owner of such land.

[93.]  
Dangerous  
holes, &c.

(3.) If the owner of the land fails to comply with any such order within fourteen days after such order has been served on him, he shall be liable to a penalty not exceeding twenty pounds, and in addition the Local Authority may cause the order to be complied with, and may recover all expenses incurred in so doing from the person in default in like manner as Rates are recoverable under this Act.

Penalty.

101. (1.) The Local Authority may order the occupier, or, if there is no occupier, then the owner, of any land abutting on any road, to do any of the following acts:—

Removal of  
overhanging  
trees, &c.,  
from roads.

- (i.) Remove, lower, or trim, in manner directed by the order, any tree or hedge overhanging or overshadowing such road if, in the opinion of the Local Authority, such removal, lowering, or trimming is necessary to prevent injury to such road or obstruction to public traffic thereon, or to any sewer, or drain, or other work vested in or under the control of the Local Authority;
- (ii.) Cut down or grub up, in manner directed by the order, and remove all such obstructions as aforesaid arising from the growth of plants or the spreading of roots upon or under such road, up to the middle line thereof, along the whole frontage of the land occupied or owned by him.

[94.]

(2.) Within ten days after the service of the order, the occupier or owner may, by summons, require the Local Authority to appear before a Police Magistrate to show cause why the order should not be set aside.

(3.) The decision of the Police Magistrate upon any such summons shall be final and conclusive.

(4.) In the case of an order which is not set aside, if the occupier or owner fails to comply therewith within two months from the service thereof, or within two months after the hearing of the summons, as the case may be, he shall be liable to a penalty not exceeding one pound for every day thereafter during which such failure continues, and the Local Authority may enter on the land and comply with the order, and any expense incurred in so doing may be recovered from the person in default in like manner as Rates are recoverable under this Act.

(5.) The liability of the occupier or owner under this section shall not be affected by the fact that the obstruction complained of existed before the commencement of this Act, or that such obstruction had not spread from the land of such occupier or owner.

PART VI.—  
POWERS AND  
DUTIES.Subdivision  
IX.—Miscellaneous.  
Provisions  
as to Roads.Local  
Authority  
may paint or  
affix names  
of roads on  
any  
structure.

[95.]

(6.) For the purposes of this section, the expression "cut down" means cutting down and keeping cut down the stem and roots of any plants so as to prevent any part thereof flowering.

102. (1.) The Local Authority may from time to time paint or affix upon the walls of any structure the name of any road or place.

(2.) The owner or occupier of any structure shall mark such structure with such a number as and in such manner as the Local Authority may from time to time direct or approve.

(3.) Any person who fails to comply with the provisions of this section, or who wilfully pulls down, injures, or defaces any such name or number, shall be liable to a penalty not exceeding ten pounds.

Subdivision  
X.—  
Impounding.Extended  
meaning of  
owner and  
occupier.

[96.]

Subdivision X.—*Impounding.*

103. For all purposes of this Act relating to impounding, the terms "owner" and "occupier" shall be taken to include any superintendent, overseer, or other duly authorised person acting for and on behalf of any owner or occupier.

Existing  
pounds.

[97.]

104. Every pound already established within the Area of a Local Authority shall as soon as may be after the commencement of this Act be placed under the management and control of the Local Authority by the Governor in Council by Order, and upon the issue of such Order such pound shall be deemed, for all the purposes of this Act, to have been established by the Local Authority:

Provided that until such Order has been made with respect to any pound, and the Local Authority has assumed control of such pound, the laws hereby repealed relating to impounding shall remain in force and be applicable to such pound and the poundkeeper thereof.

Pounds and  
poundkeepers  
to be  
gazetted.

[98.]

105. A notification of the appointment or removal of any poundkeeper or the establishment or abolition of any pound shall be published by the Local Authority in the *Gazette*. Such notification shall be deemed, for all purposes, to be evidence that such poundkeeper or pound has been duly appointed, removed, established, or abolished as in such notification is mentioned.

Repair of  
pound, &c.

[99.]

106. The Local Authority shall keep the pound under its control in good repair.

The poundkeeper shall keep it clean and free from nuisance, and shall supply the animals impounded therein with sufficient and wholesome food and water.\*

He may send the animals out of the pound at fit times and to fit places for grazing or watering, but not more than six miles from the pound.

He shall be responsible to the proprietor of an impounded animal for any loss or damage occasioned by the wilful act or neglect of himself or his servants.

Use of  
pounds.

[99A.]

107.‡ When a pound has been established in an Area, the Local Authority of such Area shall have the sole management and control thereof, and shall appoint and control the poundkeeper thereof.

\* See further "The Animals Protection Act of 1901" (1 Edw. VII. No. 26), section 8, Statutes, page 59.

‡ Section inserted by section 26 (1) of the amending Act of 1910.

Such pound may nevertheless be appointed by any one or more of the Local Authorities of any other conterminous Area or Areas, or, with the consent of the Minister, of any other suitably situated Area, to be the pound for such Area or Areas, and in that case such pound shall, for the purposes of this Act, be deemed to be the pound established for each of the Areas concerned.

In such case the By-laws of the Local Authority in whose Area the pound is situated shall be the By-laws relating to the pound, but the expenditure necessary in connection with the establishment, maintenance, and management thereof, and the income derived therefrom, shall be borne by and distributed between the Local Authorities concerned in such proportions as may be agreed upon between them, or, failing such agreement, as may be fixed by the Minister upon a reference to him in that behalf by any of such Local Authorities.

**108.** (1.) For the purpose of impounding, the Local Authority shall be deemed to be the owner of all roads and bridges within the Area. Local Authority may impound. [100.]

(2.) The Local Authority may at any time, and whether in the night time, or on Sunday, or any holiday, impound any animal in respect of which a breach of this Act is being committed.

(3.) Any animal driven along or on to any road, for the purpose of grazing, without the consent of the Local Authority (other than travelling stock being depastured within the limits and in accordance with the conditions imposed by the laws in force for the time being relating to travelling stock), shall be deemed to be trespassing on such road, and may be impounded by the Local Authority.

This subsection shall not be construed to limit the powers of the Local Authority as to impounding.

**109.** The Local Authority shall use and adopt all proper means and appliances to secure the prevention or prevent the spread of any disease in any pound under its control, and subject to the By-laws may order the removal or destruction of any diseased, infected, or worthless animal, matter, or thing in any such pound. Prevention of disease. [101.]

**110.** The Local Authority shall erect and maintain on or near the pound a board having painted thereon in legible characters a table showing the fees, rates, and charges prescribed by the Local Authority. Local Authority to erect board with fees painted thereon. [102.]

**111.** Any owner or occupier of land upon which any animal is found trespassing may—

- (i.) Take the same to the pound\* nearest by a practicable road to such land, or if such land is equidistant or nearly so from two such pounds then to either of them, and on any business day, between sunrise and sunset, deliver it to the poundkeeper to be impounded. He shall at the same time deliver to the poundkeeper a written memorandum specifying—

The brands (if any), and description of the animal impounded;

\* \* Words "established for the Area" repealed by section 26 (2) of the amending Act of 1910.

PART VI.—  
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Impounding.

The name of the proprietor or supposed proprietor of the same (if known);

The place where such animal was trespassing; and

The amount of damage claimed.

\*If the nearest pound is situated in an Area other than the Area in which the trespass occurred, then the fees and charges payable in respect of the impounding shall be governed by the By-laws of the Local Authority having jurisdiction over the pound.

Temporary detention in other place than pound.

(ii.) If he knows the proprietor, temporarily impound the animal in any convenient place for any period not exceeding four days;

He shall in that case, within twenty-four hours, give like notice to the proprietor as herein enacted to be given by the poundkeeper in the case of animals not immediately claimed, and shall feed and maintain the animal while so impounded;

He may at the expiration of such time, if the animal is not sooner duly released, deliver it to such poundkeeper as aforesaid to be impounded;

He may make a charge for the sustenance of the animal and for giving notice, not exceeding the charges and fees prescribed to be payable to such poundkeeper;

But he shall not be entitled to any compensation for damage, except for such as was done before the temporary impounding.

Animal trespassing may be taken home and damage recovered.

(iii.) Send the animal to any convenient place near the residence of the proprietor, and at the same time demand payment of the damage done according to the rate prescribed by the Local Authority of the Area in which the animal was trespassing;

Thereupon the proprietor shall pay the same in satisfaction of such trespass;

If he fails to pay the same, any two justices may, upon proof of the trespass, and of the sum claimed being due, and of such default being made, order the said sum, together with costs, to be paid by him.

Penalty for unlawful impounding.  
[104.]

112. Any owner or occupier of land who impounds any animal in any pound or place not authorised by this Act, or in any manner contrary to its provisions, shall be liable to a penalty not exceeding ten pounds.

Exemptions.  
[105.]

113. No person shall impound any horse employed by the Police Force of the State or the property of the Crown, and no damage for trespass or driving charges shall be payable in respect thereof.

Lodging animals for safe custody.  
[106.]

114. Any officer of police in charge of any animal alleged or proved to have been stolen may lodge the animal in any pound for safe custody, and may remove or authorise the removal of the same at his discretion on payment only of the cost of the sustenance of such animal according to the prescribed scale.

\* Paragraph inserted by section 26 (2) of the amending Act of 1910.

**115. (1.)** The poundkeeper shall keep and preserve at the pound a copy of this Act, and shall also keep a pound-book as near as may be in the following form:—

POUNDKEEPER'S BOOK.

Date.	Time.	Particulars of animals impounded.	Brands and marks.	Proprietor.	By whom impounded.	For what cause impounded.	Time and mode of giving notice to proprietor.	How disposed of.	Time when released or sold.	Particulars of release or sale.

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X.—  
Impounding.  
Poundkeeper  
to keep book  
for entry of  
all impounded  
cattle, which  
book may be  
inspected.

[107.]

(2.) He shall enter in the pound-book—

- (i.) The particulars of all animals lodged in the pound, specifying the day and hour as near as may be when and the cause for which they were impounded;
- (ii.) The name of the persons on whose authority they were impounded;
- (iii.) The time and mode of giving notice of the impounding as required by this Act;
- (iv.) The time when and the manner in which they were released, and by whose order, and to whom they were delivered; and
- (v.) The particulars of all sales and of the proceeds thereof.

The said entries shall be made at the time the said acts were respectively done or as soon thereafter as possible, but not after any dispute concerning an entry has arisen.

**116.** When any horses or cattle are impounded the brands of which are illegible or indistinct, the poundkeeper shall cause all such brands to be clipped or otherwise denuded of hair, and a correct diagram or *fac-simile* of them to be entered in the pound-book. Indistinct brands to be clipped. [108.]

**117.** The poundkeeper shall also keep a book in which he shall from time to time enter the descriptions of all stray animals coming under his observation or brought to his knowledge, with the names and addresses of their proprietors if known to him, together with such other particulars as may lead to the recovery of them by their proprietors. Book for particulars of stray animals. [109.]

**118.\*** The poundkeeper shall also keep a book for registering the brands or other marks of animals in the form prescribed by the Local Authority. Poundkeeper to keep register of brands. [110.]

Any person upon payment of the prescribed fee shall be entitled to have his brands, together with his name and place of residence, entered in such book.

\* As to poundkeeper keeping latest edition of Brands Directory, see "The Brands Act of 1915" (6 Geo. V. No. 9), section 15, Statutes, page 7008. As to branding stock with pound brand, see that Act, section 14.

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DUTIES.Subdivision  
X.—Impounding.  
Poundkeeper  
to post on  
gate notice  
of animals  
in pound.

[111.]

Notice of  
impounding  
to be sent to  
proprietor.

[112.]

**119.** Within twenty-four hours after the impounding of any animal, the poundkeeper shall post a written notice on the gate or on some other conspicuous part of the pound setting forth a description of such animal.

Such notice shall remain so posted until such animal has been claimed or otherwise disposed of according to this Act.

**120.** When any cattle, horses, or sheep impounded are not immediately claimed by the proprietor or someone on his behalf, the poundkeeper shall, subject to the provisions hereinafter contained, within twenty-four hours thereafter, deliver a notice to the proprietor, if his name is known to the poundkeeper and he resides within ten miles of the pound; if he resides at a greater distance then the notice shall be sent in a registered letter through the post office.

The notice shall contain—

- (i.) A description of every animal impounded, with its brands and marks;
- (ii.) The place from which and the person by whose authority it was impounded;
- (iii.) The date of the impounding;
- (iv.) A statement of the time and place of its intended sale, if not duly released; and
- (v.) A statement of the fees, rates, and charges then lawfully chargeable on the same:

Provided that—

- (a) Where practicable every notice under this section shall be sent by telegram, the cost whereof shall be a charge on the animal in respect of which it is incurred;
- (b) Any proprietor residing within ten miles of a pound may instruct the poundkeeper in writing by which of such modes such notice shall be sent, and the poundkeeper shall act accordingly;
- (c) When the poundkeeper knows the proprietor of any impounded goat or swine to be residing within three miles of the pound he shall forthwith send him a like notice;
- (d) If the name of the proprietor is not known to the poundkeeper, the poundkeeper shall, within twenty-four hours after the impounding, post a like notice at the office of the Local Authority, and the Local Authority shall insert the same in the next practicable issue of the *Gazette* and in some newspaper.

Fees for  
notices.

[113.]

**121.** The poundkeeper shall, in addition to the actual cost of any telegram or postage, as the case may be, demand the prescribed fee for every notice sent to the proprietor of an impounded animal. But where more animals than one belonging to the same proprietor are impounded at the same time, not more than one notice shall be given or charged for in respect of them.

Animal to be  
detained for  
charges due.

[114.]

**122.** The poundkeeper shall detain an animal impounded until all fees, rates, and charges authorised by this Act are paid, or until the animal is sold as hereinafter provided.

The poundkeeper shall, upon receipt of all fees, rates, and charges due in respect of an animal impounded, release the same to the proprietor.

He shall, unless notice of appeal has been given to him under this Act, pay to the person impounding, on demand, the prescribed charges for driving or leading (together with the actual amount of dues, if any, incurred in such driving or leading), and the prescribed rates of damage.

Save as aforesaid, the poundkeeper shall pay to the clerk all moneys received by him in respect of fees, rates, and charges, under this Act.

**123.** The Local Authority may, by notice in some newspaper, fix some three days in every month on which sales of animals impounded may take place at the pound. Days to be fixed for sales. [115.]

Every sale shall take place on such days only, and shall commence at the hour of noon.

All sales shall be by public auction, and shall be held and made by the poundkeeper or other person appointed by the Local Authority in that behalf. The poundkeeper or other person so appointed shall have power and authority to sell by public auction without taking out a license as an auctioneer.

**124.** Every animal impounded shall be sold on the sale day next after the tenth day after it was impounded in a case where notice of impounding has been given to the proprietor personally, or by leaving the same at his usual place of abode, or by telegram, and in every other case on the sale day next after the twenty-fourth day after such notice has been despatched through the post or inserted in a newspaper. Time and mode of selling animals impounded. [116.]

Not more than ten head of sheep or goats or five pigs shall be put up in one lot, and not more than one horse or one head of cattle.

If the person impounding the animal, or the poundkeeper or any other person selling the animal, by himself or by or through any other person purchases such animal, he shall forfeit the same, together with the purchase money, to the Local Authority, and in addition be liable to a penalty not exceeding five pounds. Who may not purchase.

**125.** Before any sale is held, the clerk or other person authorised by the Local Authority in that behalf shall examine every animal impounded and the pound-book, and shall certify under his hand that the animals intended for the then next sale are (if such is the case) correctly described in the pound-book and in the prescribed notices, and that sufficient time has elapsed to entitle such animals to be sold. Sales to be made upon certificate. [117.]

No animals, except in the cases provided for in this Act, shall be sold except upon such certificate.

If the clerk or such person as aforesaid gives a certificate which, in any material particular, is to his knowledge false, he shall be liable to a penalty not exceeding fifty pounds.

**126.** The poundkeeper may, under the written authority of any proprietor of an impounded animal, cause the same to be sold at the then next appointed day of sale. Animal may be sold on authority of proprietor. [118.]



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DUTIES.  
Subdivision  
X.—  
Impounding.  
Unbranded  
cattle or  
horses.  
[119.]

127. The poundkeeper may, without other authority than an order obtained from a justice, sell or cause to be sold at the next appointed day of sale any unbranded cattle or horses impounded above the age of twelve months, with their foals and calves if any.

Proceeds of  
sales, how  
disposed of.  
[120.]

128. The person holding the sale shall receive the proceeds thereof, and, if such person is not the poundkeeper, shall pay over the same to the poundkeeper.

\*The poundkeeper shall, within ten days after any sale, transmit the proceeds of such sale to the clerk, together with a detailed account of—

- (a) The several animals sold;
- (b) The amount realised upon each lot;
- (c) The moneys due to the persons impounding in respect of damages and charges for leading or driving; and
- (d) The fees, rates, and charges due in respect of each animal.

Increasing  
charge for  
repeated  
trespasses.  
[121.]

129. In every case in which the same animal is found trespassing more than once within a period of thirty days on the same land or on any road or land not securely fenced off from any road or land under the control of the Local Authority, there shall be charged for the second or any subsequent trespass within such period twice the prescribed rate of damage.

Monthly  
account sales  
to be  
furnished by  
poundkeeper  
laid before  
Local  
Authority.  
[122.]

130. The poundkeeper shall, at the termination of every month, furnish to the clerk an account in writing, in the following form or to the like effect, of all impounded animals sold during the month:—

Particulars of the Sale of Animals at for the month of

Date of Sale.	Description of animals.	Brands or marks.	To whom sold.	Gross amount of sale.	Particulars of charges deducted.	Net produce of sale.	Particulars of charges for driving, with dues.	Amount of dis. age.	Particulars of moneys paid.	To whom paid.	Remarks.

Dated at the day of 19  
A.B., Poundkeeper.

Examined at and found to be correct.  
C.D., Clerk of Town [or City or Shire] of

He shall with such account forward the certificates or authorities upon which such sales were made, and the clerk shall compare the account with the certificates or authorities, and cause any error or omission in the account to be rectified by the poundkeeper, and on being satisfied of the correctness thereof shall place the account, with a certificate under his hand of its correctness, before the Local Authority at its next ordinary meeting.

\* Paragraph substituted for original paragraph by section 26 (3) of the amending Act of 1910.

A copy of the account shall also be affixed by the clerk on some conspicuous part of the office of the Local Authority and maintained there for one month at the least.

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DUTIES.  
Subdivision  
X.—  
Impounding.  
Appropriation of  
moneys.  
[123.]

**131.** All moneys received by the clerk as fees, rates, and charges in respect of impounded animals shall be paid into the Local Fund.

All moneys received by him in respect of the sale of an animal shall be applied, in the first instance, in payment of all fees, rates, charges, and expenses due to the Local Authority in respect of the impounding, sustenance, and sale of the animal, \*next in payment to the person impounding of all damages and charges for driving or leading, and the residue, if any, shall on demand be paid to the proprietor thereof:

‡Provided that upon the expiration of two years after the sale of any impounded animal all moneys remaining in the possession of the Local Authority in respect of the sale thereof and unclaimed by the person impounding or by the proprietor of the animal shall become the absolute property of the Local Authority.

‡If the amount of the moneys received by the clerk as aforesaid is insufficient to pay all moneys due to the Local Authority and also to the person impounding as hereinbefore directed, then the amount of the insufficiency shall be recoverable from the proprietor of the impounded animal by complaint of the clerk or other officer having general or special authority in that behalf from the Chairman before any two justices, and all moneys so recovered shall be applied as hereinbefore directed.

**132.** Notwithstanding any of the provisions of this Act, the proprietor of every entire horse or bull above the age of one year impounded or detained under this Act shall be liable to pay to the Local Authority or the person impounding or detaining the same, as the case may be, by way of damages, the sum of five pounds over and above the prescribed fees, rates, and charges.

Proprietor of  
entire horses  
and bulls  
trespassing to  
pay five  
pounds  
damages.  
[124.]

If the proprietor does not release such animal, and such animal does not by sale realise sufficient to pay the sum of five pounds together with such fees, rates, and charges, the Local Authority or the person entitled, as the case may be, may recover the balance due to it or him from the proprietor by complaint before any two justices.

**133.** Where the proprietor of any animal impounded disputes the amount of damages claimed, §or the charges for leading or driving, or the nature of the trespass alleged to have been committed, or the legality of the impounding, he may allow such animal to remain in the pound until the appeal has been decided as hereinafter provided, or may release the animal by paying the fees, rates, and charges demanded, giving at the same time notice in writing to the poundkeeper that he intends to appeal, and stating the grounds thereof.

If damages or  
impounding  
disputed,  
animals to be  
released, but  
poundkeeper  
to keep  
damages  
until appeal  
decided.  
[125.]

Upon receipt of any such notice the poundkeeper shall not pay over any money received by him to any person, but shall retain the same until such appeal has been decided.

\* Words from " next " to " leading " inserted by section 26 (4) of the amending Act of 1910.

‡ Paragraphs inserted by section 26 (4) of the amending Act of 1910.

§ Words from " or " to " driving " inserted by section 26 (5) of the amending Act of 1910.

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Impounding.

Justices to  
hear and  
decide upon  
legality of  
damages or  
impounding.  
[126.]

**134.** Any proprietor of an animal impounded may appeal by way of complaint to any two justices, who shall hear and determine the matter of such appeal and make such order in the premises as to them seems just.

\*Every such complaint shall be laid not later than thirty days after the day on which the animal was impounded.

If the justices dismiss the appeal, then, if the animal impounded has not been released, the same course shall be observed with regard to its detention, sale, and other matters as in all other cases of impounding; or if the proprietor has released the animal, the poundkeeper shall deal with all moneys paid to him in manner provided by this Act.

If the justices sustain the appeal and adjudge either that the impounding was unlawful or that the amount of damages demanded was excessive, then they may order the person impounding the animal to pay to the proprietor such compensation as they think fit, not exceeding the amount of the damages demanded, and in addition to pay all fees, rates, and charges due in respect of the animal.

Inspection of  
books, &c.  
[127.]

**135.** A copy of this Act and of every book kept by the poundkeeper shall, at all reasonable times, be produced by him to and be open for the inspection of any justice or officer of police free of charge, and of any other person desiring to see the same at all reasonable times upon payment of the prescribed fee.

The poundkeeper shall grant extracts signed by himself from the said pound-book upon payment of the prescribed fee.

Offences by  
poundkeeper.  
[128.]

**136.** (1.) Any poundkeeper who—

- (i.) Wilfully suffers any animals affected with any contagious or infectious disease to be in the same enclosure with animals not so affected; or
- (ii.) Neglects to keep his pound clean and free from nuisance; or
- (iii.) Fails to pay to the proprietor on demand any moneys received by him and still in his possession which it is his duty to pay to the proprietor; or
- (iv.) Neglects to give or post up or keep posted up any prescribed notice or make any prescribed entry in any book, or gives or posts up or makes any notice or entry which, in any material particular, is to his knowledge false, or wrongfully erases or destroys any entry; or
- (v.) Neglects to provide an impounded animal with proper food and water; or
- (vi.) Works or uses an impounded animal; or
- (vii.) Is guilty of any offence or breach of duty under this Act whereby damage is incurred by the Local Authority or by any person;

shall be liable to a penalty not exceeding twenty pounds, and also to make compensation for all damage occasioned by any offence against this section.

(2.) Any poundkeeper who neglects or refuses to produce a copy of this Act or any book kept by him for the inspection of a justice or officer of police free of charge, or of any person desiring

\* Paragraph inserted by section 26 (6) of the amending Act of 1910.

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Impounding.

to see the same upon the prescribed fee for the same being first paid or offered to be paid, shall be liable to a penalty not exceeding five pounds.

**137.** Nothing herein contained shall be construed to prevent the owner or occupier of any land trespassed upon from waiving the damages prescribed by the Local Authority and claiming in any court full satisfaction for any special damage sustained by him in consequence of any trespass. This Act not to prevent actions for special damages. [129.]

If the plaintiff in any action for special damages does not, after waiving the prescribed damages, recover more than the amount of such damages, then he shall not be entitled to the costs of the action, but the defendant shall be entitled to the costs thereof.

If the plaintiff is nonsuited in any such action or discontinues the same, or a judgment is given against him therein, the defendant shall be entitled to recover from the plaintiff the full costs of such action, to be taxed as between solicitor and client.

**138.** Every person who rescues or attempts to rescue or incites or assists any other person in rescuing or attempting to rescue any animal lawfully impounded or seized for the purpose of being impounded shall be liable to pay all fees, rates, and charges payable in respect thereof and, in addition, to a penalty not exceeding twenty pounds. Penalty for rescue. [130.]

**139.** Every person who wilfully lets in or knowingly suffers to enter upon the enclosed land of any other person any animal without due authority shall be deemed guilty of a wilful trespass, and shall be liable to a penalty not exceeding ten pounds. Wilful trespass. [131.]

A conviction under this section shall not be a bar to any civil remedy which the person aggrieved may have.

**140.** Every person who drives or attempts to drive any animal, being his own or belonging to any person duly authorising him, from the lands of any owner or occupier or out of the herds or flocks of any owner or occupier, without first giving him notice of his intention so to do, shall be liable to a penalty not exceeding five pounds. Illegal entry on lands [132.]

Every person who so drives or attempts to drive any animal, not being his own or belonging to any person duly authorising him as aforesaid, shall be liable to a penalty not exceeding ten pounds:

Provided that nothing herein shall affect any such other proceedings for such driving as are applicable thereto.

**141.** The owner or occupier of any enclosed land may destroy any goat or swine found trespassing thereon. Goats or swine trespassing on enclosed land may be destroyed. [133.]

**142.** In the event of a Joint Local Authority being constituted for the management and control of any pound, this Subdivision and all other provisions of this Act relating to impounding shall be applicable to such pound and such Joint Local Authority and the members and officers thereof as if the same were specifically mentioned therein. Joint Action. [134.]

PART VI.—  
POWERS AND  
DUTIES.  
*Subdivision*  
*XI.—Traffic.*  
Temporary  
diversion of  
traffic.

*Subdivision XI.—Traffic.*

[135.]

**143.** Whenever and so often as in the opinion of the Local Authority it is expedient for the proper execution of this Act so to do, the Local Authority may temporarily prohibit or divert all or any part of the public traffic upon or from any road or portion thereof, or upon or from any bridge or the approaches thereto:

Provided that the Local Authority shall, whenever it is practicable, give public notice in some newspaper of its intention so to do.

The Local Authority may close any road against all or any part of the public traffic during any temporary obstruction or danger to traffic, or whenever it may be necessary for any temporary purpose, and may prevent such traffic in or upon any road closed against traffic under the authority of this or any other Act.

The Local Authority may close any road or part of a road permanently or temporarily against any particular description of traffic, and may prevent such traffic in or upon any road so closed, provided that another road or route is made available for such traffic in place of the road or part of the road so closed.

Any person who disobeys or fails to comply with any direction given in pursuance of this section shall be liable to a penalty not exceeding ten pounds.

Placing  
distinguish-  
ing number  
on unlicensed  
vehicle.

[136.]

**144.** (1.) No person shall place, or allow to remain, on any vehicle in use, or plying for hire, any printing or sign amounting to a representation that such vehicle is licensed for hire, or any distinguishing number as prescribed by any By-law, unless he is at the time the holder of a license with respect to such vehicle.

Driver of  
licensed  
vehicle.

(2.) No owner of any licensed vehicle shall allow the same to be plied or driven for hire by any person other than a servant of such owner.

Unlawfully  
possessing  
license, &c.

(3.) No person shall, by any false statement or misrepresentation, obtain or attempt to obtain a license for a vehicle under this Act.

Penalty.

(4.) Any person who is guilty of an offence against any of the foregoing provisions shall be liable to a penalty not exceeding twenty pounds.

Damage done  
by vehicle.

[137.]

**145.** If any driver of a licensed vehicle wilfully or negligently by driving such vehicle on any road causes any damage to be done to any person or property, the licensee and such driver shall jointly and severally be liable for the amount of such damage, and such amount may be recovered in any court of competent jurisdiction at the suit of the person aggrieved.

Alien labour  
on tramways,  
&c.

[137A.]

**146.\*** No person who has not first obtained in the prescribed manner a certificate that he is able to read and write from dictation words in the English language of not less than fifty words shall be employed in or about the construction, maintenance, management, or working of any tramway or omnibus service of the Local Authority, whether managed or worked by it or by any other person, under a penalty of one pound for each such person for every day during which such person is employed.

\* Section inserted by section 28 of the amending Act of 1916.

The Governor in Council may, from time to time, make Regulations under this Act—

- (i.) For the examination and granting of certificates of ability to read and write from dictation words in the English language;
- (ii.) For the exemption from the operation of this section of any persons or classes of persons whom for any reason it is not considered necessary to examine.

**147.\*** It shall be lawful for a Local Authority, with the consent of the Governor in Council, to grant to any person, company, corporation, firm, or association of persons (herein referred to as a tramway owner), desirous of constructing, managing, and working a tramway for the purpose of conveying sugar cane or any other agricultural or dairy produce or minerals or timber, a permit to construct, manage, and work such tramway or any part thereof in, along, upon, across, under, or over any road or bridge within the Area.

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Subdivision  
XI.—Traffic.

Light  
tramways for  
agricultural  
purposes.  
[137B.]

Such permit shall not be granted for any period exceeding nine years, but may, with the like consent, be renewed from time to time for any further period not exceeding nine years.

If the Local Authority for six months after the application for the permit refuses or neglects to grant the permit, the tramway owner may appeal to the Minister by a memorial setting forth the facts.

The Minister shall hear and determine such appeal in such manner as he thinks just, and may for that purpose appoint any officer to hold an inquiry into the matter and make a report to him, and may act on such report. The Local Authority concerned shall be entitled to be heard on the matter of such appeal. If the Minister allows such appeal, he shall give such directions as he thinks fit for carrying the same into effect; and such directions shall be complied with by the Local Authority and all other parties concerned.

Such permit shall be subject to such conditions, reservations, restrictions, and stipulations as the Local Authority, with the consent of the Governor in Council, may think proper.

It shall be lawful for the tramway owner, pursuant to such permit and during the currency thereof, to construct, manage, and work the tramway by means of the motive or animal power named in the permit without being liable to any action or proceeding on the ground that the existence of such tramway is an obstruction to the road or bridge in question or is a public nuisance.

Subject to this Act, the Local Authority may and is hereby empowered to make By-laws regulating the conditions on which such permits may be granted, renewed, suspended, or revoked, and generally for the safe and convenient working of such tramways; and all such By-laws shall be observed by tramway owners and all other persons concerned:

Provided that this section shall not apply to Local Authorities within gold or mineral fields.

\* Section inserted by section 10 of the amending Act of 1913.

PART VI.—  
POWERS AND  
DUTIES.Subdivision  
XII.—  
Miscellaneous  
Powers.Burial of  
destitute  
persons.

[138.]

Statues and  
monuments.

[139.]

Public  
fountains, &c.

[140.]

Public clock.

[141.]

Power to  
promote Bills.

[142.]

Telephone  
lines.

[142A.]

Power to  
subscribe to  
association  
of Local  
Authorities.

[143.]

Three per  
cent. of  
general rate  
may be  
applied to  
certain  
purposes.

[144.]

*Subdivision XII.—Miscellaneous Powers.*

**148.** The Local Authority may order the burial of any destitute person who dies within the Area, other than persons who die at a public hospital or Government institution, and may defray all necessary expenses of such burial out of the Local Fund.

**149:** The Local Authority may from time to time authorise the erection, in or upon any road or land under its control within the Area, of any statue or monument, and may maintain the same and any statue or monument erected within the Area before the commencement of this Act, and may remove any statue or monument the erection of which has been authorised by it.

**150.** The Local Authority may cause such fountains as it may consider necessary for the public health and convenience to be made and constructed in or upon any road or other land under its control, and may accept and take the care and management of any fountain or body of water which has been conveyed or transferred to or vested in it for public use, and may cause all such fountains and bodies of water to be from time to time altered, enlarged, repaired, and cleansed, as the Local Authority thinks proper.

**151.** The Local Authority may pay the reasonable cost of repairing, maintaining, winding up, and lighting any public clock within the Area, whether the same is or is not vested in it.

**152.\*** The Local Authority may expend moneys out of the Local Fund in and about preparing and passing through Parliament any Bill, in any case where the interests of the electors of the Area are concerned.

**153.†** The Local Authority may, with the approval of the Minister, enter into any reasonable arrangement with the Postmaster-General of the Commonwealth for the construction and maintenance of any telephone line and appliances for the use of the electors or any of them, and any expense incurred by the Local Authority under such arrangement shall be paid out of the Local Fund or such account as the Local Authority may determine.

**154.** The Local Authority may pay out of the Local Fund any sum not exceeding ten pounds in any financial year as a subscription to the funds of any association of Local Authorities which may be formed for the purpose of consultation as to their common interests, and the discussion of matters relating to local government, as well as any reasonable expenses of the attendance of representatives at any meeting of such association.

**155.‡** The Local Authority may in any financial year, out of the Local Fund, expend for the purpose of any public demonstration, illumination, or entertainment, any sum not amounting in the

\* Consequentially amended by section 22 (xi.) of the amending Act of 1920.

† Section inserted by section 29 of the amending Act of 1910 and consequentially amended by section 22 (xii.) of the amending Act of 1920.

‡ It is enacted by section 2 of "The Local Authorities Patriotic Contributions Act of 1914" (5 Geo. V. No. 17) that notwithstanding the provisions of the principal Acts (i.e., "The Local Authorities Acts, 1902 to 1913"), it shall be deemed and taken to be lawful for any Local Authority, during the continuance of the present War, to have applied and to apply out of its Local Fund any sum or sums of money approved by such Local Authority as and by way of contribution to any patriotic or other public fund established in Queensland in connection with the prosecution of the present War or the succour, relief, or assistance of the officers and soldiers of His Majesty or of any of His Majesty's Allies engaged therein, or of the dependants of any such officers or soldiers.

whole to more than three pounds per centum of the General Rate made and levied for that year: Provided that, if three pounds per centum of such General Rate does not in any year amount in the case of a Town to one hundred pounds or in the case of a Shire to fifty pounds, the Council of the Town or Shire may so expend any sum not exceeding one hundred pounds or fifty pounds, as the case may be, for the purposes aforesaid.

PARC VI.—  
POWERS AND  
DUTIES.  
Subdivision  
VII.—  
Miscellaneous  
Powers.

**156.** At the request of the Minister, a Local Authority may undertake the supply to and distribution amongst the owners and occupiers of land within its Area of any plants, cuttings, roots, grains, or seeds at the disposal of the Minister for cultivation, propagation, or seed purposes, and may enter into any agreement with the Minister for the collection and payment over to him of any moneys received from such owners and occupiers in respect of such supply and distribution, or for guaranteeing the payment of any such moneys.

Distribution  
of plants  
and seeds.  
[145.]

This section takes effect from the passing of this Act.

**157.\*** (1.) The Local Authority may construct, purchase, contract for the use of, or otherwise provide omnibuses, and may carry on, maintain, manage, and work omnibus services within the Area, and may charge, collect, and take the prescribed fares and charges for the conveyance of passengers and parcels by means of such vehicles.

Power to  
establish or  
subsidise  
omnibus  
services.  
[145a].

(2.) The Local Authority may, out of the Local Fund, expend, by way of subsidy or aid to any person establishing and working an omnibus service within the Area, any sum not amounting in the whole to more than two hundred pounds in any financial year. Such subsidy or aid may be granted subject to such terms and conditions as the Local Authority thinks fit to impose.

**158.†** (1.) The Local Authorities' Association of Queensland (hereinafter called "the Association") shall be a body corporate, and by that name shall have perpetual succession and a common seal and be capable in law of suing and being sued, and shall have power to compound or to prove in any competent court all debts or sums of money due to it, and of doing and suffering, subject to this Act, all such other acts and things as bodies corporate may by law do and suffer.

Incorporation  
of Local  
Authorities'  
Association.  
[145b.]

(2.) The constitution, rules, and by-laws of the Association, passed at an annual conference thereon on the eighth day of August, one thousand nine hundred and seven, and now in force except in so far as the same are inconsistent with any of the provisions of this Act, shall be the rules of the Association until revoked or altered by rules made pursuant to this Act.

Existing  
rules.

\* Section inserted by section 27 (3) of the amending Act of 1910.

By section 27 (8) of the amending Act of 1910 it is provided that, in every case where an omnibus service is established by a Local Authority or any other person within an Area or Areas comprised within the Metropolitan Traffic District subject to "The Traffic Act of 1905" (now "The Traffic Acts, 1905 to 1910," Statutes, page 3487), or within an Area or Areas subject to any Act containing analogous provisions for the regulation of traffic, the power and jurisdiction of any Local Authority to make and enforce by-laws with respect to such omnibus service and the traffic thereby shall be divested from such Local Authority, and shall be vested in and be exercisable and enforceable by the Commissioner of Police by and under Regulations made for the like purposes under such Act; and all such Regulations the Governor in Council, on the recommendation of the said Commissioner, is thereby empowered to make.

† Section inserted by section 30 of the amending Act of 1910.



PART VI.—  
POWERS AND  
DUTIES.  
Subdivision  
XII.—  
Miscellaneous  
Powers.  
New rules.

(3.) It shall be competent for the Association, with the approval of the Governor in Council, to make rules—

- (a) For the management of the Association;
- (b) For the regulation of its proceedings;
- (c) For fixing the amount of the subscription to be paid annually to the Association by each Local Authority which is a member thereof;
- (d) For the regulation and management of and for fixing the rate of contributions to the Officers' Fidelity Guarantee Fund and terms and conditions upon which the benefit of such fund shall be available to the Local Authorities concerned;
- (e) For the regulation and management of and for fixing the rate of contributions to the Workers' Compensation Fund and terms and conditions upon which the benefit of such fund shall be available to the Local Authorities concerned; and
- (f) Generally for all matters whatsoever affecting the management of the Association not inconsistent with the laws of Queensland.

Power to  
establish  
Fidelity  
Guarantee  
Fund.

(4.) It shall be lawful for the Association to establish an Officers' Fidelity Guarantee Fund.

Contributions  
of Local  
Authorities.

(5.) Any Local Authority may contribute to the said fund such sum as shall, from time to time, be fixed by the Association as a premium or consideration for the guarantee of such Local Authority against all or any loss which may be occasioned by the dishonesty of any person in its employment, and on the acceptance of such sum the Association, upon such terms and conditions as may be determined, shall enter into an agreement to pay out of the said fund all or any loss sustained by such Local Authority by reason or in consequence of the dishonesty of such person as shall amount to a criminal offence.

Liability of  
Local  
Authorities.

(6.) In the event of the amount to the credit of the fund being at any time insufficient to pay all liabilities and expenses in respect thereof, every Local Authority which at such time is contributing to the fund shall *pro ratâ* to the amount of its contribution pay to the Association such amount as may be necessary to enable the Association to pay such liabilities and expenses.

Division of  
funds if  
discontinued.

(7.) If the Association at any time determines to discontinue such fund, the amount which, after payment of all liabilities and expenses, shall be to the credit thereof shall be divided amongst the Local Authorities which at such time are contributing to the fund, and the sum payable to each such Local Authority shall be *pro ratâ* to the sums contributed by each of them respectively during the five years last preceding such discontinuance.

Payment of  
contributions,  
&c.

(8.) The amount for which any Local Authority is liable to the Association shall be paid within one month after a written notice, specifying the amount payable and signed by the secretary of the Association, has been delivered or sent by post to the clerk.

Effect of  
guarantee.

(9.) A guarantee obtained under this Act shall, to the extent of the sum thereby guaranteed, be deemed to be a compliance with section forty-five of this Act.

(10.) It shall be lawful for the Association to establish a Workers' Compensation Fund.

PART VI.—  
POWERS AND  
DUTIES.  
Subdivision  
XII.—  
Miscellaneous  
Powers.  
Power to  
establish  
Workers'  
Compensation  
Fund.

Any Local Authority may contribute to the said fund such sum as shall, from time to time, be fixed by the Association as a premium or consideration for the indemnity of such Local Authority against all or any claims or compensation which may be made or become payable, owing to injuries to workers under "*The Workers' Compensation Act of 1905*"\* or any other Act, or at common law; and on the acceptance of such sum the Association, upon such terms and conditions as may be determined, shall enter into an agreement to pay out of the said fund all or any such claims or compensation.

Contributions  
of Local  
Authorities.

In the event of the amount to the credit of the fund being at any time insufficient to pay all liabilities and expenses in respect thereof, every Local Authority which at such time is contributing to the fund shall *pro rata* to the amount of its contribution pay to the Association such amount as may be necessary to enable the Association to pay such liabilities and expenses.

Liability of  
Local  
Authorities.

If the Association at any time determines to discontinue such fund, the amount which, after payment of all liabilities and expenses, shall be to the credit thereof shall be divided amongst the Local Authorities which at such time are contributing to the fund, and the sum payable to each such Local Authority shall be *pro rata* to the sums contributed by each of them respectively during the five years last preceding such discontinuance.

Division of  
funds if  
discontinued.

The amount for which any Local Authority is liable to the Association shall be paid within one month after a written notice, specifying the amount payable and signed by the secretary of the Association, has been delivered or sent by post to the clerk.

Payment of  
contributions,  
&c.

(11.) The Association shall cause full and accurate accounts to be kept of all sums of money received or expended by it, and of the matters and things for which such sums of money have been received or expended.

Accounts.

A separate account shall be kept of all moneys received or expended on account of the Officers' Fidelity Guarantee Fund and the Workers' Compensation Fund respectively.

The accounts of the Association shall in every year be balanced up to a date to be fixed by the rules, and forthwith on the accounts being so balanced an annual account shall be made up which shall exhibit a true statement of the receipts and expenditure respectively of the Association during the year immediately preceding with the statement of the balance of such account; and all books, accounts, and vouchers of the Association shall be examined and audited and certified in accordance with the rules.

\* 5 Edw. VII. No. 25, repealed. See now "*The Workers' Compensation Acts, 1916 to 1918*," Statutes, page 8745.

PART VI.—  
POWERS AND  
DUTIES.  
Subdivision  
XIII.—  
Markets.

Market-  
places.

[146.]

Market  
charges.

*Subdivision XIII.—Markets.*

**159.** (1.) The Local Authority may provide market-places and establish markets in the Area.

(2.) The Local Authority may fix and may demand and receive dues from all persons exposing or offering for sale within the market-place any property of any description allowed by the Local Authority to be sold therein; and may let for such term, not exceeding three years, as it thinks fit, stalls or standing-places for goods or animals, and may receive stallages and rents for the same.

All such moneys are herein called "market charges."

(3.) The Local Authority may let, for any period not exceeding three years, all or any of the market charges which it is hereby empowered to receive.

(4.) The Local Authority may from time to time alter the scale of market charges; but no alteration shall be made during the continuance of the lease thereof without the consent of the lessee.

(5.) If any person fails to pay any market charge on demand, the Local Authority may cause such charge to be levied by distress and sale of the property in respect of which such charge is payable, or of any other property in the market belonging to or under the charge of the same person, in such manner as may be prescribed by By-laws.

This provision shall not be deemed to affect any other remedy which the Local Authority or any officer or lessee of the Local Authority may have for the recovery of any such charge.

(6.) When a Local Authority has established a market it may by By-laws prohibit, or regulate by permit, the hawking or itinerant vending in the Area or any part thereof of any specified goods and commodities usually sold in such market during any hours prescribed as market hours.

Local  
Authority  
may let  
market  
charges.

Market  
charges may  
be altered.

Market  
charges: if not  
paid may be  
levied by  
distress.

Regulating  
hawkers.

Weighing  
machines.

[147.]

**160.** The Local Authority may provide public weighing-machines, whether in a market-place or elsewhere, and may fix charges for the use of the same.

All the provisions of this Act relating to market charges shall be applicable to the management, collection, and recovery of charges for the use of such weighing-machines.

Any person may require any vehicle, whether loaded or unloaded, to be weighed at a public weighing-machine.

Subdivision  
XIV.—  
Lighting,  
Hydraulic  
Power, &c.

Power to  
manufacture.

[148.]

*Subdivision XIV.—Lighting,\* Hydraulic Power, &c.*

**161.** For the purpose of supplying light or hydraulic or other power, but subject to any general Act or Acts in force for the time being regulating such matters or any of them, the Local Authority may—

- (i.) Enter upon and continue the manufacture of gas or electricity and the conservation of hydraulic or other power and the manufacture of all materials arising from

\* Local Authorities may become Electric Authorities under "The Electric Light and Power Act, 1896" (60 Vic. No. 24), Statutes, page 702.

PART VI.—  
POWERS AND  
DUTIES.  
Subdivision  
XIV.—  
Lighting,  
Hydraulic  
Power, &c.

- such manufacture or conservation, by means of any apparatus or other appliances, and by any process, art, or invention now or hereafter to be known or used, and from any substance that now is or may hereafter be used for such purposes;
- (ii.) Erect, make, construct, and fix all appliances, apparatus, works, matters, and things of such construction and in such manner as the Local Authority thinks necessary or proper; Power to erect works, &c.
- (iii.) Erect and fix posts, pillars, pilasters, lamp-irons, lamps, and other apparatus in and upon any road or land under the control of the Local Authority or against any structure abutting on any road or any such land; Erect lamps, &c.
- (iv.) Dig trenches and drains, and fix meters, mains, and pipes, and put stop-cocks, syphons, plugs, or branches from such pipes in, under, across, and along any road or such land, and also, with the consent of the owners or occupiers thereof, in, under, across, and along any structure, premises, or land in such manner as the Local Authority thinks necessary or proper; Lay pipes, &c.
- (v.) Erect and fix any machine or other apparatus necessary for securing to any structure, premises, or land a proper and competent supply of gas, electricity, or hydraulic or other power, or for measuring and ascertaining the extent of such supply; and Erect apparatus.
- (vi.) Do all such other acts and things as the Local Authority from time to time thinks necessary or proper for carrying into effect the purpose and meaning of this section. Generally.

The Local Authority shall make compensation for any damage done by it in the exercise of the abovenamed powers.

**162.** Where under any Act or order in force at the commencement of this Act any company is empowered to carry on the business of the supply of light or hydraulic or other power, nothing in this Act shall be construed so as to authorise a Local Authority within whose Area such business is carried on to compulsorily purchase and take from such company its undertaking except upon the terms and conditions, if any, in such Act or order mentioned. Existing gas or light or hydraulic companies. [149.]

But if any such Act or order makes no provision for the purchase of such undertaking by the Local Authority, or if any company is carrying on the business of the supply of light or hydraulic or other power with the permission of the Local Authority without any statutory powers in that behalf, then the Local Authority at any time after the commencement of this Act may, by giving at least six months' notice to the Company, and subject to "*The Public Works Lands Resumption Acts*,"\* purchase and take from the Company its undertaking, with the goodwill of its business as a going concern, and also the whole of the lands, buildings, works, mains, pipes, and apparatus of the Company used by it in or in connection with the business which by the Act or order it is empowered to carry on.

Subject to and without prejudice to any existing rights, it shall not be lawful for a Local Authority to enter upon the manufacture

\* 42 Vic. No. 5 and 52 Vic. No. 7, repealed. See now "*The Public Works Land Resumption Acts, 1906 to 1917*," Statutes, page 8211, and particularly section 14 (1).

PART VI.—  
POWERS AND  
DUTIES.  
Subdivision  
XIV.—  
Lighting,  
Hydraulic  
Power, &c.

or supply of light\* (other than electric light) or hydraulic or other power\* (other than electric power) in any case where any company is carrying on business as aforesaid unless or until such Local Authority has exercised its powers of purchase in the Act or order or in this section contained or has otherwise acquired the undertaking of the company.

‡Nothing in this section shall be construed to prevent or limit the powers of a Local Authority to enter upon and carry on the business of an Electric Authority under “*The Electric Light and Power Act, 1896.*”§

Power to  
contract for  
lighting,  
&c.

**163.** The Local Authority may contract with any person for the supply of gas, electricity, or hydraulic or other power to him or to any structure, premises, or land of which he is the owner or occupier, in such manner and under such stipulations as the Local Authority thinks proper.

[150.]

Power to  
enter and  
inspect.

**164.** (1.) Any officer of the Local Authority duly authorised by the Chairman in that behalf may, at all reasonable times, and as often as he thinks necessary—

[151.]

- (i.) Inspect and examine all appliances, apparatus, and works in or on any structure, premises, or land owned or occupied by any person with whom the Local Authority has contracted for the sale or supply of gas, electricity, or hydraulic or other power;
- (ii.) Repair, renew, and alter the same;
- (iii.) Take account of the amount of gas, electricity, or hydraulic or other power consumed or used under such contract;
- (iv.) Compare the amount so ascertained to be consumed or used with the terms of such contract, and regulate the supply in accordance therewith; and
- (v.) Enter any such structure, premises, or land for any other purpose consistent with and relating to such contract.

(2.) Any such officer may inspect and examine at all reasonable times any appliances, apparatus, or works which have been made, erected, or set up by any person with whom the Local Authority has so contracted.

If such officer considers any such appliances, apparatus, or works to be incomplete or otherwise defective, the person who erected and put up the same shall not be entitled to call on the Local Authority for the fulfilment of such contract until all such appliances, apparatus, and works have been altered or removed and other appliances, apparatus, and works have been substituted therefor, to the satisfaction of such officer.

Offences.

[152.]

**165.** Any person who, without the permission in writing of the Local Authority, so to do—

- (i.) Lays or fixes any pipe or wire to communicate with any pipe or wire belonging to the Local Authority, and fixed for the purposes aforesaid; or
- (ii.) Uses burners or lamps of larger dimensions or in any other manner than such contract as aforesaid permits; or

\* Words in brackets inserted by section 2 of the amending Act of 1917.

‡ Paragraph inserted by section 2 of the amending Act of 1917.

§ 60 Vic. No. 24.

(iii.) Supplies any other person with any part of the gas, electricity, or hydraulic or other power supplied to him by the Local Authority; shall be liable to a penalty not exceeding forty shillings for every day during which such pipe or wire so remains, or such excess is committed, or such supply is furnished.

PART VI.—  
POWERS AND  
DUTIES.  
Subdivision  
XVI.—  
Lighting,  
Hydraulic  
Power, &c.

**166.** If any person having contracted with the Local Authority uses any gas, electricity, or hydraulic or other power and refuses or neglects, for the space of twenty-one days after demand made, to pay to the Local Authority the sum of money then due under the contract, the Chairman may, by warrant under his hand, direct an officer of the Local Authority to levy such sum of money by distress and sale of the goods and chattels of the person so refusing or neglecting, rendering the surplus (if any) to such person after the necessary charges of making such distress and sale are first deducted.

Bemedy for  
recovery of  
charges.  
[153.]

The Local Authority may also cut off and take away the supply of gas, electricity, or hydraulic or other power from the premises of every person so refusing or neglecting, and thenceforth discontinue the supply.

*Subdivision XV.—Noxious Weeds, &c.*

Subdivision  
XV.—  
Noxious  
Weeds, &c.

**167.** (1.) The Local Authority may cause the extirpation and destruction of any noxious weed or plant growing within the Area, and for that purpose may, subject to the following provisions, enter upon and dig and break up the soil of any unoccupied Crown land, public reserve, or private land within the Area.

Local  
Authority  
may order  
extirpation.  
[154.]

(2.) It shall be the duty of the Local Authority to extirpate and destroy any such weed or plant found existing upon any road or land under its control.

Weeds on  
roads, &c.

(3.) Before the Local Authority exercises the powers in this section conferred, such weed or plant shall be declared, by the Minister by notification in the *Gazette*, or by a By-law of the Local Authority passed for that purpose, to be a noxious weed or plant and to be a nuisance.

Weed to be  
declared a  
nuisance.

(4.) When any such noxious weed or plant is found existing upon any public reserve not under its control, or upon any land within the Area (not being unoccupied Crown land), the Local Authority shall cause to be served upon the occupier or person in charge thereof, or, if there is no occupier or person in charge, upon the owner, a notice requiring him to extirpate and destroy the weed or plant upon the reserve or land, or any specified part thereof, within one month from the service of the notice, for such extended period as the Local Authority may grant, and to keep the reserve or land, or specified part thereof, free from the same during a period of one year thereafter.

Notice to  
abate  
nuisance.

§ Where it is thought expedient that the reserve or land shall be cleared by instalments, the Local Authority may, by successive notices, specify the part of the reserve or land with respect to

\* Words " upon the reserve or land, or any specified part thereof," inserted by section 11 of the amending Act of 1913.

‡ Words to end of sentence inserted by section 31 (1) of the amending Act of 1910, but words " or specified part thereof " inserted by section 11 of the amending Act of 1913.

§ Paragraph inserted by section 11 of the amending Act of 1913.

PART VI.—  
POWERS AND  
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Weeds, &c.*When Local  
Authority  
may enter  
and abate  
nuisance.

which each such notice shall be complied with, so that the whole of such reserve or land shall be so cleared and kept free as provided by this subsection.

(5.) If at the expiration of such period of one month, \*or such extended period as aforesaid, the weed or plant upon the reserve or land, or specified part thereof, has not been extirpated and destroyed, §or if during the said period of one year the reserve or land, ||or specified part thereof, is not kept free from the same, the Local Authority may forthwith enter upon such reserve or land, ||or specified part thereof, and ¶expend such sums of money as they may deem expedient in endeavouring to extirpate and destroy any such weed or plant that may be growing thereon.

Expense  
recoverable  
from parties.

(6.) Any reasonable expense so incurred by the Local Authority \*\*with the intention of extirpating and destroying any such weed or plant shall be a charge upon the land on which it existed ††(notwithstanding that any notice or notices related to a part only of the land), and shall be recoverable—

(a) If the land is a public reserve, from the trustees or other persons in charge thereof; or, if there are no such persons in charge, then from the Treasurer; or

(b) In all other cases from the occupier thereof; or, if there is no occupier, then (except in the case of unoccupied Crown land) from the owner;

in the same manner as by this Act Rates due and in arrear may be recovered from the occupier or owner of rateable land.

Treasurer  
liable for  
nuisance on  
Crown land.

(7.) The cost of abating any such nuisance upon any reserve temporarily placed under the control of the Local Authority, and upon unoccupied Crown land shall be defrayed by the Treasurer out of moneys appropriated by Parliament for that purpose: provided that the sanction of the Treasurer shall be obtained before any such cost is incurred.

Local  
Authority  
neglecting to  
abate  
nuisance.

(8.) If the Minister is satisfied that a Local Authority has failed to take proper steps to carry out the objects of this section, and that by reason of such default any noxious weed or plant has spread or is likely to spread from the Area of such Local Authority to the Area of an adjoining Local Authority, the Minister may call upon the Local Authority in default to show cause why an order should not be made upon it requiring it to take such proper steps as aforesaid; and if such Local Authority fails to give satisfactory reason for its default, the Minister may make an order directing the Local Authority within a time specified to take such steps ††in endeavouring to extirpate and destroy such weed or plant as appear

\* Words "or such extended period as aforesaid" inserted by section 31 (1) of the amending Act of 1913.

‡ Words "upon the reserve or land, or specified part thereof" inserted by section 11 of the amending Act of 1913.

§ Words from "or" to "same" inserted by section 31 (1) of the amending Act of 1910.

|| Words "or specified part thereof" inserted by section 11 of the amending Act of 1913.

¶ Words from "expend" to "to" inserted by section 31 (1) of the amending Act of 1910.

\*\* Words "with the intention of" substituted for "in" by section 31 (1) of the amending Act of 1910.

†† Words in brackets inserted by section 11 of the amending Act of 1913.

‡‡ Words from "in" to "destroy" substituted for "for the extirpation and destruction of" by section 31 (1) of the amending Act of 1910.

to him to be necessary; and if the Local Authority fails to comply with such order according to its tenour, the Minister may cause such order to be complied with at the cost of such Local Authority, and may recover such cost from it in any court of competent jurisdiction.

PART VI.—  
POWERS AND  
DUTIES.

Subdivision  
XV.—  
Noxious  
Weeds, &c.

**168.** (1.) The Local Authority may, subject to the provisions of "The Navigation Act of 1876,"\* and any Act amending the same, contract for or itself undertake—

Reclamation,  
&c. [155.]

- (i.) The dredging, deepening, and widening of any river, stream, watercourse, or other water under its control;
- (ii.) The filling up, levelling, and reclamation of waste or low lands under its control.

(2.) The Local Authority may remove from any river, stream, watercourse, or other water †within the Area or at any boundary thereof, or from the bed or banks of the same, all weeds, refuse, and other growth, and all drift-wood, logs, trees, branches, and other timber lodged in the bed or against the banks thereof, and may dispose of the same respectively towards recouping the cost of such removal.

Removal  
of weeds,  
drift-wood,  
&c., from  
river-beds.

(3.) For the purposes aforesaid the Local Authority shall by its officers and servants have free right of ingress, egress, and regress in respect of any land on the banks of any such river, stream, watercourse, or other water.

Entry.

(4.) Provided that nothing herein shall authorise a Local Authority—

Restriction.

- (i.) To interfere with the banks, bed, or stream of any tidal water within the jurisdiction of any Harbour Board, except with the consent of such Harbour Board; or
- (ii.) To commence or construct any river works, or place any pile or other structure in, on, over, through, or across any tidal lands or any tidal water without the sanction of the Governor in Council first obtained.

**169.** The plant commonly known as Water Hyacinth is hereby declared to be a noxious plant, and any person in occupation of any land or premises whereupon any such plant is found shall be liable to a penalty not exceeding fifty pounds. Moreover, the Local Authority may without any notice enter upon such land or premises and destroy such plant, and recover from the occupier the expenses incurred in so doing in the same manner as by this Act Rates due and in arrear are recoverable.

Water  
Hyacinth.

[156.]

§The provisions of this section are in addition to the powers and duties conferred and imposed by †section one hundred and sixty-seven of this Act for the extirpation and destruction of noxious weeds and plants, and nothing herein shall be construed to derogate from or prejudice the powers and authorities conferred by that section upon the Local Authority and the Minister.

**170.**|| For the purposes of any of the provisions of this Subdivision relating to the extirpation and destruction of noxious weeds and plants, where any person is the occupier or in charge of

Destruction  
of noxious  
weeds in  
creeks, &c.

[156A.]

\* 41 Vic. No. 3, Statutes, page 3090.

† Words from "within" to "thereof" substituted for "under its control" by section 31 (2) of the amending Act of 1910.

§ Paragraph added by section 31 (3) of the amending Act of 1910.

|| Section inserted by section 31 (4) of the amending Act of 1910.



PART VI.—  
POWERS AND  
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XV.—  
Noxious  
Weeds, &c.

any parcel of land which abuts upon or is bounded by a non-tidal watercourse or by the bank thereof, it shall be the duty of such occupier or person in charge to extirpate and destroy all such noxious weeds and plants growing or being in the bank of such watercourse fronting the said parcel of land, and in the water and in the bed of the watercourse to the centre line thereof if such centre line is not distant more than two chains from the said bank, or in other cases to a distance in width of two chains from the said bank towards such centre line, and in all such cases along the whole frontage of the said parcel of land, notwithstanding that such bed or banks lie wholly or in part outside the boundaries of the said parcel of land; and any portion of such watercourse or of the bed thereof with respect to which no duty is cast upon any occupier or person in charge of frontage lands as herein provided shall, if the Minister so directs, be cleared and kept clear of all such noxious weeds and plants by the Local Authority at its own cost. In this subsection the term "watercourse" includes a river, stream, creek, watercourse, lake, marsh, and swamp; \*and a watercourse is deemed to be non-tidal if at the place in question the water in such watercourse is not influenced by tides:

Provided that in any of the cases mentioned in this section any occupier or person in charge who performs any such work of extirpation or destruction shall be entitled to claim and recover contribution from all other persons who, by reason of the situation of their lands, are similarly bound with him to perform the duty imposed by this section. Moreover, any expense incurred by any occupier or person in charge of land under this section shall be recoverable by him from the owner of the land, and may be deducted by him from any rent due in respect of the land of the owner.

**171.‡** (1.) The plant commonly known as Prickly Pear is hereby declared to be a noxious plant.

(2.) When the Governor in Council is satisfied that any Area or division of an Area §or defined part of an Area or of a division is entirely free from prickly pear, or that prickly pear exists in any Area or division §or defined part of an Area or of a division to such extent only that such Area or division or part thereof may be entirely freed from prickly-pear, the Governor in Council may, by Order in Council, declare accordingly, and direct that the provisions of this section shall be applicable to such Area or division ||or part thereof.

(3.) If the Order in Council declares that the Area or division ||or part thereof may be entirely freed from prickly pear, it shall also direct the time within which, respectively, the roads and lands under the control of the Local Authority and the lands of occupiers and owners within such Area or division ||or part thereof shall be entirely freed from prickly pear.

Thereupon it shall be the duty—

(a) Of the Local Authority, within the time directed by the said Order, to extirpate and destroy all prickly pear existing upon all roads and lands under its control

\* Words to end of sentence inserted by section 12 of the amending Act of 1913.

‡ Section inserted by section 31 (4) of the amending Act of 1910.

§ Words "or defined part of an Area or of a division" inserted by section 12 of the amending Act of 1912.

|| Words "or part thereof" inserted by section 12 of the amending Act of 1912.

Destruction  
of Prickly  
Pear in  
certain  
Areas.

[156B.]

within the Area or division \*or part thereof, so that all such roads and lands shall be entirely freed from prickly pear; and

- (b) Of the occupier and owner of every parcel of land within the Area or division \*or part thereof, within the time directed by the said Order, without any other notice in that behalf, to extirpate and destroy all prickly pear existing on such land, so that all such lands within the Area or division \*or part thereof shall be entirely freed from prickly pear.

If at or after the expiration of the time limited by the said Order any prickly pear is found existing upon any road or land under the control of the Local Authority within the Area or division \*or part thereof then the Local Authority, or upon any other land within the Area or division \*or part thereof then both the occupier and owner of such land, shall be liable to a penalty not exceeding fifty pounds and not less than five pounds.

¶If before the expiration of the said time the Minister is satisfied that the Local Authority or owner or occupier, as the case may be, is not using due diligence in complying with the said Order in Council, the Minister may summon such Local Authority or owner or occupier before a police magistrate, and such police magistrate, upon being satisfied of the default, may make an order requiring the defendant to do such works of extirpation and destruction, within such times and at such places respectively as he thinks proper, to ensure compliance with the said Order in Council, and to pay all costs of and arising out of such summons; and if thereafter such Local Authority or owner or occupier fails to comply with the order or any part of the order of such police magistrate, such Local Authority or owner or occupier shall, upon a complaint in the name of the Minister in that behalf, be liable to a penalty not exceeding five pounds for every day during which such failure to so comply has continued, and all such penalties when recovered shall be paid into the Consolidated Revenue.

When the Governor in Council is satisfied that the Area or division \*or part thereof to which the said Order relates has been entirely freed from prickly pear, he shall by an Order in Council so declare.

(4.) When an Order in Council has declared an Area or division \*or part thereof to be entirely free from prickly pear, it shall thereafter be the duty—

- (a) Of the Local Authority to keep and maintain all roads and lands under its control within the Area or division \*or part thereof entirely free from prickly pear; and
- (b) Of the occupier and owner of every parcel of land within the Area or division \*or part thereof, without any other notice in that behalf, to keep and maintain such land entirely free from prickly pear.

If at any time thereafter any prickly pear is found existing upon any road or land under the control of the Local Authority within the Area or division \*or part thereof then the Local Authority, or upon any other land within the Area or division \*or

PART VI.—  
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Noxious  
Weeds, &c.

\* Words "or part thereof" inserted by section 12 of the amending Act of 1912.  
‡ Paragraph inserted by section 13 of the amending Act of 1913.

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part thereof then both the occupier and owner of such land, shall be liable to a penalty not exceeding fifty pounds and not less than five pounds.

(5.) For the purpose of enabling a Local Authority to perform its duty under this section, the Minister may—

- (a) Enter into an agreement with any Local Authority for the carrying out of any work of extirpation and destruction of prickly pear upon such terms as to payment therefor as may be agreed, and every such agreement shall be enforceable in any court of competent jurisdiction; or
- (b) Afford such assistance to any Local Authority in connection with any such work in such manner and by such means as to the Governor in Council seems fit.

(6.) The provisions of this section are in addition to the powers and duties conferred and imposed by section one hundred and sixty-seven of this Act for the extirpation and destruction of noxious weeds and plants, and nothing herein shall be construed to derogate from or prejudice the powers and authorities conferred by that section upon the Local Authority and the Minister.

Owner, &c.,  
may clear  
road of  
prickly-pear.  
[156c.]

**172.\*** In any case where land which is not situated within any locality subject to an Order in Council made under the last preceding section is itself free from prickly-pear and has a frontage to a road which is infested with prickly-pear, the owner or occupier of such land may give notice in writing to the Local Authority in whose Area such land and road are situated that he is willing to pay one-half part of the cost of freeing from prickly-pear the road along the whole frontage of such land; thereupon the Local Authority shall, if funds are available for the purpose, proceed to free such road from prickly-pear, and such owner or occupier shall become liable to pay to the Local Authority a sum equal to one-half part of the cost of so doing, and such sum shall be recoverable from him as Rates under this Act are recoverable.

For the purpose of enabling the Local Authority to perform its duty under this section, the Minister shall have the like powers as are vested in him under subsection five of the last preceding section.

Any sum of money paid by any owner or occupier of land under this section shall be credited in the books of the Local Authority against any Rate which may thereafter be made and levied in respect of such land for the extirpation and destruction of prickly-pear.

Power to  
declare pest.  
[157.]

**173.** The Minister may from time to time, by notification published in the *Gazette*—

- (i.) Declare any animal, bird, insect, fungus, matter, or thing to be a pest within the meaning of this Act;
- (ii.) Define the locality affected by the pest;
- (iii.) Alter the boundaries of such locality;
- (iv.) Declare the locality free from pest.

Destruction  
of pests.  
[158.]

**174.** The Local Authority having jurisdiction within the locality affected by the pest may contract for or itself undertake the destruction or prevention of the pest, and may for that purpose provide all such appliances, methods, and means as it thinks necessary or proper.

\* Section inserted by section 14 of the amending Act of 1913.

The expenses incurred in so doing shall be defrayed either out of the Local Fund or out of any Special Rate levied under this Act for the purpose.

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DUTIES.  
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Noxious  
Weeds, &c.

**175.\*** If the Minister is satisfied that a Local Authority has failed to take proper steps to carry the last preceding section hereof into effect, or has failed to make By-laws for effectually dealing with pests under †subsection forty-two of the Fourth Schedule to this Act, or, having made such By-laws, has failed to take proper steps to carry the said By-laws or any of them into effect, the Minister may call upon the Local Authority in default to show cause why an order should not be made upon it requiring it to take proper action as aforesaid.

Default of  
Local  
Authority  
in dealing  
with pests.  
[158A.]

If such Local Authority fails to give satisfactory reasons for its default, the Minister may make an order directing the Local Authority, within a time specified, to take such action as appears to him to be necessary; and if the Local Authority fails to comply with such order according to its tenour, the Minister may cause such order to be complied with on behalf of and at the cost of the Local Authority, and may from time to time recover such cost from it in any court of competent jurisdiction.

It shall not be competent for the Local Authority to repeal or amend any By-law made in pursuance of such order without the previous consent of the Minister.

**176.\*** Notwithstanding anything in this Act or in any other Act contained, no action or other remedy shall lie against nor shall any sum by way of compensation, damages, or otherwise be payable by any Local Authority for any loss or injury sustained by any owner or person in possession of any live stock poisoned by eating on any road or land under the control of the Local Authority, any plant, grass, or herbage which has been poisoned by the Local Authority or its servants or agents in the destruction or endeavour to destroy any noxious weed or plant, if the Local Authority has given notice twice in some newspaper and caused public notice of the use of poison to be affixed in a conspicuous manner in all places where the work is being carried out, and has served such notice on each resident occupier of any land abutting on or having a frontage to all places where the work is being carried out.

Local  
Authority  
exonerated  
from liability  
for injuries  
to stock  
poisoned by  
destruction  
of noxious  
plants.  
[158B.]

**177.\*** The provisions of this Subdivision, so far as they are applicable, shall apply to a Joint Local Authority constituted for the eradication of noxious weeds or prevention and destruction of pests.

Application  
to Joint  
Board.  
[158C.]

**178.‡** Where any owner or occupier of land has made default in compliance with any provision of this Subdivision or any By-law made under †section forty-two of Schedule IV. of this Act, or with any notice or order given or made under any of such provisions or By-laws, and the Local Authority or Joint Local Authority concerned or the Minister has entered upon the land for the purpose of complying with such provision, by-law, notice, or order, the Local Authority, Joint Local Authority, or Minister, as the case may be, and its or his agents, servants, contractors, and workmen, shall have and may exercise all the powers and authorities which the owner

Powers of  
Local  
Authority,  
&c., on  
default of  
owner, &c.  
[158D.]

\* Sections inserted by section 13 of the amending Act of 1912.

‡ Section inserted by section 15 of the amending Act of 1913.

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POWERS AND  
DUTIES.  
Subdivision  
XV.—  
*Noxious  
Weeds, &c.*

and occupier of the land could exercise for that purpose, and in particular may do any of the following things:—

- (a) Get, convey, use, and consume any timber or other material or thing in or from the land;
- (b) Adopt such means by the use of poison or any other thing on the land as appear to be necessary;
- (c) Muster, remove, and treat any stock or animals on the land:

Provided that reasonable precautions shall be taken by the giving of notice or the removal of stock or animals, or the fencing by temporary barriers or other means, as appear to be required to obviate the risk of any stock or animals being poisoned or injured during or in consequence of the operations carried on upon the land.

No action shall lie against a Local Authority, or Joint Local Authority, or the Minister, or any of its or his agents, servants, contractors, or workmen, for trespass or for any damage whatsoever caused by or in consequence of such operations when carried out in compliance with this section.

Subdivision  
XVI.—  
*Inspectors of  
Local Works.*  
Appointment  
of inspectors.  
[159.]

*Subdivision XVI.—Inspectors of Local Works.*

**179.** The Governor in Council may from time to time appoint persons (hereinafter called inspectors) possessing competent knowledge, skill, and experience, to examine, report upon, or supervise local works under this Act.

Expenses.

All expenses incurred in carrying out the provisions of this Subdivision shall be paid by the Local Authorities concerned.

Duties of  
inspectors.  
[160.]

**180.** The Minister may order an inspector—

- (i.) To examine any local work and report thereon to the Minister; or
- (ii.) To make inquiry into the propriety of any proposed work and into the objections thereto and report thereon to the Minister; or
- (iii.) To supervise the execution of any local work and prohibit any payment by the Local Authority on account thereof unless on the certificate of the inspector.

On receiving the report of the inspector as to a proposed work, the Minister may make an order disallowing the work or allowing it with such modifications (if any) as he thinks necessary.

Inspector to  
report on  
work before  
loan.  
[161.]

**181.** (1.) Before any sum of money is advanced by the Treasurer by way of loan to a Local Authority for the construction of any works, the plans, specifications, and estimates of such work shall be submitted to the Minister, who may refer the same to an inspector, and the inspector shall examine the same and report to the Minister thereupon in respect of the following matters, that is to say—

- (i.) The necessity or expediency of the proposed work;
- (ii.) The accuracy and sufficiency of the plans, specifications, and estimates thereof;
- (iii.) The competency of the officers of the Local Authority to undertake and satisfactorily complete the same; and
- (iv.) The net revenue (if any) that may reasonably be expected to be yielded by such work.

(2.) Upon the receipt of such report the Minister shall submit the same with a recommendation to the Governor in Council, who may authorise the proposed loan, or alter or modify the amount or conditions thereof; or the Minister before submitting such report may authorise and direct an inspector at the cost of the Local Authority to alter or remodel the plans, specifications, or estimates, or substitute other plans, specifications, or estimates, in such manner as the inspector thinks necessary for the proper execution of the work.

PART VI.—  
POWERS AND  
DUTIES.  
Subdivision  
XVI.  
Inspectors  
of Local  
Works.  
Minister to  
submit  
report.

182. If the Local Authority thinks itself aggrieved by any proceeding of an inspector it may appeal to the Minister. Appeal from  
inspector.  
[162.]

The Minister shall thereupon appoint some fit person to inquire into and report upon the allegations of the Local Authority, and shall submit the report to the Governor in Council, whose decision thereupon shall be final and who may apportion the costs of such inquiry in such manner as to him seems just.

183. If the Local Authority refuses to—

- (i.) Abide by the decision of the Governor in Council; or
- (ii.) Execute under the supervision of the inspector any work undertaken by it; or
- (iii.) Defray the reasonable costs of such supervision,

If Local  
Authority  
refuses  
compliance  
endowment  
may be  
withheld.  
[163.]

the Treasurer may withhold payment of any endowment, or any portion thereof, then next accruing to the Local Authority under any Act.

184. If any officer of the Local Authority refuses to comply with any lawful order of an inspector, he shall be liable, upon complaint of the inspector, to a penalty not exceeding twenty pounds. Penalty.  
[164.]

PART VII.—BUILDINGS.

Subdivision I.—First-class Sections.

PART VII.—  
BUILDINGS  
Subdivision  
I.—  
First-class  
Sections.

185. The Governor in Council may, at the request of the Council of a Town, by Proclamation, declare any portion of such Town to be a first-class section for the purposes of this Act, and upon the like request rescind any such Proclamation. First-class  
sections.  
[165.]

In a first-class section it shall not be lawful to construct the external walls of any building, or any part of the framework of such walls, of any material other than fire-resisting material, or to roof or cover any building with wooden shingles or other inflammable material, or to repair or add to the walls or roof of any existing wooden or other building otherwise than by substituting fire-resisting materials as aforesaid.

186. If a building is erected, or is in process of being erected, in a first-class section of materials other than those by this Act permitted to be used, the Local Authority shall serve a notice on the builder or owner thereof requiring him to remove the same within a time to be specified in the notice, and to execute such works and do such things as may be necessary for that purpose. Mode of  
enforcing  
provisions.  
[166.]

If the builder or owner makes default in complying with any of the requisitions of such notice within the time specified, such building or part of building shall be deemed to be a nuisance, and the Local Authority shall cause a complaint relating to such nuisance to be made before a police magistrate.

PART VII.—  
BUILDINGS.  
Subdivision  
I.—First  
Class  
Sections.

If the police magistrate who hears the complaint is satisfied that the alleged nuisance exists, he shall make an order requiring such person to comply with the requisitions of the notice or otherwise abate the nuisance within a time specified in the order and to do any works necessary for that purpose.

Any person who disobeys an order to comply with the requisitions of the Local Authority, or otherwise to abate the nuisance, shall, unless he satisfies the police magistrate that he has used due diligence to carry out such order, be liable to a penalty not exceeding twenty shillings for every day during which his default continues.

Moreover, in case of such disobedience the Local Authority may enter the premises to which an order relates, and abate the nuisance, and do whatever may be necessary in the execution of such order, and may recover the expenses incurred by it from the person against whom the order is made in the same manner as by this Act Rates due and in arrear are recoverable.

Subdivision  
II.—  
Dangerous  
and  
Neglected  
Structures.

*Subdivision II.—Dangerous and Neglected Structures.*

Survey to  
be made of  
dangerous  
structures.

[167.]

187. (1.) When it is made known to the Local Authority that any structure is in a dangerous state, the Local Authority shall require a survey of such structure to be made by the surveyor, or by some other competent person.

(2.) The surveyor shall report to the Local Authority any information which he may receive with respect to any structure being in a dangerous state.

Surveyor to  
give  
certificate.

(3.) Upon the completion of his survey the surveyor shall certify to the Local Authority his opinion as to the state of the structure.

Proceedings  
in respect  
of certificate.

(4.) If the certificate is to the effect that the structure is not in a dangerous state, no further proceedings shall be had in respect thereof; but if it is to the effect that the same is in a dangerous state, the Local Authority may cause the same to be shored up or otherwise secured and a proper hoard or fence to be put up for the protection of public traffic, and shall cause notice to be served on the owner or occupier of the structure requiring him forthwith to take down, secure, or repair the same, as the case requires.

Notice to  
owner, &c.,  
in case of  
danger.

[168.]

188. If the owner or occupier on whom the notice is served fails to comply with the notice, a police magistrate, on complaint by the Local Authority, may order the owner to take down, repair, or otherwise secure, to the satisfaction of the surveyor, the structure or such part thereof as appears to the police magistrate to be in a dangerous state, within a time to be fixed by the order, and if the same is not taken down, repaired, or otherwise secured within the time so limited, the Local Authority may cause the structure or so much thereof as is in a dangerous condition to be taken down, repaired, or otherwise secured in such manner as may be requisite.

Expenses.

[169.]

189. (1.) All costs and expenses incurred by the Local Authority in relation to the obtaining of any order as to a dangerous structure and carrying the same into effect shall be paid by the owner of the structure, but without prejudice to his right to recover the same from any person liable to the expenses of repairs.

PART VII.—  
BUILDINGS.  
Subdivision  
11.—  
Dangerous  
and  
Neglected  
Structures.  
Power of  
sale.

(2.) If the owner cannot be found, or if on demand he refuses or neglects to pay such expenses, the Local Authority, after serving on him one month's notice of its intention so to do, may sell the structure, but it shall, after deducting from the proceeds of the sale the amount of all costs and expenses incurred by it, and also the amount of all rates then due by the owner, together with interest thereon (if any), pay the surplus, if any, to the owner on demand.

(3.) When any dangerous structure is sold for payment of the costs and expenses incurred in respect thereof by the Local Authority, the purchaser, his agents and servants, may enter upon the land whereon the structure is situated for the purpose of taking down the same and of removing the materials of which it is constructed.

(4.) If the materials are not sold by the Local Authority, or if the proceeds of the sale are insufficient to defray the costs and expenses, the Local Authority may recover the expenses or the balance thereof from the owner of the structure, together with all costs in respect thereof, in a summary manner by complaint before any two justices.

190. When a structure has been certified by a surveyor to be dangerous to its inmates, a police magistrate may, if satisfied of the correctness of the certificate, upon the application of the Local Authority, by order direct that any inmates of such structure shall be removed therefrom by an officer of police.

191.\* When it appears to the Local Authority that any house or other structure or any part of any house or other structure, by reason of its filthy or dilapidated condition or improper construction, or by reason of its being infected or suspected to be infected with disease, or otherwise, is unfit to be used or occupied, the Local Authority may give notice in writing to the owner or occupier of such house or structure to purify or repair or alter the same so as to render it fit for use and occupation, or to cause the house or structure to be pulled down or destroyed.

If the person to whom the notice is given fails to comply therewith within the time therein specified, he shall be liable to a daily penalty not exceeding ten shillings for each day during which such failure continues.

Moreover, upon such failure as aforesaid to comply with such notice, whether such notice was to purify or repair or alter or pull down or destroy, the Local Authority may cause the house or structure to be pulled down or destroyed, and may recover from the person in default the expenses incurred by it in so doing.

192. (1.) When a structure is ruinous or so far dilapidated as thereby to have become and to be unfit for use or occupation, or is from neglect or otherwise in a structural condition prejudicial to the property in or the inhabitants of the neighbourhood, a police magistrate, on complaint by the Local Authority, may make an order with respect to such structure (herein referred to as a

\* Section inserted by section 11 of the amending Act of 1920.

† Words from "may" to "satisfaction of the Local Authority" substituted for "may order the owner to take down or repair or rebuild such structure (herein referred to as a neglected structure), or any part thereof, or to fence in the land upon which it stands, or any part thereof, or otherwise to put the same or any part thereof in a state of repair and good condition to the satisfaction of the Local Authority within a reasonable time to be fixed by the order" by section 16 of the amending Act of 1913.



PART VII.—  
BUILDINGS.  
Subdivision  
II.—  
Dangerous  
and  
Neglected  
Structures.

neglected structure), or the land on which it stands, directing the owner to do one of the things hereinunder specified, namely—

- (a) To take down the structure wholly or in part to be specified; or
- (b) To repair the structure; or
- (c) To fence the land wholly or in part to be specified on which the structure stands; or
- (d) To repair and put in good condition the said fence—

within a reasonable time to be fixed by the order, and in each case to the satisfaction of the Local Authority, and may also make an order for the costs incurred up to the time of the hearing.

(2.) If the order is not obeyed, the Local Authority may enter upon the neglected structure or such land and execute the order.

(3.) When the order directs the taking down of a neglected structure, or any part thereof, the Local Authority in executing the order may remove the materials to a convenient place, and, unless the expenses of the Local Authority in relation to such structure are paid to it within fourteen days after such removal, sell the same.

(4.) All costs and expenses incurred by the Local Authority in relation to a neglected structure, and also the amount of all rates then due by the owner, together with interest thereon (if any), may be deducted by the Local Authority out of the proceeds of the sale, and the surplus (if any) shall be paid by the Local Authority on demand to the owner of the structure.

If such neglected structure, or some part thereof, is not taken down, and such materials are not sold by the Local Authority, or if the proceeds of the sale are insufficient to defray the costs and expenses, the Local Authority may recover the expenses, or such insufficiency, from the owner of the structure, together with all costs in respect thereof, in a summary manner by complaint before any two justices, but without prejudice to his right to recover the same from any lessee or other person liable to the expenses of repairs.

Fees part of expenses.

[172.]

**193.** All fees prescribed to be paid in respect of any dilapidated or neglected structure shall be deemed to be expenses incurred by the Local Authority, and shall be recoverable as such.

Provision for enforcing repayment of expenses incurred by Local Authority.

[173.]

**194.** (1.) When the Local Authority has incurred any costs or expenses in respect of any dangerous or neglected structure, and has not been paid or has not recovered the same, a police magistrate, on complaint by the Local Authority, may make an order fixing the amount of such costs and expenses and the costs of the proceedings before him, and declaring the amount already paid or recovered (if any), and directing that no part of the land upon which such dangerous or neglected structure stands or stood shall be built upon, and that no part of such dangerous or neglected structure, if repaired or rebuilt, shall be let for occupation, until after payment to the Local Authority of the said amount or the balance thereof, as the case may be; and thereupon and until payment to the Local Authority of the said amount or balance no part of such land shall be built upon, and no part of such dangerous or neglected structure so repaired or rebuilt shall be let for occupation.

(2.) Every such order shall be made in duplicate; and one copy of such order shall be retained by the clerk of petty sessions, and the other copy shall be kept at the office of the Local Authority.

(3.) The Local Authority shall keep a register of all orders made under the provisions of this section, and shall keep the same open to inspection. No property shall be affected by any such order unless and until such order is entered in such register, and any such order not entered in such register within ten days after the making thereof shall cease to be of any force.

PART VII.—  
BUILDINGS.  
Subdivision  
II.—  
Dangerous  
and  
Neglected  
Structures.  
Subdivision  
III.—  
General  
Provisions.

*Subdivision III.—General Provisions.*

**195.** (1.) In a Town every person intending to build or take down any building, or to alter or repair the outward part of any building abutting on any road, shall—

Hoards to be  
set up during  
progress of  
buildings,  
&c. [174.]

- (i.) Before beginning the same, unless the Council otherwise consents in writing, erect a close-boarded hoard or fence, to the satisfaction of the Council, in order to separate the building from the road;
- (ii.) If the Council so requires, make a convenient covered platform and handrail to serve as a footway for passengers outside of such hoard or fence;
- (iii.) Continue such hoard or fence with such platform and handrail standing and in good condition to the satisfaction of the Council during such time as the Council requires;
- (iv.) If required by the Council, cause the same to be sufficiently lighted during the night;
- (v.) Remove the same when required by the Council.

(2.) Any person who fails to comply with any of the provisions of this section shall be liable to a penalty not exceeding twenty pounds.

**196.** (1.) In a Town all vaults, arches, and cellars under any road, and all openings into such vaults, arches, or cellars in the surface of any road, and all cellar-heads, gratings, lights, and coal holes in the surface of any road, and all landings, flags, or stones of the road supporting the same respectively, shall be kept in good condition and repair by the owners or occupiers of the buildings to which the same respectively belong.

Repair of  
cellars under  
roads. [175.]

(2.) If default is made in complying with the provisions of this section, the Council may, after at least twenty-four hours' notice in that behalf, cause anything in respect of which such default is made to be repaired or put into good condition, and the expenses of so doing shall be paid to the Council by such owner or occupier respectively.

**197.** (1.) Every building which is used as a place of public resort shall, to the satisfaction of the \*Local Authority, be substantially constructed and supplied with ample, safe, and convenient means of ingress and egress for the use of the public, regard being had to the purposes for which such building is or is intended to be used, and to the number of persons likely to be assembled at any one time therein.

Means of  
ingress to  
and egress  
from places  
of public  
resort. [176.]

(2.) The means of ingress and egress shall during the whole time that such building is used as a place of public resort be kept free and unobstructed to such extent as the Local Authority requires.

\* "Local Authority" substituted for "Minister" by section 32 of the amending Act of 1910.

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BUILDINGS.  
Subdivision  
III.—General  
Provisions.

(3.) An officer authorised in writing by the Chairman, and producing his authority if so required, may at all reasonable times enter any such building to see that the provisions of this section are carried into effect.

(4.) Any person, being the occupier or manager, or, in the case of a building let for any period less than one year, the owner, of any building used as aforesaid, who uses the same or suffers the same to be used in contravention of this section, or fails to comply with the provisions of this section in respect thereof, shall be liable to a penalty not exceeding fifty pounds.

(5.) When any alteration in such building is required in order to give proper means of ingress or egress, the \*Local Authority may allow time for making such alteration, and may, notwithstanding the currency of any license, make such order as it thinks fit for the closing, or otherwise, of the building during such time.

(6.) For the purposes of this section the expression "place of public resort" means a building used or constructed or adapted to be used either ordinarily or occasionally as a theatre, public hall, public concert-room, public ballroom, public lecture-room, or public exhibition-room, or as a public place of assembly for persons admitted thereto by tickets or by payment, or used, or constructed, or adapted to be used either ordinarily or occasionally for any other public purpose, but shall not include a private dwelling-house used occasionally or exceptionally for any of those purposes.

Safety of  
platforms,  
&c., erected  
or used on  
public  
occasions.

[177.]

**198.** (1.) Whenever large numbers of persons are likely to assemble on the occasion of any show, entertainment, public procession, open-air meeting, or other like occasion, every roof of a building, and every platform, balcony, or other structure let or used or intended to be let or used for the purpose of affording sitting or standing accommodation for a number of persons, shall be safely constructed or secured to the satisfaction of the Local Authority.

(2.) Any person who uses or permits to be used any roof of a building, or any platform, balcony, or structure not so safely constructed or secured, or who neglects to comply with the provisions of this section in respect thereof, shall be liable to a penalty not exceeding fifty pounds.

When Local  
Authority  
may demolish  
buildings  
and sell  
materials  
and recover  
expenses.

[178.]

**199.** When any person has been convicted of an offence against any of the provisions of this Act by constructing, erecting, adapting, extending, raising, altering, uniting, or separating any structure, or any part of any structure, in contravention of any provision of this Act, it shall be lawful for the Local Authority, after giving fourteen days' notice to such person, to bring such structure into conformity with the said provisions, and after default has been made in complying with such notice, and, notwithstanding the imposition and recovery of any penalty, to cause complaint thereof to be made before a police magistrate.

Upon the hearing of such complaint, the police magistrate may make an order authorising the Local Authority to enter upon such structure with a sufficient number of workmen, and to demolish or alter such structure or any part thereof, so far as

\* "Local Authority" substituted for "Minister" by section 32 of the amending Act of 1910.

the same has been adjudged to be in contravention of this Act, and to do whatever other acts may be necessary for such purpose, and to remove the materials to some convenient place, and, if it thinks fit, sell the same in such manner as it thinks fit.

PART VII.—  
BUILDINGS.  
Subdivision  
III.—General  
Provisions.

All expenses incurred by the Local Authority in demolishing or altering such structure or any part thereof, and in doing such other acts as aforesaid, together with all costs, or the balance of such expenses and costs, after deducting the proceeds of sale of the aforesaid materials, if the Local Authority thinks fit to sell the same, may be recovered from the person committing the offence.

If the proceeds of such sale are more than sufficient to defray such expenses and costs, the Local Authority shall pay the surplus of such proceeds, after deducting the amount of all such expenses and costs, and also the amount of all rates then due by the owner of the structure, together with interest thereof (if any), to such owner on demand.

**200.** When by any provision of this Act any surplus of the proceeds of the sale of any building, structure, or materials is made payable to any owner thereof, and no demand is made by any person entitled thereto within one year after the receipt of the proceeds by the Local Authority, then the same shall be paid into the Supreme Court, and shall be subject to the control of the Supreme Court, and to be paid out to the owner on his proving his title thereto. Payment of surplus of proceeds into court. [179.]

**201.** (1.) No person shall erect or place a pile, stack, or store of cut or uncut timber, lathwood, firewood, casks, or barrels, whether on or above the ground, nearer to a road than the buildings forming the general line of buildings therein. Storing of wood and timber. [180.]

(2.) No person shall pile, stack, or store cut or uncut timber, lathwood, firewood, casks, or barrels in the same yard or ground or in any part of the same premises with any furnace, except in the following cases:—

- (i.) When the furnace is enclosed in a building or chamber constructed of fire-resisting materials; or
- (ii.) When there is a distance of not less than ten feet between the furnace and the pile, stack, or store of timber, lathwood, firewood, casks, or barrels.

(3.) No pile, stack, or store of timber, lathwood, firewood, casks, or barrels shall exceed fifty feet in height from the level of the ground.

(4.) It shall not be lawful to form in any pile, stack, or store of timber, lathwood, firewood, casks, or barrels any room or chamber or space other than a passage, to be used for any purpose whatever.

(5.) Timber yards existing at the time of the commencement of this Act shall comply with these provisions within two years thereafter, but the Local Authority may in individual cases extend this time for a further period not exceeding three years.

(6.) The provisions of this section do not extend to Shires.

**202.** Proceedings with respect to a building shall not be affected by the removal or falling in of the roof or covering of such building or by the fact that such building has not been completed. Removal of roof not to affect proceedings. [181.]

PART VIII.—  
BY-LAWS.

Power to  
make  
By-laws.  
Schedule IV.  
[182.]

Provisions as  
to By-laws.  
[183.]

## PART VIII.—BY-LAWS.\*

**203.** Subject to the provisions of this Act, the Local Authority may from time to time make By-laws with respect to all or any of the matters mentioned in the Fourth Schedule to this Act.

**204.** (1.) Save as by this Act is otherwise expressly provided, no By-law shall contain any matter contrary to this Act or any law in force in Queensland.

(2.) A By-law may impose a penalty for any breach thereof, and may also impose different penalties in case of successive breaches. But no such penalty shall exceed fifty pounds.

A By-law may also impose a daily penalty for any breach thereof—that is to say, a penalty for each day on which the offence is continued after notice has been given to the offender of the commission of the offence, or after a conviction or order by any court, as the case may be. But no such penalty shall exceed five pounds per day.

A By-law may provide that in addition to a penalty any expense incurred by the Local Authority in consequence of a breach of such By-law, or in the execution of work directed by the By-law to be executed by any person and not executed by him, shall be paid by the person committing such breach or failing to execute such work.

(3.) A By-law may require any works or things to be executed or done of such materials, within such time, or in such manner, as may be directed or approved in any particular case by the Local Authority, or any officer thereof, or other person, and may require works to be executed only by qualified and licensed persons.

(4.) A By-law may authorise the Local Authority, or any officer thereof, to pull down, remove, or alter any work, material, or thing erected or being in breach of any By-law, and to recover all expenses incurred by the Local Authority in connection with such pulling down, removal, or alteration. The exercise of this authority shall not relieve any person from liability to any penalty incurred by reason of such breach.

(5.) A By-law may leave any matter or thing to be determined, applied, dispensed with, prohibited, or regulated by the Local Authority from time to time by resolution, either generally or for any classes of cases, or in any particular case.

(6.) A By-law may provide for the issue or making of licenses, registrations, or permits to or with respect to persons and property, and for the payment of reasonable license, registration, and permit fees.

(7.) A By-law may provide for the payment of reasonable fees for inspections and other services by officers of the Local Authority.

(8.) A By-law may apply to a specified part only of the Area.

‡(9.) The power to make By-laws under †subsection nineteen of the Fourth Schedule to this Act may be exercised by the Local Authority, and any such By-laws shall remain in full force and

\* As to power to make By-laws in respect of dairies, see "*The Health Act Amendment Act of 1886*" (50 Vic. No. 21), section 13, Statutes, page 885.

‡ Subsection inserted by section 14 (1) of the amending Act of 1912.

effect, anything in "*The Traffic Acts, 1905 to 1910*,"\* to the contrary notwithstanding.

**205.** In the interpretation of By-laws the terms used shall, unless the context otherwise indicates or unless it is therein otherwise expressly provided, have the same meanings as are respectively assigned to them by this Act; moreover, the provisions of the "*Acts Shortening Act of 1867*,"† or any Act amending or in substitution for that Act, shall be applicable so far as the same can be applied. Interpretation. [184.]

**206.** (1.) Every By-law shall be passed at a special meeting of the Local Authority called for that purpose, and shall be confirmed at a subsequent special meeting of the Local Authority, and shall be sealed with the seal of the Local Authority. Passing of By-laws. [185.]

(2.) After a resolution for passing a By-law has been agreed to by the Local Authority, and not less than seven days in the case of a Town, and thirty days in the case of a Shire, before the resolution is confirmed, a copy of such By-law shall be deposited at the office of the Local Authority, and shall be there open to inspection; and a notice shall be published in some newspaper setting forth the general purport of the proposed By-law and stating that a copy is open to inspection. Publication of notice of proposed By-law.

(3.) After a By-law has been sealed it shall be submitted for the approval of the Governor in Council, and if approved by him shall be published in the *Gazette*, and thereupon such By-law shall have the force of law in the Area. To be approved by Governor in Council.

**207.** A By-law or part of a By-law may be repealed by the Governor in Council by Order in Council. Repeal of By-laws. [186.]

**208.** Notwithstanding the amendment or repeal of any By-law, every offence committed against the By-law before the amendment or repeal thereof shall be adjudicated upon and punished; and every act or proceeding done or commenced, and every right, privilege, or protection acquired, and every liability incurred, shall continue to be prosecuted and be of the same force and effect as if the By-law had not been amended or repealed. Saving of past operation of amended or repealed By-law. [187.]

**209.** § If any elector of the Area desires to dispute the validity of a By-law or part of a By-law, he may pay into the Supreme Court the sum of fifteen pounds as security for the costs of the proceedings, and may thereupon apply to the said Court or a Judge thereof for an order calling upon the Local Authority to show cause why such By-law or part of a By-law should not be quashed for the invalidity thereof. Testing the validity of By-law. [188.]

Upon the hearing of the matter the Court or Judge may quash or amend the By-law, or make such other order with or without costs as to the Court or Judge seems meet.

**210.** The Governor in Council shall, as soon as is conveniently practicable after the commencement of this Act, and may thereafter from time to time, cause to be prepared model forms of By-laws for all or any of the purposes for which By-laws may be made by a Local Authority. Such forms shall be published in the *Gazette*. Model By-law. [189.]

\* 5 Edw. VII. No. 18 and 1 Geo. V. No. 19, Statutes, page 3487; consolidated and printed on page 353 of Woolcock and Hertzberg's "*Local Government*."

† 31 Vic. No. 6, Statutes, page 15.

§ Consequentially amended by section 22 of the amending Act of 1920.

PART VIII.—  
BY-LAWS.

A Local Authority may by resolution adopt the whole or any specified portion of such By-laws.

Such resolution shall be passed at a special meeting called for that purpose, shall then be advertised in some newspaper, shall be confirmed at a subsequent special meeting held not earlier than fourteen days after the date of such advertisement, and shall be sealed with the seal of the Local Authority.

Such resolution shall be published in the *Gazette*, and thereupon shall operate to extend such By-laws or portion of By-laws so adopted to the Area, and with the same legal effect for all purposes as if the By-laws or portion so adopted were a part of this Act:

Provided that nothing herein contained shall be deemed to deprive the Local Authority of the power to make By-laws with respect to any of the matters mentioned in the Fourth Schedule to this Act.

Printed  
copies to be  
kept.

[190.]

By-laws  
under other  
Acts.

[190A.]

By-laws of  
Joint Local  
Authorities.

[190B.]

**211.** The Local Authority shall cause printed copies of all By-laws to be kept at the office of the Local Authority, and to be sold at a reasonable charge to any person applying for the same.

**212.\*** The provisions of this Part of this Act shall apply to all By-laws which Local Authorities are authorised or empowered to make under any Act conferring jurisdiction upon Local Authorities.

**213.\*** The provisions of this Part of this Act shall apply to all By-laws made or which may be made by a Joint Local Authority.

PART IX.—  
REVENUE.

Ordinary  
revenue.

[191.]

## PART IX.—REVENUE.

**214.** The ordinary revenue of an Area shall consist of the moneys following, that is to say—

Rates (not being Special Rates or Tramway Rates), ferry dues, market charges, and other dues, fees, and charges authorised by this Act, and rents;

Moneys received by the Council under any grant or appropriation by any Act not containing any provision to the contrary, or in pursuance of any Act requiring moneys received by a Local Authority to be paid into the Local Fund;

All other moneys which the Council may receive under or in pursuance of this Act not being the proceeds of a loan.

Local Fund.  
[192.]

**215.‡** (1.) All moneys whatsoever received by a Local Authority, not being—

- (a) The proceeds of a loan; or
- (b) Revenue derived from any works or undertaking for the manufacture or conservation and supply of gas or electricity or hydraulic or other power, or any Rates in respect thereof; or
- (c) Revenue derived from waterworks or any works for the conservation and supply of water, or any Rates in respect thereof; or
- (d) Revenue derived from any tramway works or undertaking, or Rates in respect thereof; or

\* Sections inserted by section 33 of the amending Act of 1910.

‡ Subsection substituted for original subsection by section 34 (1) of the amending Act of 1910.

(e) Money received on any trust; shall, in the bank of the Local Authority, be carried to the account of a fund to be called in the case of a Town the "Town Fund," in the case of a City the "City Fund," and in the case of a Shire the "Shire Fund."

A separate account shall be kept in the said bank in respect of each of the matters referred to in paragraphs (a), (b), (c), (d), and (e) of this subsection.

(2.) The Local Fund shall be applied by the Local Authority towards the payment of all expenses necessarily incurred in carrying this Act into execution, and in doing and performing any acts and things which the Local Authority is by this or any other Act empowered or required to do or perform, unless this or such Act contains express provision charging such expenses to any particular Fund or Account.

(3.) The Local Authority may pay out of the Local Fund any sum due under an agreement lawfully made for the purposes of this or any other Act, and any sum recovered against the Local Authority by process of law, and any sum which by any order made or purporting to be made under this or any other Act the Local Authority is directed to pay by way of compensation, damages, costs, fines, penalties, or otherwise, unless this or such other Act contains express provision charging such sums to any particular Fund or Account.

#### PART X.—VALUATION.

##### *Subdivision I.—What is Rateable Land.*

**216.** All land is rateable for the purposes of this Act, with the following exceptions only, that is to say—

- (i.) Crown land which is unoccupied or is used for public purposes;
- (ii.) Land in the occupation of the Crown, whether of any Department of the Commonwealth, or of any Department of the State of Queensland, but this shall not be held to include lands rented in towns by the Crown from persons or corporations;
- (iii.) Land in the occupation of any person or corporation, which is used for public purposes, \*also land vested in or for the time being placed under the management or control of any person or corporation under or in pursuance of any Statute for the purposes of any acclimatisation society, or for the purposes of a show ground, or for public recreation or athletic sports or games, or for purposes of public charities;

‡In the case of a hospital established and managed by or under a corporation, society, association, or religious body, a distinct part of which is used as a public hospital, then so much of the land not exceeding five acres in extent as is exclusively used for or in connection with such part, if separated by a fence from the rest of the land, shall not be rateable land;

\* Words from "also" to "charities" substituted for "including land vested in trustees for any acclimatisation society or for any agricultural or pastoral society for the purposes of a show ground or public recreation ground" by section 2 of the amending Act of 1905.

‡ Paragraph inserted by section 17 of the amending Act of 1913.



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VALUATION.  
Subdivision  
I.—What is  
Rateable  
Land.

- (iv.) Land vested in, or in the occupation of, or held in trust for, a Local Authority;
- (v.) Commons;
- (vi.) Land not exceeding in area fifty acres and used exclusively for public worship, or for public worship and educational purposes, or for an \*institution approved and licensed under "The State Children Act of 1911,"† or for a mechanics' institute, school of arts, technical school or college, school of mines, public school, or library;
- (vii.) Land used exclusively for cemeteries.

Subdivision  
II.—  
Valuation.  
New  
valuation to  
be made.  
[194.]

Subdivision II.—Valuation.

217. As soon as conveniently may be after the passing of this Act, a fresh valuation of all rateable land shall be made in every Area, in conformity with the rules prescribed by this Act.

Thereafter a fresh valuation of all rateable land shall be made in every Town once at least in every three years, and in every Shire once at least in every five years, by a valuer employed for the purpose, who shall not be a member of the Local Authority.

Except as herein otherwise expressly provided, such valuation shall be the basis of all Rates made by the Local Authority upon the land within the Area.

Every valuation of any land shall remain in force until a fresh valuation thereof has been made.

Every valuation shall, as far as practicable, specify in each case the particulars set forth in the following form, so far as the same are material to that valuation:—

Town [or City or Shire] of  
Valuation by me \_\_\_\_\_, a valuer for the Town [or City or Shire]  
of the value of the undermentioned rateable land therein situated.

NO.	OCCUPIER.			OWNER.			Nature of tenure—whether freehold, mining tenure (relating nature of tenure), part of building, or held in fee, or on lease or otherwise from the Crown, or held in trust, or under restrictive conditions, or otherwise and wh. ther occupied or not.	SITUATION AND AREA OF LAND.							When the valuation is by law required to be based on the annual rent, state the amount of the annual rent.	VALUER.	
	Number	Surname.	Christian name.	Trade or occupation.	Surname.	Christian name.		Residence and trade or occupation (if known).	County and parish or town.	Number of				Area.			
									Portion.	Section.	Allotment.	Subdivision.	Acres.	Roods.	Pertches.		

Returned this \_\_\_\_\_ day of \_\_\_\_\_ A.D. 19 \_\_\_\_\_  
(Signed) \_\_\_\_\_ A.B.,  
Valuer.

\* Word "orphanage" repealed and "institution approved and licensed under "The State Children Act of 1911," substituted by section 12 of the amending Act of 1920.

† 2 Geo. V. No. 9. Statutes, page 8443.

§ Words to end of sentence substituted for "in every Area once at least in every three years" by section 15 of the amending Act of 1912.

This section takes effect from the passing of this Act.

**218.\*** In the valuation of land the following rules shall be observed:—

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VALUATION.  
Subdivision  
II.—  
Valuation.  
Mode of  
making  
valuation.  
[195.]

(1.) Except as hereinafter otherwise provided, the value of any rateable land (including land held from the Crown under perpetual lease tenure, and land held from the Crown under special lease under section one hundred and seventy-nine of "*The Land Act of 1910*,"† and land held from the Crown under any tenure by the terms of which the occupier is bound to eradicate and destroy noxious weeds or plants on the land and the rent payable for the year in which the valuation is made is accordingly a quit rent or nominal rent and an estate in fee-simple in the land cannot be acquired) shall be estimated at the fair average value of unimproved land of the same quality held in fee-simple in the same neighbourhood.

(2.) In the case of land held under gold-mining lease the value of the land shall be deemed to be a sum equal to twenty times the amount of the annual rent payable under the lease at the time when the valuation is made, without regard to the value of any improvements made or work done upon the land, and without regard to any metals or minerals contained or supposed to be contained in it.

In the case of lands held under any other tenure peculiar to Gold Fields or Mineral Fields, the value of the land shall be estimated at the fair average value of unimproved land of the same quality held in fee-simple in the same neighbourhood, or if there is no land held in fee-simple in the same neighbourhood then at one and one-half times the fair average value of the land of the same quality and held under the same tenure in the same neighbourhood, but without regard in either case to the value of any improvements made or work done upon the land, or to any metals or minerals contained or supposed to be contained in it; or, at the option of the Local Authority, in the case of mineral leases situated on Mineral Fields or miners' homestead leases, the value of the land shall be deemed to be a sum equal to twenty times the amount of the annual rent payable under such lease at the time when the valuation is made, without regard to the value of any improvements made or work done upon the land, and without regard to any metals or minerals contained or supposed to be contained in it.

In the case of lands situated on Gold Fields or Mineral Fields, each holding or tenement shall be deemed to be a separate portion of rateable land and valued accordingly, notwithstanding that the same land or any portion of the same land is held under two or more distinct forms of tenure.

(3.) Save as herein otherwise provided, in the case of land held under lease or license from the Crown under the laws in force for the time being relating to the occupation and use of Crown lands, the value shall be deemed to be a sum equal to twenty times the amount of the annual rent payable under the lease or license at the time when the valuation is made.

\* Printed as amended by section 35 of the amending Act of 1910, section 16 of the amending Act of 1912, section 18 of the amending Act of 1913, and section 13 of the amending Act of 1920.

† 1 Geo. V. No. 15, Statutes, page 8775.

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Valuation.

†(4.) In the case of land which is held under lease or license from the Crown under the laws in force relating to the occupation and use of Crown lands, and where under the terms of his tenure the occupier is bound to eradicate and destroy noxious weeds or plants on the land, and the rent payable for the year in which the valuation is made is accordingly a quit rent or nominal rent or reduced rent, then, if an estate in fee-simple in such land may in pursuance of the laws aforesaid be acquired by the occupier or any other person immediately or at a future time, the value of such land shall be estimated at the amount which a purchaser might at the date of valuation be reasonably expected to give for the assignment of the lease or license with all its accompanying rights and obligations, other than structural improvements, taking into consideration the uses to which the land in its then state might reasonably be put: Provided that no separate portion of such land shall be valued at a less sum than at the rate of five shillings for every acre of land comprised therein.

(5.) In the case of land, whether held from the Crown under the laws in force for the time being relating to the use and occupation of Crown lands, or otherwise, and in respect of which an estate in fee-simple may be acquired by the occupier, or any other person, immediately or at a future time with or without fulfilment of any conditions, the value of the land shall be estimated at the fair average value of unimproved land of the same quality held in fee-simple in the same neighbourhood.

(6.) When more persons than one are in separate occupation of a building erected upon any portion of rateable land, each of them shall be deemed to be in occupation of a part of the land, and the value of such part shall be taken to bear the same proportion to the value of the whole of the land as the value of the part of the building occupied by him bears to the value of the whole of the building.

(7.) No separate portion of rateable land shall be valued in the case of a Town at less than thirty pounds, or in the case of a Shire at less than twenty pounds:

Provided that the Governor in Council may by Order in Council direct that in the case of any Town or Shire which, or any part of which, is comprised within a Gold Field or Mineral Field the minimum value under this subsection shall be reduced to such sum, not less than ten pounds, as he may fix.

(8.) When the same person is the owner of two or more parcels of unoccupied land adjoining each other, such parcels shall be taken as one portion.

(9.) When land is held by trustees under a grant from the Crown, or under a Statute, subject to restrictions upon the mode of its use, the value of the land shall be estimated at a reduced amount, and the amount of the reduction shall be proportionate to the extent by which the availability of the land for profitable use is reduced by reason of such restrictions.

**219.** (1.) The following provisions shall have effect with respect to the valuation and rating of tramways constructed in any road under "*The Tramways Acts, 1882-1890*,"\* or any Act amending or in substitution for those Acts, or either of them, in lieu of the

Valuation of  
tramways.  
[196.]

\* 46 Vic. No. 10 and 54 Vic. No. 16, Statutes, page 2945.

provisions of this Act relating to the valuation of land and the making of Rates in respect thereof.

(2.) In full satisfaction and discharge of all Rates due and payable by the tramway company in respect of all lines of tramway constructed in any road, a payment of one pound ten shillings per centum of the gross earnings of the vehicles of the company running upon such lines shall be made in every year, and such payment shall be distributed as follows:—

- (a) If a car route is wholly within the Area of one Local Authority, the entire amount of the payment shall be made to such Local Authority;
- (b) If a car route is within the Area of more than one Local Authority, the amount of the payment to each of the Local Authorities concerned shall be proportionate to the mileage of such route within each Area:

Provided that the earnings from the running of special vehicles on any car route for the convenience of workpeople may, at the discretion of the Local Authority, be exempted from the provisions of this section if the rate charged per passenger does not exceed one halfpenny per mile.

(3.) The Company shall keep proper books of record in which shall be shown the gross earnings from the vehicles running upon each car route; such books shall be open to the inspection of any officer or officers appointed by the Local Authority or Local Authorities concerned.

(4.) All sums payable under this section shall be recoverable in like manner as Rates are recoverable under this Act.

(5.) In this section the term "car route" means the road (being a road on which a tramway is constructed) traversed by a tramcar or tramwagon on its journey between the points of departure and destination.

(6.) The foregoing provisions shall not, however, be taken to exempt from liability to rating any other land owned or occupied by the tramway company which may by law be or become rateable land.

**220.** (1.) If any person, company, or corporation other than a Local Authority undertakes the business of the supply of gas, and for that purpose lays down main pipes in or under any road within the Area of a Local Authority, or if any electric authority other than a Local Authority constructs any electric lines in, under, or over any such road, then all such main pipes and electric lines shall be deemed to be rateable land. [197.]

But in lieu of the provisions of this Act relating to the valuation of land and the making of Rates in respect thereof the following provisions shall have effect.

(2.) In full satisfaction and discharge of all Rates due and payable in respect of all such main pipes so laid down or constructed there shall in every year be paid to the Local Authority \*according

\* Words from "according" to "mentioned" substituted for "for every mile or fraction of a mile in length of such pipes, according to the internal diameter thereof, the undermentioned sums," by section 36 of the amending Act of 1910.

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Subdivision  
II.—  
Valuation.

to the actual length of such pipes and the internal diameter thereof, sums at the rate per mile hereunder mentioned, that is to say—

	£	s.	d.
If the diameter is three inches .. .. .	1	0	0
If the diameter exceeds three inches, but does not exceed six inches .. .. .	2	0	0
If the diameter exceeds six inches, but does not exceed nine inches .. .. .	4	0	0
If the diameter exceeds nine inches .. .. .	8	0	0

For the purposes of this section main pipes shall be deemed to mean main gas pipes of an internal diameter of three inches or upwards, and used or adapted to be used for the supply of gas to more than one separately occupied portion of land.

\*Provided that where any such main pipes are laid in any road which forms the boundary between two Areas, each Local Authority shall be entitled to be paid one-half of the amount of rate payable in respect of such main pipes.

‡(3.) In full satisfaction and discharge of all Rates due and payable in respect of all such electric lines so laid down or constructed, there shall in every year be paid to the Local Authority—

- (a) In respect of any such electric line or lines carried over any road on poles, standards, or supports, a sum at the rate of five shillings per mile of the actual length of each separate electric line so carried;
- (b) In respect of any such electric line or lines laid or placed under any road in any enclosing pipe, tube, or receptacle of separate construction from such electric line or lines, sums, according to the length and the greatest internal diameter of each such pipe, tube, or receptacle, or, if the same is divided into separate compartments or comprises separate holes or passages, according to the length and greatest internal diameter of each such separate compartment, hole, or passage wherein such electric line or lines is or are laid or placed, at the rate per mile hereunder mentioned, that is to say:—

	£	s.	d.
If the diameter does not exceed three inches .. .. .	1	0	0
If the diameter exceeds three inches, but does not exceed six inches .. .. .	2	0	0
If the diameter exceeds six inches, but does not exceed nine inches .. .. .	4	0	0
If the diameter exceeds nine inches .. .. .	8	0	0

- (c) In respect of any such electric line or lines laid or placed under a road, and not laid or placed in any enclosing pipe, tube, or receptacle of separate construction from such electric line or lines, a sum at the rate of one pound per mile of the actual length of each separate electric line so laid or placed:

Provided that when any such electric lines are laid down or constructed in any road which forms the boundary between two Areas, each Local Authority shall be entitled to be paid one-half of the amount of rate payable in respect of each such electric line.

\* Paragraph inserted by section 36 of the amending Act of 1910.

‡ Subsection 3 substituted for original subsection by section 17 of the amending Act of 1912.

(4.) All sums payable under this section shall be recoverable in like manner as Rates are recoverable under this Act.

(5.) All other works laid down or constructed in, under, or over any road, and used for the purposes of the supply of gas or electricity by such person, company, corporation, or authority, shall be exempt from rating.

(6.) This provision shall not, however, be taken to exempt from liability to rating any other land which may be owned or occupied by such person, company, corporation, or authority, and which may by law be or become liable to be rated.

**221.** (1.) If any person, company, or corporation other than a Local Authority undertakes the business of the supply of hydraulic power and for that purpose lays down main pipes in or under any road within the Area of a Local Authority, then all such main pipes shall be deemed to be rateable land. Valuation of hydraulic mains. [198.]

(2.) But in lieu of the provisions of this Act relating to the valuation of land and the making of Rates in respect thereof the following provision shall have effect.

(3.) In full satisfaction and discharge of all Rates due and payable in respect of all such main pipes so laid down in or under any road there shall in every year during the first period of ten years after they are so constructed be paid to the Local Authority the sum of five pounds for every mile in length thereof, and in every year after the expiration of the said period the sum of ten pounds for every mile in length thereof.

(4.) All sums payable under this section shall be recoverable in like manner as Rates are recoverable under this Act.

(5.) For the purposes of this section main pipes shall be deemed to mean main pipes used for the conveyance of water at high pressure only for supplying hydraulic power, and shall not include any low-pressure main pipes constructed alongside such high-pressure main pipes for the conveyance of water after it has been used for the supply of such power, or any pipes constructed for use as service pipes from such high-pressure main pipes into any building or premises.

(6.) All such low-pressure main pipes and service pipes as last aforesaid, and all other works of the person, company, or corporation undertaking such business laid down or constructed in, under, or over any road, shall be exempt from rating.

(7.) This provision shall not, however, be taken to exempt such person, company, or corporation from liability to pay any Rates in respect of any land owned or occupied by him or it which may by law be or become payable in respect thereof.

**222.** Notwithstanding the provisions of the three last preceding sections, a Local Authority may enter into an agreement with any person, company, or corporation with respect to the valuation and rating of any existing or future tramway or undertaking in any of such sections referred to upon a basis different from the basis in such sections prescribed, or for the exemption of the tramway or undertaking or any part thereof from rating during a specified time: Valuation may be varied. [199.]

Provided that every such agreement and the proposed duration thereof shall be submitted to the Governor in Council and be approved by him before it shall have any effect.

PART X.—  
VALUATION.  
Subdivision  
II.—  
Valuation.

Valuers.

[200.]

**223.** (1.) For the purpose of making valuations, a Local Authority may employ valuers.

Every such valuer shall make and return his valuation in the form hereinbefore set out, or to the like effect.

The valuation so returned may be adopted by the Local Authority with or without alteration, but when adopted shall be the valuation of the Local Authority.

The Local Authority may from time to time alter or amend the valuation of any land.

Wilfully  
incorrect  
valuation.

(2.) A valuer who makes a wilfully incorrect valuation of the value of any land shall be liable, for every wilful error contained in the valuation, to a penalty not exceeding twenty pounds.

Chairman to  
send  
ratepayer  
schedule of  
rateable  
property in  
certain  
cases.

[201.]

**224.** For the purpose of valuing land the valuation whereof is hereinbefore required to be based upon the annual rent payable to the Crown, the Chairman may send or cause to be sent by messenger or letter through the post office to the latest known residence of the lessee or licensee a schedule describing the land, and such lessee or licensee shall be required to fill in the same with a true and correct statement of the rent payable by him to the Crown in respect of all land held by him within the Area, and to return it within sixty days to the clerk.

The Local Authority may employ a valuer at the expense of any lessee or licensee who fails to make such return within the time above specified, and the land may be valued irrespective of the annual rent thereof.

Any such lessee or licensee who, being called upon as aforesaid, makes a wilfully incorrect return of the rent of any land, shall be liable to a penalty not exceeding twenty pounds.

Map of gas  
and other  
mains and  
cables to be  
furnished on  
demand.

[202.]

**225.** For the purpose of rating main gas pipes, electric lines, and main pipes for the supply of hydraulic power, the person, company, or corporation owning the same shall, at his or its own expense, within sixty days after demand in writing made by the Chairman from time to time, furnish to the Local Authority a correct map or plan of the works constructed in connection with the undertaking in question, showing all the main gas pipes, or electric lines, or main pipes for the supply of hydraulic power, as the case may be, constructed or laid down in, under, or over the roads of the Area.

The Local Authority may employ a person to make such map or plan at the expense of any such owner who fails to furnish the same within the time above specified.

Any such owner who, being called upon as aforesaid, wilfully furnishes an incorrect map or plan, shall be liable to a penalty not exceeding twenty pounds.

Notice of  
valuation.

[203.]

**226.** \*Whenever an entirely fresh valuation of all rateable land is made in any Area under this Act, notice of such valuation and of the amount thereof shall be given in the same year in which it is made to every owner and occupier of the land so valued.

\*Whenever the Local Authority makes a fresh valuation of any portion of rateable land in any year, notice of such valuation and of

\* Paragraphs substituted for original paragraphs by section 37 of the amending Act of 1910.

the amount thereof shall be given in the same year to the owner and occupier of the land.

The notice shall also state that the person to whom it is given may appeal against the valuation upon giving notice of his intention so to do to the Local Authority within twenty-eight days after the notice is received by him.

\*When a Local Authority has not in any year made such entirely fresh valuation of all rateable land, it shall publish in a newspaper a notification that the existing valuation of all lands, except those in respect of which notices of fresh valuation are given in that year, remains unchanged, and the publication of such notification shall be conclusive notice to all owners and occupiers of lands, other than lands freshly valued within the Area, of the valuation thereof, and for the purposes of any appeal against such unchanged valuation in any year the time shall begin to run from the date of the first publication in that year of such notification.

\*Where the valuation of any parcel of land is the minimum, no notice of valuation shall be required to be given.

*Subdivision III.—Appeal against Valuation.*

**227.** There shall be a Valuation Court or Courts for every Area.

The Valuation Court shall have jurisdiction to hear and determine all matters of valuation arising under this Act in the Area or part of the Area, as the case may be, for which the Court is constituted.

The Valuation Court shall have and may exercise all the powers of justices sitting in a Court of Petty Sessions.

The Valuation Court shall, except as hereinafter otherwise provided, consist of any two or more justices of the peace exercising ordinary jurisdiction within the Area. Any police magistrate may by himself constitute the Valuation Court‡:

Provided that the Governor in Council may from time to time—

- (i.) Constitute a Valuation Court, or Valuation Courts, for any Area;
- (ii.) In the event of more than one Valuation Court being constituted for the same Area, define the locality in respect of which each Valuation Court shall have jurisdiction;
- (iii.) Appoint certain justices of the peace, whether rate-payers of the Area or not, to be members of the Valuation Court;
- (iv.) Fix the quorum of the Court;
- (v.) Appoint one of the members to be the Chairman of the Court;
- (vi.) Appoint a Registrar of the Court; and
- (vii.) Appoint the place or places at which the Court shall sit.

When a Valuation Court is so appointed, all the powers and authorities by this Act conferred upon such Court shall be exercised

\* Paragraphs inserted by section 37 of the amending Act of 1910.

‡ As to constitution of Court, see further "The Justices Act Amendment Act of 1909" (9 Edw. VII. No. 11), section 2, Statutes, page 1192.



PART X.—  
VALUATION.  
Subdivision  
III.—Appeal  
against  
Valuation.

by the justices so appointed collectively, or by one or more of them, as the case may be, and all other justices not so appointed shall cease to have any jurisdiction under this Act to sit or act as a Valuation Court or as members thereof.

Appeal for  
error in  
valuation.

[205.]

**228.** If any person thinks himself aggrieved by the valuation of any land, he may in any year appeal against such valuation to the Valuation Court of the Area or part of the Area, as the case may be, in which the land is situated, but no such appeal shall be entertained unless notice in writing of the appeal is given by the appellant to the Local Authority within twenty-eight days after he has received notice of such valuation.

Notification  
by advertise-  
ment.

[206.]

**229.** The Local Authority shall appoint and notify, by advertisement in some newspaper, the place at which and the day on which the Valuation Court will be held for the hearing of matters arising under this Part of this Act.

The Local Authority shall cause to be served upon every appellant a notice specifying the day and place appointed for the sitting of the Court. Such day shall be appointed as will reasonably permit of the service of such notices.

Hearing.

On the day so appointed and notified, or any later day to which the Court adjourns the hearing, or if the Court cannot then be held, on such day as the Chairman of the Court appoints and notifies by like advertisement, the Court shall hear and determine all such matters, and shall have power to amend any valuation appealed against.

Question of  
liability to  
rating, how  
determined.

[207.]

**230.** Whenever a question arises between a Local Authority and any person as to the liability of any land to be rated or as to the right or liability of any person to be rated in respect of any land, either of the parties may apply to any two justices sitting in petty sessions\* to determine the question, and the justices shall hear and determine the question accordingly, and may make such order on the application as they think fit. Any such order may be varied upon a subsequent application by either party if the facts have in the meantime been altered.

Appeals to  
be deemed  
proceedings  
before  
justices.  
No security  
required.

[208.]

**231.** The hearing and determination of matters arising under this Part of this Act shall be deemed to be proceedings before justices within the meaning of the two hundred and twenty-sixth section of "*The Justices Act of 1886*,"† but no recognizance shall be required to be entered into by any person desiring to appeal from a decision of the Valuation Court to the Supreme Court. Professional costs shall not be awarded by a Valuation Court.

PART XI.  
RATES.  
Subdivision  
I.—Powers  
of Rating.

PART XI.—RATES.

Subdivision I.—Powers of Rating.

Kinds of  
Rates.

[209.]

**232§.** (1.) Rates under this Act are of two kinds—namely, General Rates and Special Rates.

(2.) A Local Authority may from time to time make and levy, subject to the provisions hereinafter contained, General and Special Rates of such amounts as it thinks fit.

Authority  
to make  
Rates.

\* As to constitution of Court, see further "*The Justices Act Amendment Act of 1909*" (9 Edw. VII. No. 11), section 2, Statutes, page 1192.

† 50 Vic. No. 17, Statutes, page 1132.

§ Printed as amended by section 38 of the amending Act of 1910, section 19 of the amending Act of 1913, and section 14 of the amending Act of 1920.

PART XI.—  
RATES.  
Subdivision  
1.—Powers  
of Rating.

(3.) Subject to the provisions hereinafter contained relating to divided Areas, General Rates must be made and levied equally upon all rateable land in the Area.

(4.) No General Rate made in any one year shall exceed the amount of one shilling in the pound of the value of the rateable land upon which it is made.

Maximum  
General  
Rate.

This subsection does not apply to any rateable land situated on any Gold Field or Mineral Field.

(5.) No General Rate payable in respect of any separate portion of rateable land shall be of a less amount than five shillings.

**233.** (1.) Every Local Authority shall in every year make and levy a General Rate of not less than one halfpenny in the pound of the value of the whole of the rateable land in the Area.

Annual  
General  
Rate.

[210.]

\*Provided that in Cities and Towns the Local Authority may make and levy a General Rate less in amount, in respect of farm land which is not in demand for building sites or residential areas, and of which at least one-half the available area is annually cultivated or otherwise used for purposes of food production, than the General Rate made and levied on other lands, but no such General Rate in respect of such farm land shall be less than one halfpenny in the pound.

(2.) The Local Authority of every newly constituted Area shall, within six months after its constitution, make at least one General Rate of not less than the minimum amount herein specified.

New Area.

(3.) When an Area is divided the amounts of the General Rates made and levied upon the rateable land in the several divisions need not be the same, but every General Rate made and levied in respect of a division shall, except as to so much thereof as is comprised within a Gold Field or Mineral Field, be made and levied equally upon all rateable land in the division.

Case of  
divisions.

§(4.) If at the beginning of any year a Local Authority whose Area is not divided has to the credit of the Local Fund, after deducting the amount of any Special Rates which have been included therein, sufficient money to defray all its probable and reasonable expenses for that year, or if a Local Authority whose Area is divided has sufficient money in the Local Fund to the credit of each division, after deducting the amount of any Special Rates in respect of each division which have been included therein, the Governor in Council may excuse the Local Authority from making any General Rate during that year in respect of the whole Area or any division thereof, or may direct that the maximum amount of any Rate to be made during that year shall not be more than an amount to be specified by the Governor in Council.

In case money  
not required.

**234.** All Rates shall be payable at such times and in such parts or instalments as the Local Authority prescribes.

Time and  
manner of  
payment.

[211.]

**235.** Subject to the provisions hereinbefore contained requiring General Rates to be made annually, every Rate made under this Act may be made for and in respect of such period after the

Rates to be  
made for  
particular  
periods.

[212.]

\* Proviso inserted by section 15 of the amending Act of 1920.  
‡ Words from "except" to "Field" inserted by section 2† of the amending Act of 1913.  
§ Subsection substituted for original subsection by section 34 (2) of the amending Act of 1910.

PART XI.—  
RATES.Subdivision  
I.—Powers  
of Rating.

making of the Rate as the Local Authority thinks fit, and as is named in the order for making the Rate, but this section shall not prevent the Local Authority from afterwards altering or diminishing such period or from making or levying during any such period another Rate, if the Local Authority otherwise has power under this Act to make or levy the same.

Subdivision  
II.—Special  
and Separate  
Rates.Purposes of  
Special  
Rates.

[213.]

*Subdivision II.—Special and Separate Rates.*  
**236.** The Local Authority may from time to time make and levy Special Rates for the purpose of defraying the cost of—

- (i.) Constructing and maintaining any works for or relating to sewerage or drainage;
- (ii.) Constructing and maintaining works for the manufacture, conservation, and supply of gas, or electricity, or hydraulic or other power;
- (iii.) Watering, cleansing, or lighting roads;
- (iv.) Establishing, maintaining, and managing parks, botanical and other gardens, public baths and washhouses, public libraries, or other public places of recreation or improvement under the control of the Local Authority;
- (v.) The eradication of noxious weeds or plants;
- (vi.) The destruction and prevention of pests;
- \*(vii.) The alignment of roads;
- \*(viii.) Establishing, maintaining, managing, and working omnibus services.

Separate  
Rates for  
works for  
local benefit.

[214.]

**237.** For defraying the expenses incurred in the execution of a work † (including the alignment of any road or part of any road) for the special benefit of any particular part of the Area, whether of the kind specified in the last preceding section or not, the Local Authority may also make and levy a Special Rate, herein called a "Separate Rate," equally upon all rateable land situated in such part, § unless such part is divided into subdivisions as next hereinafter provided, in which case the Separate Rate levied upon the rateable land situated in each subdivision need not be of the same amount, but such Rate shall be levied equally upon all rateable land situated in each subdivision:

Provided that the question whether any work is or is not for the special benefit of any particular part of the Area, shall in all cases be referred by the Local Authority to the Minister, who shall have power to decide that question, and to define the part of the Area specially benefited; || and the Minister, if he thinks it proper so to do, may divide the part so defined into subdivisions according to the extent to which each is respectively benefited.

And the Local Authority shall not make or levy a Separate Rate until such question has been so referred and decided, and such part of the Area defined.

For the purposes of this section any contribution made by a Local Authority to another Local Authority, or to a Water

\* Paragraphs inserted by section 23 (4) and 27 (4) of the amending Act of 1910.

† Words in brackets inserted by section 23 (5) of the amending Act of 1910.

§ Words to end of paragraph inserted by section 18 (1) of the amending Act of 1912.

|| Words to end of sentence inserted by section 18 (2) of the Amending Act of 1912.

PART XI.—  
RATES.  
Subdivision  
II.—Special  
and Separate  
Rates.

Authority or other local body having the management and control of waterworks, in or towards the cost of laying down and maintaining any mains or pipes for the supply of water to any part of its Area (which contribution such Local Authority is hereby empowered to make) shall be deemed to be an expense incurred by such Local Authority in the execution of a work for the special benefit of such part of its Area.

**238\*.** Any number of electors, being not less in number than one-fifth of the whole number of electors in any particular part of an Area, may, by petition to the Local Authority, request that a particular work shall be carried out in such part for the special benefit of such part. Such petition shall define the particular part of the Area to be benefited, and shall contain an undertaking by such of the petitioners as are ratepayers to pay any Separate Rate which may from time to time be made and levied by the Local Authority for defraying the expenses incurred in the execution of such work.

Electors may  
request a  
benefited  
Area to be  
defined.

[214A.]

The Local Authority shall cause such inquiry to be made into the necessity or utility of the proposed work as is proper. If after such inquiry the Local Authority resolves that the said work should be carried out, the Local Authority shall forthwith cause to be taken all necessary steps for the definition of the particular part of the Area to be benefited by such work (which part need not be identical with that defined in the said petition), for which purpose the provisions of the last preceding section of this Act shall be applicable, and when such part has been duly defined shall carry out the said work, and for defraying the expenses incurred in so doing shall, as and when is necessary, make and levy a Separate Rate as provided by the last preceding section of this Act.

If after such inquiry the Local Authority resolves that no action shall be taken to grant the prayer of such petition, it shall cause the reasons for such resolution to be recorded in the minute-book of the Local Authority and to be published in some newspaper.

If, after the expiration of three months from the receipt of such petition, the Local Authority has come to no resolution thereon, or if it has resolved that no action shall be taken to grant the prayer thereof, the petitioners, or any of them, may appeal to the Minister by a memorial setting forth the facts.

The Minister shall hear and determine every such appeal in such manner as he thinks just, and may for that purpose appoint any officer to hold an inquiry into the matter and make a report to him, and may act on such report. The Local Authority concerned shall be entitled to be heard on the matter of such appeal. If the Minister allows such appeal, he shall, as provided by the last preceding section of this Act, define the part of the Area to be specially benefited by the said work. Thereupon the Local Authority shall carry out the said work, and for defraying the expenses incurred in so doing shall, as and when is necessary, make and levy a Separate Rate, as provided by the last preceding section of this Act.

**239.** A Special Rate may be a Separate Rate or may be made and levied equally upon all rateable land in the Area.

On what  
lands Special  
Rates may be  
made and  
levied.

[215.]

\* Section inserted by section 21 of the amending Act of 1913, and consequently amended by section 22 (xiv.) of the amending Act of 1920.

PART XI.—  
RATES.Subdivision  
II.—*Special  
and Separate  
Rates.*

\*Provided that, with respect to Special Rates which are not Separate Rates, when an Area is divided the amounts of any such Special Rate made and levied upon the rateable land in the several divisions need not be the same, but every such Special Rate made and levied in respect of a division shall be made and levied equally upon all rateable land in the division.

Special  
Health Rate.  
[216.]

**240.** (1.) For the purpose of defraying any of the expenses incurred or payable by the Local Authority in the execution of the laws in force for the time being relating to Public Health, and not being expenses incurred in respect of any undertaking or contract for the removal of house refuse or the cleansing of earth-closets, privies, ashpits, or cesspits, the Local Authority may from time to time make and levy, in addition to any other Rate leviable by it, a Rate to be called a "Special Health Rate."

(2.) Such Rate may be made and levied either prospectively in order to raise money for the payment of future expenses, or retrospectively in order to raise money for the payment of expenses incurred at any time within six months before the making of the Rate.

Cleansing  
Rate.  
[217.]

**241.** Except as herein otherwise provided, when a Local Authority undertakes or contracts for the removal of house refuse, or the cleansing of earth-closets, privies, ashpits, or cesspits, the expense of such work shall be defrayed from moneys raised by a Special Rate, to be called a "Cleansing Rate," and which Rate the Local Authority is hereby authorised to make and levy. Such expense shall be taken to include all expenses incurred or to be incurred by the Local Authority in and about the levying and collection of such Rate.

A Cleansing Rate shall be made and levied upon all land in actual occupation, and with respect to which the Local Authority undertakes or contracts for the performance of the duties aforesaid, and may be made and levied either—

- (i.) Upon the basis of and in proportion to the rateable value of the land; or
- (ii.) Upon the basis of the service required for the number of persons who may reasonably be expected to occupy the several lands; or
- (iii.) Upon the basis of the superficial measurement of the buildings upon the several lands; or
- (iv.) Upon one such basis with respect to rateable land the occupation whereof is of one kind, and upon another basis with respect to rateable land the occupation whereof is of another kind; or
- (v.) Upon such other basis as the Local Authority thinks just and reasonable.

Cost of  
cleansing  
may be  
charged  
directly on  
occupier  
instead of by  
Cleansing  
Rate.  
[218.]

**242.** When a Local Authority itself undertakes or contracts for the removal of house refuse from premises, or the cleansing of earth-closets, privies, ashpits, or cesspits, on the basis of payment at a fixed rate or an agreed rate for the work done in respect of each closet, privy, ashpit, cesspit, house, or premises, the Local Authority may, instead of making and levying a Cleansing Rate on any of the bases hereinbefore prescribed, make an order that the actual

\* Proviso added by section 39 of the amending Act of 1910.

occupant of each portion of occupied land in that part of the Area with respect to which the Local Authority itself undertakes or contracts for the performance of the duties aforesaid shall pay the cost of \*or estimated cost of the performance of such duties with respect to that portion, and may by such order prescribe the time at which, and the instalments in which, such cost shall be paid.

Such cost shall be taken to include all expenses incurred for estimated to be incurred by the Local Authority in and about the collection and getting in of the payments required to be made by this section.

Notice of the liability to pay such sums and of the amount thereof shall be given to all such occupants in such manner as the Local Authority may prescribe. Any moneys payable in accordance with the terms of any such order may be recovered from such occupants or, save as hereinafter provided, from the owners of the respective premises in the same manner in which Rates due and in arrear may be recovered.

**243.** No owner of any premises shall be liable to pay any cost of cleansing incurred under the last preceding section in respect of such premises for any continuous period exceeding thirty days during which such premises have been without any actual occupant, after the owner has given notice to the Local Authority that the premises are vacant. Premises  
without  
occupant for  
more than  
thirty days.  
[219.]

**244.** For the purpose of constructing and maintaining water-works, and ensuring the supply of pure water, a Local Authority may make and levy a Special Water Rate upon all the rateable land within three hundred feet of the middle of the roads in which water mains are laid down from which the owners or occupiers are entitled under the By-laws of the Local Authority to obtain a supply of water to the land. Special  
Water Rate.  
[220.]

Such Water Rate may be assessed according to the value of the land, or on any other scale or principle of calculation which the Local Authority from time to time determines.

**245.** A Local Authority charged with the maintenance and control of any waterworks, may demand and recover payment of Rates for water supplied to— Local  
Authority  
may recover  
for water  
supplied to  
public  
buildings.  
[221.]

- (i.) Any place or building in the use or occupation of the Crown, or of any person or corporation, which is used for public purposes, including places or buildings vested in trustees for any acclimatisation society, public recreation ground, or agricultural or pastoral society for the purposes of a showground;
- (ii.) Any place or building used exclusively for public worship, or for public worship and educational purposes, or for a mechanics' institute, school of arts, school of mines, technical school or college, public school, library, or cemetery; and
- (iii.) Any place or building used exclusively as a hospital, lunatic asylum, benevolent asylum, or orphanage.

\* Words "or estimated cost of" inserted by section 40 of the amending Act of 1910.

‡ Words "or estimated to be incurred" inserted by section 40 of the amending Act of 1910.

PART XI.—  
RATES.  
Subdivision  
II.—Special  
and Separate  
Rates.

Before any such Rates are demanded, the Local Authority shall by By-law regulate the scale or principle of assessing or calculating the amount thereof, and such scale or principle may be different in respect of different kinds of buildings affected thereby.

Special  
Loan Rate.  
[222.]

**246.\*** (1.) For the purpose of providing the annual instalments or other moneys from time to time payable by a Local Authority in respect of any loan raised under this or any other Act, and whether raised before or after the commencement of this Act, the Local Authority shall, from time to time, cause a Special Rate, to be called a Special Loan Rate, of sufficient amount to be levied:

Provided that in any case where a part of the Area has been defined by the Minister under † section two hundred and thirty-seven of this Act as specially benefited by the expenditure of the loan money, or where a part of the Area is comprised within a Tramway Area under †Part XIV. of this Act, such Special Rate (whether a Special Loan Rate or a Tramway Rate) may be a Separate Rate, and in such case shall be levied upon all rateable land in the said part.

The proceeds of such Rate †shall be placed to the credit of a separate banking account, to be called "Special Loan Rate Account," and shall be devoted solely to the payment of such instalments or other moneys aforesaid.

Enforcement  
by Treasurer.

(2.) If the Local Authority fails to levy and collect §such Rate, of sufficient amount as aforesaid, the Treasurer may make, levy, and collect a Special Loan Rate of sufficient amount as aforesaid, and for that purpose shall have all the powers conferred by this Act upon the Local Authority in respect of levying and collecting and enforcing the payment of Rates.

Half-yearly  
statement of  
arrears to be  
published.  
[223.]

**247.||** (1.) In the months of February and August respectively in every year, the Treasurer shall cause to be published in the *Gazette* a statement showing, with respect to every Local Authority and other public body to which a loan has been advanced by the Treasurer under "*The Local Works Loans Acts, 1880 to 1899,*" ¶ or under any other Act, the amount of money which is then overdue and in arrear, and also the total of the principal sum then remaining unpaid.

Power to  
enforce the  
payment of  
arrears.

(2.) If thereafter on the thirtieth day of April or the thirty-first day of October respectively any part of such money so overdue and in arrear remains unpaid, the Treasurer may, by notification in the *Gazette*, appoint a Receiver to collect on his behalf and to pay to the Treasury all or any moneys from time to time due and owing to the Local Authority or other public body to the amount stated in such notification; \*\*and the Treasurer may from time to time make all such orders and give all such directions with respect to the powers and duties of such Receiver and the management by

\* Section substituted for original section by section 41 (2) of the amending Act of 1910.

† Words from "shall" to "and" inserted by section 19 (1) of the amending Act of 1912.

§ Words from "such" to "aforesaid" substituted for "such Rate, the Treasurer may make, levy, and collect such Rate" by section 19 (2) of the amending Act of 1912.

|| Section substituted for original section by section 41 (2) of the amending Act of 1910.

¶ 44 Vic. No. 9, 62 Vic. No. 9, and 63 Vic. No. 7, Statutes, pages 2023 *et seq.*

\*\* Words from "and" to "directions" inserted by section 19 (3) of the amending Act of 1912, and the section is to be construed as if such words were inserted at the date of the passing of the amending Act of 1910.

him of the business of the Local Authority as the Treasurer thinks proper, and judicial notice shall be taken of all such orders and directions.

PART XI.—  
RATES.  
Subdivision  
II.—Special  
and Separate  
Rates.

Thereupon such Receiver shall, from the date stated in such notification, be the only person legally entitled to receive the revenues of such Local Authority or other public body, and shall be deemed to that extent and for that purpose to be a public accountant within the meaning of "The Audit Act of 1874"\* or any Act amending or in substitution for that Act.

Subdivision III.—Rate-Books.

Subdivision  
III.—  
Rate-Books.  
Form of  
Rate-Book.  
[224.]

248. Every Rate shall be fairly transcribed in a book kept for that purpose, to be called the Rate-Book, which shall be in the following form, or as near thereto as the circumstances of the case will permit:—

A General [or, if the case be so, a Special (or Separate)] Rate for (state purposes) of pence in the pound, made this day of 19 , by virtue of "The Local Authorities Acts, 1902 to 1920."

Number.	OCCUPIER.			OWNER.			Description and situation of land.	Division (where Area is divided).	Value	Rate at pence in the pound.	When payable.	When and by whom paid (occupier, owner, or mortgage, &c.).
	Surname.	Christian name.	Trade or occupation (if known).	Surname.	Christian name.	Residence and trade or occupation (if known).						

Signed by us this day of A.D. 19 .  
 A.B., }  
 C.D., } Members of the Council of the Town [or  
 E.F., } City or Shire] of

Every such Rate-Book shall contain an account of every particular set forth at the head of the respective columns so far as the same can be ascertained, and shall be signed by not less than three members of the Local Authority.

The Rate-Book shall be open to inspection.

249. The Local Authority may and shall from time to time amend any Rate-Book by inserting therein the name of any person claiming and entitled or liable to have his name inserted therein as owner or occupier, or by inserting the name of any person who ought to have been rated, or by striking out the name of any person who ought not to have been rated, or by raising or reducing the sum at which any person has been rated, if such person has been underrated or overrated, or when any person named therein as occupier or owner of any land has ceased to be the occupier or owner of such land and has become the occupier or owner of other rateable land in the Area, by amending the particulars of descrip-

Rate-Book  
may be  
amended.  
[225.]

\* 36 Vic. No. 12, Statutes, page 74.



PART XI.—  
RATES.  
Subdivision  
III.—  
Rate-Books.

tion and situation of the land accordingly, or by making such other amendments therein as will make such rate conformable to this Act.

No such amendment shall be held to avoid the Rate, but no amendment in such Rate-Book shall be valid unless the same is initialled by the Chairman, with the date of such alteration or amendment.

Every person aggrieved by any such amendment may apply to any two justices sitting in Petty Sessions\* to determine the question. And the justices shall hear and determine the question accordingly, and may make such order on the application as they think fit.

Every person with respect to whom Rates are altered shall be entitled to receive twenty-eight days' notice of such alteration before the Rate shall be payable by him.

Subdivision  
IV.—  
Liability for  
and Recovery  
of Rates.  
Who is liable  
for Rates.  
[226.]

*Subdivision IV.—Liability for and Recovery of Rates.*

**250.†** (1.) The amount of any Rates made and levied under this Act shall be payable in the first instance by the occupier of the land rated.

(2.) The amount of such Rates may also at the option of the Local Authority be recovered from the owner of the land rated.

(3.) Provided that, except in the case of Crown land, any amount of such Rates paid by an occupier shall, in the absence of special agreement to the contrary, be afterwards recoverable by the occupier from the owner; and any receipt for Rates so paid may be tendered to and shall be accepted by the owner in satisfaction, to the extent of the amount specified in the receipt, of any rent due to the owner.

(4.) The amount of all Rates made and levied under this Act shall, except in the case of Crown land, until payment, be and remain a charge upon the land in respect of which they have been made and levied in priority to all mortgages, charges, liens, and encumbrances whatsoever, and notwithstanding any change that may take place in the ownership thereof.

(5.) Notwithstanding anything contained in this Act, a Local Authority is hereby empowered, in any case where it thinks proper so to do, to remit and wholly discharge any Rates made and levied under this Act in respect of any land for the payment of which any person is or may be or become liable while engaged in active service with His Majesty's Forces during the continuance of the present War, and for a further period of six months after his return from active service.

(6.) Notwithstanding anything contained in this Act, a Local Authority is hereby empowered, in any case where it thinks proper to do so, to remit and wholly discharge any Rates made and levied under this Act in respect of any land for the payment of which any person is or may be or become liable who is an incapacitated returned soldier or sailor or is a sufferer from an industrial disease

\* As to constitution of Court, see further "The Justices Act Amendment Act of 1909" (9 Edw. VII. No. 11), section 2, Statutes, page 1192.

† Printed as amended by section 42 of the amending Act of 1910, section 20 of the amending Act of 1912, section 3 of the amending Act of 1917, and section 16 of the amending Act of 1920.

as defined by "The Workers' Compensation Acts, 1916 to 1918,"\* or any Act amending or in substitution for the same, or is in receipt of an invalid or old-age pension under any law of the Commonwealth relating to such pensions.

PART XI.—  
RATES.  
Subdivision  
IV.—  
Liability for  
and Recovery  
of Rates.

**251.** If a mortgagee of rateable land pays any rates accrued thereon under this Act or any of the Acts hereby repealed, or any of the Acts thereby repealed, including any interest due upon such Rates, then, notwithstanding any Act to the contrary, or any agreement or covenant to the contrary contained in the instrument of mortgage or otherwise, the amount so paid by the mortgagee shall be deemed to be part of, or added to, the principal moneys advanced by him under the mortgage, and shall be recoverable as such, with interest accordingly.

Payment of  
Rates by  
mortgagee.  
[227.]

**252.** When an occupier or owner ceases to be the occupier or owner of the land in respect whereof a Rate is made, before the end of the period in respect of which such Rate is made, such occupier or owner shall, as between himself and the succeeding occupier or owner, be liable to pay a portion only of the Rate payable for the whole of such period proportionate to the time during which he continued to be the occupier or owner, and any person who is the occupier or owner of the land during the remainder of the period shall be liable to pay a portion of such Rate in proportion to the time during which he is such occupier or owner.

Rates  
apportioned  
on the  
occupier, &c.,  
quitting.  
[228.]

But the Rate in respect of such land shall continue in force, and payment thereof may be enforced against the occupier or owner for the time being as if no change had taken place in the occupation or ownership.

**253.†** (1.) Land selected or otherwise acquired under lease or license from the Crown shall be and become rateable land on and after the date of the license to occupy or other instrument authorising the lessee or licensee to enter into possession of the land. In respect of the first year the Rate shall be apportioned accordingly.

When  
selections,  
&c., become  
rateable.  
[228a.]

§(2.) Notwithstanding anything contained in section one hundred and twenty-four of "The Land Act of 1910,"|| when a holding under that Act is forfeited or wholly or in part surrendered, any moneys which are received by the Crown for an incoming selector, lessee, or purchaser in respect of improvements upon the land may, after deducting what is due to the Crown, be held by the Crown for the purpose of satisfying the amount of any Rates due and in arrear in respect of the land at the date of forfeiture or surrender, and the amount of such Rates may, to the extent of such moneys, be paid to the Local Authority concerned, and in such case the balance only, if any, shall be paid to the late lessee or selector.

Forfeiture  
or surrender  
of holding.

**254.** An unsatisfied judgment or order of any Court for the recovery of any Rates from any person shall not be a bar to the recovery thereof from any other person liable under the provisions of this Act to the payment thereof.

Persons liable  
to be  
resorted to in  
succession.  
[229.]

\* 6 Geo. V. No. 35 and amending Acts, Statutes, page 8745.

† Section inserted by section 43 of the amending Act of 1910.

§ Subsection 2 inserted by section 21 of the amending Act of 1912.

|| 1 Geo. V. No. 15, Statutes, page 8775.

PART XI.—  
RATES.  
Subdivision  
IV.—  
Liability for  
and Recovery  
of Rates.  
Rates to  
carry  
interest.  
[230.]

255. When any Rates \*are unpaid on the thirty-first day of December next after the same became due and payable, such Rates shall thereafter bear interest at the rate of five pounds per centum per annum, calculated at simple interest, and such interest shall be recoverable in the same manner as Rates are recoverable under the provisions of this Act:

Provided that all Rates due and payable to a Local Authority on the first day of January, one thousand nine hundred and two, and which have remained unpaid for a period of not less than twelve months, shall bear interest as aforesaid from the first day of January, one thousand nine hundred and two, and not sooner.

Discount on  
Rates for  
prompt  
payment.  
[231.]

256. The Local Authority may allow to any person liable to pay any rates who pays the whole of such Rates within thirty days after notice given to him to pay the same a percentage by way of discount to be fixed by the By-laws, but not exceeding ten pounds per centum of the amount of such Rates.

Distrain  
for Rates.  
[232.]

257. If any person liable to pay any Rates fails to pay the same for the space of thirty days after notice given to him to pay the same, the Chairman may issue his warrant for levying the amount with costs, by distress and sale of the goods and chattels found on the land rated, and the costs payable in respect of every such levy shall be according to the scale following, that is to say:—

For every warrant of distress .. .. .	One shilling.
For man in possession each day, or part of a day ..	Five shillings.
For inventory, sale, commission, and delivery of goods	} Not exceeding one shilling in the pound on the proceeds of the sale.

*Mileage.*

For every mile or part of a mile where the warrant is executed not more than two miles from the Office of the Local Authority .. .. .	One shilling.
Where such distance exceeds two miles, for every mile or part of a mile beyond .. .. .	Sixpence.

Form of  
warrant.  
[233.]

258. Every warrant of distress issued under the provisions of this Act shall contain the particulars and be in the form, or to the effect following, that is to say—

Town [or City or Shire] of [insert name of Town (or City or Shire)]  
[Ward or Division No. ].  
To \_\_\_\_\_, the bailiff of the Town [or City or Shire] or his assistant.  
Whereas the rateable land, numbered \_\_\_\_\_ in the Rate-Book of the abovenamed Town [or City or Shire], has been rated at the sum of £ \_\_\_\_\_ per annum for the General [or Special, or Separate, as the case may be, specifying the particular Special or Separate Rate] Rate for the year; and whereas the said amount [or a portion of the said amount], to wit, £ \_\_\_\_\_ was duly demanded from \_\_\_\_\_, the occupier of such land, by notice, on the day of \_\_\_\_\_, 19 \_\_\_\_\_, [or as the case may be], and has not yet been paid. These are therefore to require and authorise you forthwith to levy the said sum of £ \_\_\_\_\_, together with the costs of these presents and such levy, by distress and sale of the goods and chattels found by you on the said land [or

\* Words from "are" to "next" substituted for "have remained unpaid for a period of twelve months from the first day of January" by section 44 of the amending Act of 1910.

the case of vacant land, and any timber standing or lying thereon], according to the law, and you are to certify to me on the \_\_\_\_\_ day of \_\_\_\_\_, what you do by virtue of this warrant.

Given under my hand and the seal of the Town [or City or Shire] Council this \_\_\_\_\_ day of \_\_\_\_\_, A.D. 19 \_\_\_\_\_

Mayor [or Chairman].

Warrant .. .. .  
 Levy .. .. .  
 Possession at per diem .. .. .  
 Milcage .. .. .  
 £

Town [or City or Shire] Council Office,  
 [Locality], 19 \_\_\_\_\_

PART XI.—  
 RATES.  
 Subdivision  
 IV.—  
 Liability for  
 and Recovery  
 of Rates.

**259.** (1.) Instead of proceeding by distress and sale, the Local Authority may, notwithstanding any change of occupation or ownership, recover any Rates in arrear from the occupier or owner of the land rated either by complaint of the Chairman before any two justices,\* or by action in any Court of competent jurisdiction: Complaint or action for Rates. [234.]

Provided that no person against whom an order has been made by justices for the payment of any Rates shall be liable to be imprisoned for the non-payment thereof.

(2.) For the purposes of any such action all Rates shall be deemed to be payable at the office of the Local Authority. Rates where payable.

**260.** When Rates due in respect of any vacant land are unpaid and in arrear, any timber standing or lying thereon may be distrained and sold, and for that purpose may be cut and removed. Timber may be seized for Rates in arrear. [235.]

When any timber is sold by the bailiff, the purchaser thereof and his agents and assistants may from time to time within ninety days after the day of sale enter the land upon which the timber is situated, and may cut and remove the same, doing as little damage as may be.

Any person who in any way obstructs or prevents such purchaser or his agents or assistants shall, on the complaint of the purchaser, be liable to a penalty not exceeding twenty pounds.

**261.** The Local Authority may from time to time appoint some person or persons to be its bailiff or bailiffs for the purpose of levying Rates by distress and sale. Bailiffs. [236.]

A bailiff so appointed shall have power and authority to sell by public auction any goods and chattels and timber seized under warrant of distress without taking out a license as an auctioneer.

**262.** If, on the request of the Local Authority or any collector of Rates duly authorised by it— Refusal to give name of person liable. [237.]

(i.) The occupier of any land refuses or wilfully omits to disclose, or wilfully misstates to the Local Authority or collector making such request, the name of the owner of such land, or of the person receiving or authorised to receive the rents of the same; or

(ii.) The person receiving or authorised to receive the rents of the land on the like request so refuses or wilfully omits to disclose, or wilfully misstates the name of the owner of the land;

he shall be liable to a penalty not exceeding five pounds.

\* As to constitution of Court, see further "The Justices Act Amendment Act of 1909" (9 Edw. VII. No. 11), section 2, Statutes, page 1192.

PART XI.—  
RATES.Subdivision  
V.—Power  
to Lease.Power to  
lease land on  
which arrears  
of Rates  
are due.

[238]

*Subdivision V.—Power to Lease.*

263. When in respect of any rateable land any Rates accrued thereon under this Act, or any of the Acts hereby repealed, or any of the Acts thereby repealed, have, whether before or after, or partly before and partly after, the commencement of this Act been unpaid for four years or longer, the Local Authority may, subject to the conditions hereinafter prescribed, and notwithstanding anything to the contrary contained in the "Real Property Act of 1861" or "The Real Property Act of 1877,"\* and notwithstanding any change that may have taken place in the meantime in the ownership of the land—

- (i.) Take possession of such land;
- (ii.) Hold the same as against any person interested therein; and
- (iii.) From time to time grant leases of the same.

Land so taken possession of, held, or leased by the Local Authority shall continue to be rateable land.

Procedure.

[239.]

264. (1.) The Local Authority shall not take possession of any such land until the expiration of three months after a notice has been given to every person in Queensland who is entitled to—

- (i.) An estate of freehold in possession in the land; or
- (ii.) The possession of the land under any lease.

(2.) The notice shall be in the form or to the effect following, that is to say,—

Town [or City or Shire] of [insert name of Town or City or Shire]  
[Ward or Division No. ].

Notice under "The Local Authorities Acts, 1902 to 1920."

To

Notice is hereby given that the sum of \_\_\_\_\_ pounds \_\_\_\_\_ shillings and \_\_\_\_\_ pence is now due and unpaid to the Town [or City or Shire] Council of [insert name of Town or City or Shire], for Rates and interest thereon in respect of allotment No. \_\_\_\_\_, of section [or portion] No. \_\_\_\_\_, situated in \_\_\_\_\_ street [or road or other situation, setting out a sufficient description of the land to identify it].

Payment of the said sum is hereby demanded.

If the said sum is not paid within three months from the date of this notice, the Town [or City or Shire] Council of the said Town [or City or Shire] will take possession of and lease the said land, under the provisions of "The Local Authorities Acts, 1902 to 1920."

Mayor [or Chairman, or Clerk].

Town [or City or Shire] Council Office,  
[Locality], 19 .

(3.) A notice shall also be affixed upon some conspicuous part of the land, which notice shall be in the form or to the effect following, that is to say,—

Town [or City or Shire] of [insert name of Town or City or Shire]  
[Ward or Division No. ].

## NOTICE.

"The Local Authorities Acts, 1902 to 1920."

To \_\_\_\_\_ or the owner of, or other person or persons interested in allotment No. \_\_\_\_\_ of section [or portion] No. \_\_\_\_\_ [here state situation of land].

You are hereby informed that Rates and interest thereon to the amount of £ \_\_\_\_\_, in respect of the abovenamed land, are due and in arrear for a period of four years and upwards to the said Town [or City or Shire].

\* 25 Vic. No. 14 and 41 Vic. No. 18. Statutes, page 2384.

Payment of the said sum is hereby demanded.

In default of compliance with this demand, the Town [or City or Shire] Council will, after the lapse of three months from the date hereof, take possession of and deal with the said land as provided by the provisions of the abovementioned Acts.

Mayor [or Chairman, or Clerk].

Town [or City or Shire] Council Office,  
[Locality], 19 .

(4.) On taking possession of any land as aforesaid the Local Authority shall cause to be affixed upon some conspicuous part thereof a notice, in the form or to the effect following, that is to say,—

Town [or City or Shire] of [insert name of Town or City or Shire]  
[Ward or Division No. ].

Notice under "The Local Authorities Acts, 1902 to 1920."

Possession has been taken of this land, being allotment No. of section [or portion] No. [here describe situation of land], by the Town [or City or Shire] Council of , in accordance with the provisions of the abovementioned Acts, and it is to be let on lease.

Mayor [or Chairman, or Clerk].

Town [or City or Shire] Council Office,  
[Locality], 19 .

5. Every such lease shall—

- (i.) Be for such term, not exceeding twenty-one years, as to the Local Authority seems fit;
- (ii.) Reserve the best rent which can be reasonably obtained for the property; and
- (iii.) Contain such other reservations and such exceptions, covenants, and conditions as to the Local Authority seem fit.

(6.) Any lease granted by the Local Authority, otherwise in accordance with the provisions of this Act, shall be valid, notwithstanding the non-compliance with any of the provisions of this section.

(7.) The lessee shall be entitled during the term of the lease to possession of the land as against all persons interested therein.

(8.) The Registrar of Titles, upon the production to him of any such lease of land which is subject to the provisions of the "Real Property Act of 1861,"\* shall register the same, and for that purpose shall, if necessary, make such orders and publish such advertisements as are provided for in the case of dealings with land when the certificate of title is lost or not produced.

**265.** (1.) Upon demand made by any person who but for the provisions of this Act would be entitled to the possession of any such land, such demand being made within twenty-five years after the taking possession thereof by the Local Authority, and upon payment of all Rates due in respect thereof, and interest upon all arrears of such Rates at the rate of five pounds per centum per annum, calculated at simple interest, the Local Authority shall within three months execute under its seal a release of such land from all Rates due in respect thereof.

Release of  
property  
after demand  
and  
payment of  
arrears.

[240.]

(2.) If the Local Authority makes default in executing such release, the Supreme Court may, at the suit of any person interested in that behalf, order it to execute the same.

\* 25 Vic. No. 14, Statutes, page 2984.

PART XI.—  
RATES.  
Subdivision  
V.—Power  
to Lease.

(3.) Upon the execution of the release such person shall, subject to any lease theretofore lawfully granted by the Local Authority under the provisions of this Act, be entitled to such land and the possession thereof as would have been so entitled if this Act had not been passed; and the tenant of such land under any such lease shall attorn to such person accordingly.

\*(4.) Provided always that, until the demand aforesaid has been made and all the conditions aforesaid entitling the person making such demand to a release of the land have been performed, the right of the Local Authority to retain possession and from time to time to grant leases of the land shall continue, notwithstanding that at any time no Rates or other moneys in respect thereof are actually due or in arrear.

Appropriation of rents received.

[241.]

**266.** All rent and other moneys payable under any such lease shall, until the execution of a release as hereinbefore mentioned, or the expiration of twenty-five years from the taking possession thereof by the Local Authority, whichever first happens, upon receipt thereof by the Local Authority, be applicable—

To defray expenses.

Firstly—In defraying the expenses of and incidental to the giving of the notices hereinbefore mentioned, and the execution of the lease, and the collection of the rents;

To pay arrears of Rates.

Secondly—In payment to the Local Authority of all arrears of Rates and other payments due in respect of such land, together with interest on all arrears of Rates calculated as hereinbefore provided, from the time when such Rates became due respectively, and in payment of all Rates and other payments accruing due thereon.

Residue.

The residue of any such moneys shall belong to such person as would, when the same respectively were received, have been entitled to receive the rents and profits of the land if this Act had not been passed.

Land when vested in Local Authority.

[242.]

**267.** Unless within twenty-five years after possession is taken of land under the foregoing provisions of this Act some person entitled in that behalf performs the conditions entitling him to demand a release of the land, such land and all accumulations of rent and other moneys recovered on account thereof shall vest absolutely in the Local Authority.

Subdivision  
VI.—Power  
of Sale.

When land may be sold.

[243.]

*Subdivision VI.—Power of Sale.*

**268.** (1.) When in respect of any rateable land any Rates accrued thereon under this Act, or any of the Acts hereby repealed, or any of the Acts thereby repealed have, whether before or after, or partly before and partly after, the commencement of this Act, been unpaid for seven years or longer, the Local Authority may direct the clerk to send to the Registrar of the District Court nearest to the land in respect of which the Rates are payable a certificate of the total amount of Rates and interest thereon due and in arrear at the date of the certificate in the form or to the effect following, that is to say,—

*Certificate of Rates Unpaid.*

This is to certify that, under the provisions of “*The Local Authorities Acts, 1902 to 1920,*” the sum of                    pounds                    shillings and pence is now due and unpaid by [full name, occupation, and address, if known],

\* Subsection 4 inserted by section 45 of the amending Act of 1910.

as the occupier [or owner, or, if the name of the owner is not known to the Local Authority, by "the owner"] of that piece of land whereof is the registered proprietor [or lessee or as the case may be], situated in the County of , Parish of , and described in certificate of title [or deed of grant for instrument of lease or certificate of registration or other instrument of title] Number , Volume , Folio , containing acres roods and perches, more or less, being arrears of Rates and interest due in respect of such land. You are required to publish forthwith the notice prescribed by the abovementioned Acts, and after the expiration of three months from the date of such notice, unless you receive from me a certificate that the amount abovementioned and all Rates accrued due on the land in the meantime, and all expenses incurred, have been paid, you are required to issue your warrant of execution against the said land for the recovery of the said sums of money.

[If any proprietor, mortgagee, encumbrancee, lessee, or trustee of the land has duly registered himself as such in the office of the Local Authority, then continue] And you are also required to cause a like notice to be served on of , who has been duly registered in this office as proprietor [or as the case may be] of the said land.

Dated at this day of , 19 .

A.B.,

Clerk.

To the Registrar of the District Court, at

(2.) Upon the receipt of the certificate such Registrar shall forthwith publish once in the *Gazette* and in some newspaper a notice in the form or to the effect following, that is to say,—

*Notice of Sale.*

Whereas the Local Authority of has certified that under the provisions of "The Local Authorities Acts, 1902 to 1920," the sum of pounds shillings and pence is now due and unpaid by [full name, occupation, and address, if known], as the occupier [or owner or by the "owner"] of that piece of land whereof is the registered proprietor [or lessee or as the case may be], situated in the County of , Parish of , and described in certificate of title [or deed of grant for instrument of lease or certificate of registration or other instrument of title] Number , Volume , Folio , containing acres roods and perches, more or less, being arrears of rates and interest due to such Local Authority in respect of such land; and whereas such Local Authority has required me, after the expiration of three months from the date hereof, to issue my warrant of execution against such land unless the moneys hereinafter mentioned are sooner paid: This is to give notice that in pursuance of such certificate I shall issue my warrant of execution accordingly at the expiration of three months from the date hereof unless the abovementioned sum and all Rates accrued due on the land from the day of , 19 [date of certificate], and all expenses incurred are sooner paid.

Dated at this day of , 19 .

C.D.,

Registrar of the District Court.

Provided that if any proprietor, mortgagee, encumbrancee, lessee, or trustee of any land has previously registered himself as such by notice in writing sent by registered letter, in respect of any land, in the office of the Local Authority (which registration the Local Authority shall recognise and record), a like notice shall be served upon him at the instance of the Registrar. Such record as aforesaid shall be open to inspection by any ratepayer upon payment of a fee of two shillings and six pence.

\* Words "[or lessee or as the case may be]" inserted by section 22 of the amending Act of 1915.

‡ Words "or instrument of lease or certificate of registration or other instrument of title" inserted by section 22 of the amending Act of 1915.



PART XI.—  
RATES.  
Subdivision  
VI.—Power  
of Sale.  
Sale of land  
for arrears  
of Rates.

\*Provided also that a copy of the said notice shall, at the instance of the Registrar, be sent through the post office to the person named in such notice as the occupier or owner, as the case may be, at the address therein mentioned and a copy thereof shall also be posted at the Registrar's office, and there maintained for a period of at least one month.

If the address of such occupier or owner is not known, then such notice shall be published at least once in the *Gazette* and three times in some newspaper at intervals of not less than one month, and such publication shall for all purposes be deemed a sufficient service of such notice upon him.

A copy of the said notice shall also be affixed upon some conspicuous part of the land in respect of which the Rates are payable.

(3.) The said notice of sale shall have the effect of a summons issued out of the District Court at the suit of the Local Authority for the amount included in such notice; and all persons concerned, including any person to whom the whole or any part of the lands or any interest therein may have been transferred in the meantime, shall be entitled to enter a defence thereto:

Provided that by such defence it shall not be competent for any person to question the fact of the land being rateable land, or the liability of any person to be rated, or the amount of the valuation of the land in any year, or the due levy of any Rate in any year, or the due service of any notice of valuation or demand of Rates in respect of the land. Such defence shall be limited to the question of the amount of Rates (including any interest) due and in arrear, and the grounds of such defence shall be verified by affidavit, whereupon if any amount appears to be due to the Local Authority the same shall be paid into Court, or payment thereof shall be secured to the satisfaction of the Registrar, before the notice of defence shall be filed.

Warrant of  
execution.

[244.]

**269.‡** (1.) At the expiration of the time limited by such notice such Registrar shall, if no defence has been filed to such notice, enter judgment for the Local Authority as in other undefended cases, and shall issue a warrant of execution against the land, unless all such Rates, together with interest thereon, calculated as hereinbefore provided, at the rate of five pounds per centum per annum, and all Rates and other payments accrued due on the land in the meantime, and all expenses incurred have been paid.

If a defence has been filed and judgment is given for the Local Authority at the hearing for any sum, the Registrar shall issue a warrant of execution against the land, unless such sum, with interest as aforesaid, and all Rates and other payments accrued due on the land in the meantime, and all expenses incurred are forthwith paid.

(2.) The warrant of execution shall be directed to the bailiff of such Court and shall be executed by him against the land rated, notwithstanding any change that may have taken place in the meantime in the ownership of the land, for the recovery of the moneys above mentioned, in the same manner as warrants of execution against land are executed under the laws in force for the time being relating to District Courts.

\* Provisions to end of section inserted by section 46 (1) of the amending Act of 1910.

‡ Printed as amended by section 46 (2) of the amending Act of 1910, section 22 of the amending Act of 1912, and section 22 of the amending Act of 1913.

(3.) The warrant of execution shall be in the form or to the effect following, that is to say:—

*Warrant of Execution.*

In the District Court }  
of Queensland. }  
Held at }

No. of Warrant of 19 .

Whereas under the provisions of "The Local Authorities Acts, 1902 to 1920," the Local Authority of \_\_\_\_\_ has certified that the sum of \_\_\_\_\_ pounds \_\_\_\_\_ shillings and \_\_\_\_\_ pence is now due and unpaid by \_\_\_\_\_ of \_\_\_\_\_ as the owner [or occupier] of that piece of land whereof \_\_\_\_\_ is the registered proprietor [or lessee or as the case may be], situated in the County of \_\_\_\_\_, Parish of \_\_\_\_\_, and described in certificate of title [or deed of grant or instrument of lease or certificate of registration or other instrument of title] No. \_\_\_\_\_, Volume \_\_\_\_\_, Folio \_\_\_\_\_, containing \_\_\_\_\_ acres, \_\_\_\_\_ roods, and \_\_\_\_\_ perches, more or less, being arrears of Rates and interest in respect of such land, and other expenses and payments due to the said Local Authority as per particulars hereinafter set out: And whereas the Notice of Sale required to be published under the said Acts was published in the *Gazette* on the \_\_\_\_\_ day of \_\_\_\_\_, 19 \_\_\_\_\_, and in the \_\_\_\_\_ newspaper on the \_\_\_\_\_ day of \_\_\_\_\_, 19 \_\_\_\_\_: These are therefore to require and order you forthwith to make and levy by sale of the said land the sum stated at the foot of this Warrant, and to pay what you shall have so levied to the Registrar of this Court, and make return of what you have done under this Warrant immediately upon the execution hereof.

Given under the Seal of the Court this \_\_\_\_\_ day of \_\_\_\_\_, 19 \_\_\_\_\_.

By the Court,

C.D.,

Registrar of the Court.

To the Bailiff of the said Court and others the Assistant Bailiffs thereof.

	£ s. d.
Amount of Arrears of Rates and Interest before Notice of Sale ..	
Amount of Arrears of Rates and Interest accrued since Notice of Sale	
Expenses other than Execution Expenses .. .. .	
	£ : :
Execution Expenses .. .. .	
	£ : :
Total Amount to be Levied .. .. .	£ : :

Hours of attendance at the Office of the Registrar from 9 a.m. till 4 p.m., except on Saturdays, when the Office will be closed at noon.

(4.) At such sale the Local Authority may place a reserve price upon the land, and if such sum is not realised at the sale may buy in the said land at that price, in which case the Local Authority shall pay to the Registrar all his costs and expenses of and in connection with the prescribed notices and the warrant of execution and the sale thereunder; and the Registrar shall transfer the land to the Local Authority in manner provided by section two hundred and seventy-three of this Act.

(5.) At such sale the Local Authority may cause any two or more contemninous portions of land which are taken in execution, whether the property of the same owner or of different owners, to be offered for sale as one block; and upon the sale thereof the proceeds shall be apportioned to the several portions so sold in such manner as the Local Authority thinks proper.

(6.) When land has been sold to a purchaser or has been bought in by the Local Authority under this section, the Local Authority shall not have or make further claim or demand in

PART XI.—  
RATES.  
Subdivision  
VI.—*Power  
of Sale.*

respect of any arrears of Rates which had accrued due in respect of the land prior to such sale or buying in, and the land shall be discharged of all such Rates.

Certificate  
to be  
conclusive.

[245.]

**270.** A certificate of Rates unpaid sent by the clerk of a Local Authority to a Registrar of a District Court in the form and containing the particulars hereinbefore prescribed shall be sufficient authority to such Registrar for the doing of the acts therein required to be done by him, and shall not be questioned by him on any ground whatsoever.

Application  
of proceeds.

[246.]

**271.** The moneys arising from the sale of the land shall be applied in priority to every mortgage, encumbrance, lien, bill of sale, caveat, judgment, writ, warrant, or other charge, agreement, or process registered against or in any way affecting the land, and notwithstanding the disability of any person or any statute of limitations—

Firstly—In payment of the costs and expenses of the Registrar of and in connection with the prescribed notices and the warrant of execution and the sale thereunder: Provided that if the moneys arising from the sale of the land are insufficient to pay the costs and expenses of the Registrar, the same or the balance unpaid shall be a debt due by the Local Authority to the Registrar, and may be recovered by him accordingly;

Secondly—In payment of all Rates and interest due to and expenses incurred by the Local Authority, including all such costs, charges, and expenses as would be allowed on taxation as between solicitor and client; and

Thirdly—In payment of all costs and expenses of and in connection with conferring upon the purchaser a clear title to the land, \*and all such costs and expenses shall be fixed at such sum as the Registrar in his discretion thinks reasonable;

Fourthly—In and towards payment of all Rates due to the Local Authority in respect of any other land within its Area for which the person named in the aforesaid certificate of Rates unpaid is rated.

Application  
of residue.

[247.]

**272.** After payment of the moneys above mentioned the residue of any moneys arising from the sale of the land shall belong to such person as would if no sale had taken place have been entitled to receive the rents and profits of the land:

Water Rates.

Provided that if before any such residue is paid over by the Registrar he receives a certificate under the hand of the Chairman of any Water Authority or other local body charged with the management and control of waterworks that a certain specified amount is due to such Water Authority or other body for arrears of Water Rates in respect of such land, the Registrar shall forthwith pay over to such Water Authority or other body such residue or so much thereof as is sufficient to meet such claim for Water Rates, and the balance only, if any, of such residue shall belong to such person as would if no sale had taken place have been entitled to receive the rents and profits of the land.

\* Words from "and" to end of section inserted by section 46 (3) of the amending Act of 1910.

**273.** The Registrar shall execute a proper deed of bargain and sale or transfer of the land to the purchaser, and the purchaser shall thereupon be entitled to be registered for an estate in fee-simple in the land free of any encumbrance, or, in the case of land held under any less tenure or under any tenure peculiar to gold-fields or mineral fields, for the entire estate or interest of the owner or occupier in default free of any encumbrance.

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RATES.  
Subdivision on  
VI.—Power  
of Sale.  
Duty of  
Registrar  
to convey.  
[248.]

**274.** The Registrar of Titles, upon the production to him of any transfer as aforesaid of land which is subject to the provisions of the "*Real Property Act of 1861*,"\* shall register the same forthwith, notwithstanding any Act to the contrary and notwithstanding the non-production of the instrument of title, and without any advertisement or other notification of such non-production, and without any fee in respect of such registration.

Registration  
of purchaser.  
[249.]

Notwithstanding any Act to the contrary, it shall not be necessary to register in the office of the Registrar of Titles any warrant of execution against land to be sold or sold in pursuance of this Subdivision; and it shall not be necessary to produce to such Registrar, or to obtain, the consent of any mortgagee or other person whatsoever to any document or plan or any dealing with the land, or any other matter or thing which by the "*Real Property Act of 1861*"\* or any amendment thereof is required to be consented to by any person.

Warrant need  
not be  
registered.

**275.** § No sale of land or of any estate or interest therein heretofore made or purporting to have been made under the provisions of this Subdivision of this Act shall be rendered invalid merely by reason of any failure to comply with any of the said provisions, or of any omission, irregularity, insufficiency, or inaccuracy in the observance of any of the said provisions, whether in substance or in form; and every such sale heretofore made shall be valid and effectual for all purposes whatsoever, notwithstanding any such failure, omission, irregularity, insufficiency, or inaccuracy.

Sales of land  
valid  
notwith-  
standing any  
irregularity.  
[249A.]

No purchaser upon any such sale shall be bound to inquire whether such sale has been properly made under the said provisions or be affected by notice, either express or implied, that there has been any such failure, omission, irregularity, insufficiency, or inaccuracy as aforesaid.

No action or other proceeding shall lie or be taken against any such purchaser as aforesaid, or against any Local Authority or any officer or fund thereof, or against any State officer, or against the assurance fund established under "*The Real Property Acts, 1861 to 1877*," or any fund administered or controlled by the State or any State officer, in respect of any sale of land or of any estate or interest therein heretofore made or purporting to have been made under the provisions of this Subdivision of this Act, or by reason of any failure to comply with any of the said provisions, or of any

\* 25 Vic. No. 14, Statutes, page 2584.

‡ Words from "forthwith" to "stamp duty" substituted for "and for that purpose shall, if necessary, make such orders and publish such advertisements as are provided for in the case of dealings with land when the certificate of title is lost or not produced" by section 23 of the amending Act of 1912. Words "or for stamp duty" repealed by "*The Stamp Act Amendment Act of 1918*" (9 Geo. V. No. 11, section 37), Statutes, page 8542.

§ Section inserted by section 2 of the amending Act of 1905; this amendment of the Principal Act to be read and construed as if it were contained therein as the date of the passing of that Act (20th December, 1905).

‡ 25 Vic. No. 14 and amending Acts, Statutes, page 2584.

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VI.—Power  
of Sale.

omission, irregularity, insufficiency, or inaccuracy in the observance of any of the said provisions, whether in substance or in form, on the part of any such purchaser, or any such Local Authority or officer thereof, or any such State officer:

Provided always that this section shall not be construed so as to afford any protection to any Local Authority, officer, or person who has been guilty of fraud or wilful default in connection with any such sale.

Subdivision  
VII.—  
Notices of  
Transfers.

Notice of sale  
of land to be  
given to  
Local  
Authority.

[250.]

*Subdivision VII.—Notices of Transfers.*

**276.** Whenever any person sells any land he shall give notice in writing of such sale to the Local Authority, specifying the name and address of the purchaser.

Whenever a person who is the owner of rateable land within an Area subdivides the same, he shall forthwith give notice in writing accompanied with a plan of subdivision to the Local Authority; and whenever any such person sells any rateable land, he shall give like notice specifying the name and address of the purchaser.

Any person who fails to give notice as aforesaid shall continue to be liable for all sums accruing by way of Rates upon such land, including interest on such Rates, in the same manner as if he were still the owner thereof.

PART XII.—  
ACCOUNTS  
AND AUDIT.  
Subdivision  
I.—Audit.

Books of  
account and  
inspection  
by persons  
interested.

[251.]

PART XII.—ACCOUNTS AND AUDIT.

*Subdivision I.—Audit.*

**277.** Every Local Authority shall cause books to be provided, and true and regular accounts to be entered therein of all sums of money received and paid on account of the Local Authority and of the several purposes for which such sums of money are received and paid.

Every Local Authority shall cause the accounts to be balanced once at least in every month.

The books shall be open to inspection.

If the clerk does not permit such inspection he shall be liable to a penalty not exceeding ten pounds.

\*The Auditor-General, with the approval of the Governor in Council, may, from time to time, make rules with respect to all or any of the following matters, namely:—

- (i.) The form and manner in which the books of account of the Local Authority shall be kept;
- (ii.) The banking of moneys received by or on behalf of the Local Authority, and the authentication by the bank of deposits made therein by or on behalf of or to the credit of the Local Authority;
- (iii.) The terms and conditions on which arrears of Rates no longer recoverable may be written off;
- (iv.) The duties of the clerk, Chairman, and auditor as to the verification of Rates in arrear at the date of the audit;
- (v.) The duties of the auditor in connection with the audit and examination of the accounts;
- (vi.) Generally for the execution of this Part of this Act.

\* Paragraph substituted for original paragraph by section 47 (1) of the amending Act of 1910.

All such rules shall be published in the *Gazette*, and shall thereupon have the same effect as if they were enacted in this Act, and shall be judicially noticed, and shall not be questioned in any proceedings whatsoever.

**278.** The Governor in Council may from time to time appoint three fit and proper persons to be a Board called the Local Auditors Board. Local Auditors Board. [252.]

Such Board shall inquire into the qualifications of such persons as desire to exercise the office of auditor under this Act, and may grant certificates of competency to exercise such office.

Such Board in granting such certificates shall inquire into the general conduct and character as well as the abilities of candidates, and shall have power, after notice to the holder of any such certificate, and giving him an opportunity to be heard, to cancel such certificate.

If the certificate of any person appointed to be auditor for any Area is so cancelled, such person shall thereupon cease to hold his office of auditor:

Provided that the Governor in Council may from time to time, by Proclamation, declare that any member of any institute or association of accountants named in such Proclamation, who satisfies the Board that he has a competent knowledge of the laws relating to Local Government, shall without any further test of competency be entitled to a certificate of qualification.

\*Provided further that the Governor in Council may, by Proclamation, declare that any person who holds a certificate granted in connection with technical instruction by the Department of Public Instruction of having passed an examination in the subjects of book-keeping, auditing, and local government law, of a stage or grade approved by the Governor in Council, shall, without any further test of competency, be entitled to a certificate of competency from the Local Auditors Board.

**279.** The Governor in Council may by the Regulations prescribe the place or places at and the manner in which the Local Auditors Board is to exercise the duties conferred on it by this Act, and the tests to which candidates must conform for the certificate which the Board is empowered to grant, and the fees payable by such candidates. Regulations. [253.]

**280.** The Minister ~~on~~ the recommendation of the Auditor-General may from time to time appoint some person ~~or~~ persons holding a certificate of competency from the Local Auditors Board, or some officer ~~or~~ officers of the Department of the Auditor-General, to be the auditor ~~or~~ auditors for each Area. Appointment of auditors. [254.]

The auditor ~~or~~ auditors for every Area shall be paid out of the Local Fund thereof such remuneration as the Minister ~~on~~ the like recommendation may fix:

\* Provision inserted by section 47 (2) of the amending Act of 1910.

‡ Words "on the recommendation of the Auditor-General" inserted by section 47 (3) of the amending Act of 1910.

§ Words "or persons" "or officers," and "or auditors" respectively inserted by section 47 (3) of the amending Act of 1910.

|| Words "on the like recommendation" inserted by section 47 (3) of the amending Act of 1910.

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Subdivision  
I.—Audit.

Provided that when an officer of the Department of the Auditor-General is appointed to be the auditor for an Area the amount fixed as his remuneration shall be paid by the Local Authority to the Treasurer.

Annual  
audit.  
[255.]

**281.\*** (1.) The auditor appointed for an Area under this Act shall once at least in every year examine the accounts of the Local Authority of such Area.

Water  
Authority.

Where the Local Authority is also the Water Authority under "*The Water Authorities Act of 1891*"<sup>‡</sup> for the same Area, the aforesaid accounts shall also extend to and include the accounts of the Local Authority in its jurisdiction as such Water Authority.

Duty of  
clerk.

(2.) The clerk shall produce and lay before the auditor the accounts, so balanced as aforesaid, with all vouchers in support of the same, and all books, papers, and writings in his custody relating thereto.

Duty of  
auditor.

(3.) If the auditor, after due inquiry, is satisfied that all moneys received have been duly accounted for, and that all payments charged have been duly authorised and made, he shall sign the accounts in token of his allowance thereof, but if he disapproves of any part of the accounts, he may disallow any parts of the accounts so disapproved of.

Person  
interested  
may be  
present.

(4.) Any person interested in the accounts, either as a creditor of the Local Authority or as an elector of the Area, or any person acting on behalf of a creditor or elector, may be present at the audit of the accounts, and may make any objection in writing, signed by such person or his agent, to any part of such accounts.

Examination  
and  
settlement  
of accounts.

[256.]

**282.§** (1.) The accounts so balanced and audited as aforesaid and either allowed or disallowed by the auditor, together with any written objections made by creditors or electors, shall be produced at the first ordinary meeting of the Local Authority after such audit or at some adjournment thereof, at which meeting any person who has made any such objection may be heard in support thereof.

(2.) The accounts shall then be finally examined and settled by the Local Authority, and if the same are found just and true they shall be allowed, and certified accordingly under the hand of the chairman of such meeting.

(3.) After such accounts have been so allowed, and signed by such chairman, and also by the auditor, as hereinbefore provided, the same shall, ||subject to the certificate of the Auditor-General with respect to any contravention of this Act or any misapplication of money, as hereinafter provided, be final as against all persons whomsoever.

Financial  
statement.

[257.]

**283.¶** (1.) A statement showing the financial position of the Local Authority, as at the end of December in each year, shall be prepared by the clerk and laid before the Local Authority at its first ordinary meeting after the twenty-first day of January in the succeeding year.

\* Printed as amended by section 47 (4) of the amending Act of 1910, and section 22 (xv.) of the amending Act of 1920.

‡ 55 Vic. No. 11, Statutes, page 3536.

§ Consequentially amended by section 22 (xvi.) of the amending Act of 1920.

|| Words from "subject" to "provided" inserted by section 47 (5) of the amending Act of 1910.

¶ Consequentially amended by section 22 (xvii.) of the amending Act of 1920.

(2.) Such statement shall contain an account of all moneys received and moneys paid by the Local Authority during the preceding year, and a statement of all Rates made and contracts entered into during such year, and of all assets and liabilities of the Local Authority.

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AND AUDIT.  
Subdivision  
I.—Audit.  
To be  
examined  
and accepted.

(3.) Every such statement shall be signed by the clerk and sealed with the seal of the Local Authority, and shall be printed and remain open to inspection at the office of the Local Authority and to comparison with the books and documents relating thereto in the possession of the Local Authority.

Statement to  
be printed,  
&c.

(4.) The clerk shall, on demand, give to any person a copy of the statement on payment of the sum of one shilling therefor.

Right to a  
copy.

(5.) Any elector of the Area, or creditor of the Local Authority, may object in writing to any part of the accounts referred to in the statement.

Person may  
object.

(6.) The Local Authority shall in every year cause such statement to be published in the *Gazette* and in some newspaper.

Statement of  
accounts to  
be published.

**284.** (1.) The auditor shall forthwith, after the examination of the accounts of the Local Authority, report to the Auditor-General the result thereof. \*If it appears to the Auditor-General that the said accounts or any part thereof ought to be disallowed as being contrary to this Act, he shall certify accordingly to the Treasurer; and if it appears to the Auditor-General that any money, forming part of the Local Fund or any other Fund under the control of the Local Authority, has been wilfully or corruptly misapplied to purposes to which it was not lawfully applicable, or that any member has wilfully or by culpable negligence misapplied or connived at or concurred in the misapplication of such money, he shall certify accordingly to the Treasurer.

Report of  
auditor.  
[258.]

(2.) The Governor in Council may by Order in Council, within three months from the date of such certificate, wholly or in part confirm or disallow such certificate.

(3.) The Auditor-General, before certifying as aforesaid, shall give notice that he will by himself or his officer receive and consider such explanations as may be offered by or on behalf of the Local Authority, or any member thereof, and he or his officer shall receive and consider such explanations accordingly.

Auditor-  
General to  
hear  
explanations.

(4.) Every such Order of confirmation of a certificate shall be conclusive evidence for all purposes whatsoever, of the fact of the misapplication of the moneys therein mentioned, of the amount so misapplied, and of the liability of the member or members named in such Order, as having so misapplied the same or connived at or concurred in the misapplication thereof, to pay the same.

Effect of  
confirmation  
of certificate.

(5.) † Any sum of money mentioned in any such Order of confirmation as having been so misapplied may be recovered in any court of competent jurisdiction, together with full costs of suit, including costs as between solicitor and client, from any one or more of the members mentioned in such Order as liable to pay the same, at the suit of the Local Authority, or at the suit of any

Proceedings  
on Order.

\* Words from "If" to "Treasurer" (where it firstly occurs) inserted by section 47 (6) of the amending Act of 1910.

† As to criminal proceedings against members, see "The Criminal Code," section 440, Statutes, page 341.



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AND AUDIT.  
Subdivision  
I.—Audit.

ratepayer of the Area, or at the suit of any of the creditors of the Local Authority, \*or at the suit of the Minister.

†Section three hundred and ninety-nine of this Act shall not apply to any proceedings under this section.

Destination  
of moneys  
recovered.

(6.) Any sum of money so recovered shall be paid into the Local Fund, or other Fund from which the amount sued for was improperly taken.

When  
Treasurer to  
withhold  
endowment.

(7.) If the Auditor-General reports that the books and accounts of the Local Authority have been negligently or improperly kept, or wilfully falsified, the Treasurer shall withhold payment of any endowment payable under any Act until the Auditor-General certifies that the said books and accounts are being kept to his satisfaction.

Power of  
auditor to  
compel  
discovery.

**235.** (1.) For the purpose of any examination the auditor may take evidence upon oath (which oath the auditor is hereby empowered to administer), and may, by summons under his hand, require all such persons as he thinks proper to appear personally before him, at a time and place to be fixed in and by such summons, and to produce to him all such books and papers as appear necessary for such examination.

[259.]

Punishment  
for default.

(2.) Any person so required who—

- (i.) Without just excuse, neglects or refuses to comply with the tenour of the summons; or
- (ii.) Having appeared before the auditor, refuses, without just excuse, to be examined on oath concerning the premises, or to take such oath; or
- (iii.) Having taken such oath, refuses, without just excuse, to answer such questions concerning the premises as are put to him;

shall and may be dealt with by the auditor in the same manner in all respects in which, by any Act in force for the time being relating to justices, persons so refusing or neglecting in cases in which justices have summary jurisdiction may be dealt with.

Expenses.

The whole or any of the costs and expenses of, and connected with, every such examination may, in addition to any other remedy for the recovery thereof, be deducted from and retained out of any moneys payable to the Local Authority by the Treasurer by way of endowment or otherwise.

Special  
audit.

[259A.]

**236.†** The Minister may, at any time, appoint a special auditor or special auditors to examine the accounts of a Local Authority for any period fixed by the Minister. In every such case the auditor or auditors so appointed shall have the like powers, duties, and authorities as the auditor appointed for the Area under this Act; and the following provisions of this Subdivision, so far as the same are applicable, shall be observed, namely:—†Sections two hundred and eighty-one except subsection one thereof, two hundred and eighty-four, and two hundred and eighty-five. The costs and expenses of every special audit, including the amount of remuneration of the special auditor or auditors fixed by the Minister, shall be borne by the Local Authority concerned.

\* Words from "or" to end of subsection inserted by section 47 (6) of the amending Act of 1910.

† Section inserted by section 48 of the amending Act of 1910.

**287.** The provisions of this Subdivision apply to every Joint Local Authority, its members and officers, in like manner and to the same extent as if the same were specifically mentioned.

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AND AUDIT.  
Subdivision  
I.—Audit.  
Application  
to Joint  
Local  
Authorities.  
[260.]

*Subdivision II.—Separate Accounts.*

**288.** The Local Authority shall keep a separate and distinct account of—

Subdivision  
II.—Separate  
Accounts.  
Distinct  
accounts of  
Separate and  
Special  
Rates.  
[261.]

- (i.) All moneys received in respect of every Separate or Special Rate levied under this Act, and all moneys received by the Local Authority by way of endowment upon such Rates respectively, so that the moneys so received shall be credited to the same accounts as the Rates in respect of which they were respectively received; and
- (ii.) All moneys disbursed in respect of the purposes for which such Rates are levied, including in such disbursements such reasonable part of the expenditure in respect of salaries, allowances, and management of the office as the Local Authority may direct;

and shall apply the moneys standing to the credit of such account for the purposes for which such Rates are levied and no other.

**289. (1.)** The Local Authority shall keep a separate and distinct account of all moneys raised by Special Rates for constructing and maintaining works for the manufacture or conservation and supply of gas or electricity or hydraulic or other power, and all moneys received from such undertaking, which shall be charged—

Revenue from  
gasworks, &c.  
[262.]

Firstly—With the principal money and interest required from time to time to be paid in respect of the loan (if any) raised for the establishment of the undertaking; and

Secondly—With the cost of maintaining the undertaking in good repair, and of paying the actual working expenses thereof, and the setting aside of a reasonable and sufficient sum to provide for the depreciation and renewal of plant and buildings or the extension of the undertaking, and with all costs, expenses, penalties, and damages incurred or payable by the Local Authority in relation thereto.

**(2.)** If at any time such undertaking becomes so profitable that the revenue is more than sufficient to defray all the expenses connected with it, and also the moneys due and payable in respect of the principal money and interest required to be paid in respect of the loan (if any), the surplus so arising shall be applied by the Local Authority as follows:—

Surplus, how  
applied.

- (i.) Until the total amount of the loan (if any), together with interest accruing upon it, has been paid, it shall be paid to the Treasurer, and shall be applied by him in liquidation of the loan; or if the loan was raised by the sale of debentures shall be placed to the credit of a Sinking Fund to provide for the liquidation of the loan;

PART XII.—  
ACCOUNTS  
AND AUDIT.  
Subdivision  
II.—*Separate  
Accounts.*

(ii.) Thereafter it shall, at the discretion of the Local Authority, either—

(a) Be applied in providing a Reserve Fund by setting aside such money as the Local Authority may from time to time think reasonable, and investing the same and the resulting income thereof in stock or other securities of the Queensland Government, and accumulating the same at compound interest until the Fund so formed amounts to one-tenth of the aggregate capital expenditure on the undertaking, which Fund shall be applicable to answer any deficiency at any time arising in the revenue of the Local Authority from the undertaking, or to meet any extraordinary claim or demand at any time arising against the Local Authority in respect of the undertaking; and so that, if the Fund is at any time reduced, it may thereafter be again restored to the prescribed limit, and so from time to time as often as such reduction happens; or

(b) Be placed to the credit of the Local Fund:

Provided that if the surplus in any year exceeds ten pounds per centum upon the aggregate capital expenditure on the undertaking, the Local Authority shall make such a proportionate reduction in the charge for the supply of gas, electricity, or hydraulic or other power as in its judgment will reduce the surplus to the said maximum rate of profit.

Revenue  
derived from  
waterworks.

[263.]

**290.** The Local Authority shall keep a separate and distinct account of all revenue derived from waterworks, which shall be applied in manner following, and not otherwise:—

Firstly—In payment of the actual working expenses of the waterworks; and

Secondly—In payment of the moneys accruing due from time to time by the Local Authority in respect of the money borrowed for the construction and maintenance of the waterworks.

And the balance, if any, may, at the discretion of the Local Authority, be applied in defraying the cost of the maintenance, repair, and extension of the waterworks, or in reduction of the principal loan, and not otherwise.

Separate  
accounts of  
loan to be  
kept.

[264.]

**291.** The Local Authority shall cause a separate and distinct account to be kept in some bank of every loan incurred by it, and all money forming part of such loan shall be paid into such account, and shall be applied solely to the purposes for which the same was borrowed.

If after all such purposes are performed there is any surplus of any loan advanced by the Treasurer, the Local Authority shall, save as by this Act is otherwise provided, repay the same to the Treasurer in part liquidation of the loan.

Separate  
accounts for  
divisions.

[265.]

**292.\*** When an Area is divided, the Local Authority shall in all cases keep in the books of the Local Authority a separate and

\* Section substituted for original section by section 34 (3) of the amending Act of 1910, and consequentially amended by section 22 (xviii.) of the amending Act of 1920.

distinct account in respect of each division, and the following provisions shall be applicable:—

- (i.) All moneys received in respect of General Rates levied upon the rateable land in the several divisions shall be credited to the respective accounts of the several divisions in respect of which they were received;
- (ii.) Ordinary revenue other than the receipts in respect of General Rates shall be credited to the account of each division in such proportion as the Local Authority shall direct;
- (iii.) Save as hereinafter provided, all moneys expended upon any work, matter, or thing within the limits of a division shall be charged against and debited to the account of that division;
- (iv.) Expenditure in respect of all salaries, allowances, and the management of the office of the Local Authority, and any other expense incurred in respect of any work, matter, or thing which is of general and as nearly as may be of equally distributed benefit throughout the whole Area, shall be charged against the account of each division in proportion to the value of rateable land in each division;
- (v.) Expenditure in respect of any work, matter, or thing which is of unequal benefit to the several divisions, or which is of benefit to several but not to all divisions, shall be charged against each division or the several divisions benefited in such proportion as the Local Authority shall, by resolution passed at a meeting specially convened for the purpose, direct, and such proportion shall, as nearly as practicable, be in proportion to the benefit derived in the several divisions;
- (vi.) Any sum which, pursuant to section two hundred and fifteen of this Act, is payable out of the Local Fund shall be charged to such one or more of the divisions or to all the divisions as or in such proportion as the Local Authority shall direct: Provided that, if there is not sufficient money to the credit of the account of any division so charged as aforesaid to meet the obligation thereon, such obligation may temporarily be discharged by an advance out of the account of any other division or divisions, and the Local Authority shall from time to time, as may be necessary, increase the amount of the General Rate levied and collected in the division so charged as aforesaid by an amount which will provide the sum required;
- (vii.) The balances, whether to the debit or credit of the respective divisions, shall be carried forward from year to year;
- (viii.) Nothing in this section contained shall be construed to prejudice or affect the right or remedy of the Treasurer or of any debenture holder in respect of any money due or payable at any time to him, whether by way of principal or interest, in respect of any loan raised by the Local Authority on the security of the Local Fund or the revenues of the Local Authority;

PART XII.—  
ACCOUNTS  
AND AUDIT.  
Subdivision  
II.—Separate  
Accounts.

\* Words from "shall" to "Rate" substituted for "shall increase the amount of the next ensuing General Rate" by section 24 of the amending Act of 1912.

PART XII.—  
ACCOUNTS.  
AND AUDIT.  
Subdivision  
II.—*Separate  
Accounts.*

PART XIII.—  
LOANS AND  
LOCAL WORKS  
CARRIED OUT  
BY MEANS OF  
LOANS.

Subdivision  
I.—*Limit of  
Loan  
Advances by  
Treasurer.*

Limit of loan  
advances.

[266.]

Special  
provisions as  
to loans for  
reproductive  
undertakings.

[267.]

- (ix.) Any twenty electors of an Area may, by petition to the Minister, appeal against any resolution of the Local Authority under this section, and the Minister shall immediately cause such inquiry to be made as he thinks necessary, and shall either confirm such resolution with or without amendment or disallow the resolution, and his decision shall be final and binding. But the Minister may reconsider such decision at any time upon the petition of the Local Authority or any twenty electors of the Area.

PART XIII.—LOANS AND LOCAL WORKS CARRIED OUT BY MEANS OF  
LOANS.

*Subdivision I.—Limit of Loan Advances by Treasurer.*

**293.** Except as by this Act is otherwise provided, the total amount that may be advanced by the Treasurer by way of loan to a Local Authority, inclusive of any sums previously borrowed and not repaid, shall not exceed a sum equal to five times the then ordinary annual revenue of the Local Authority.

\*For the purposes of this section the expression "ordinary annual revenue of the Local Authority" shall not be deemed to include any moneys received by a Local Authority under or pursuant to an order made under section two hundred and forty-two of this Act.

**294.** (1.) When any sum has been borrowed from the Treasurer by a Local Authority for the construction and maintenance of waterworks or works for the manufacture or conservation and supply of gas or electricity or hydraulic or other power as the case may be from which a revenue is actually derived by the Local Authority, then, for the purpose of estimating the amount of money that may be borrowed by the Local Authority, the following rules shall have effect:—

- (i.) If the net annual revenue derived from the undertaking, after paying all working expenses thereof, is sufficient to pay the annual instalments payable by the Local Authority in respect of the whole sum borrowed for construction and maintenance of the undertaking or in respect of any part thereof, the whole sum or such part thereof, as the case may be, shall not be taken into consideration in reduction of the amount that may be borrowed by the Local Authority;
- (ii.) The surplus net annual revenue derived from the undertaking, after paying such annual instalments and all working expenses of the same, shall be deemed to be revenue of the Local Authority; but
- (iii.) Except as aforesaid, the revenue derived from such undertaking shall not be taken into consideration in estimating the annual revenue of the Local Authority.

(2.) If when a sum is proposed to be borrowed by a Local Authority for such an undertaking as is hereinbefore mentioned it is shown to the satisfaction of the Governor in Council that the net revenue which will be derived from the undertaking will be sufficient to pay the whole or some part of the annual instalments which

\* Paragraph inserted by section 49 of the amending Act of 1910.

will be payable in respect thereof, the Governor in Council may, by Order in Council, with respect to the whole sum proposed to be borrowed, or that part thereof in respect of which the net revenue will be sufficient to pay the annual instalments as aforesaid, and upon such conditions as may be imposed by the Order in Council, suspend from time to time the provisions of the last preceding section limiting the amount of money that may be borrowed by the Local Authority.

PART XIII.—  
LOANS AND  
LOCAL WORKS  
CARRIED OUT  
BY MEANS OF  
LOANS.  
Subdivision  
I.—Limit of  
Loan  
Advances by  
Treasurer.

295.\* Subject to this Act, a Local Authority may borrow money, either by way of advance from the Treasurer or by the sale of debentures, for the purpose of establishing, maintaining, managing, and working omnibus services. [267A.]

Loans for  
omnibus  
services.

Subdivision  
II.—  
Debentures.

*Subdivision II.—Debentures.*

296.† A Local Authority may make application to the Governor in Council for permission to borrow money by the sale of Debentures. [268.]

Application  
to sell  
debentures.  
[268.]

No such application shall be made except upon a resolution for borrowing money adopted and confirmed in accordance with the provisions hereinafter prescribed, nor until an opportunity has been given for the taking of a poll of the electors of the Area upon the question of the proposed loan in manner hereinafter prescribed, nor if a poll has been taken unless the result thereof is in favour of the loan.

Every such permission shall be signified by Order in Council published in the *Gazette*, and such Order in Council shall declare the amount that may be so borrowed, the purposes for which the same shall be borrowed, the currency of the Debentures, and the amount of interest payable thereon. Moreover, any such permission may be granted without conditions or subject to the condition of providing a proper sinking fund and to such other conditions as the Governor in Council thinks proper to impose. [269.]

Issue of  
debentures.

297. Subject to this Act, such Debentures shall be issued in such series, at such time, and in such manner as the Local Authority thinks fit, and shall be a charge upon all the Rates and revenues of the Local Authority howsoever arising, subject to any prior Debentures issued according to law. [269.]

Debentures  
to be under  
seal.

Such Debentures shall bear interest at the rate and shall be repayable on the date respectively prescribed in the Order.

Every such Debenture shall be under the seal of the Local Authority, and shall be signed by the Chairman and clerk, and when so sealed and signed shall be deemed to have been duly issued, and the holder thereof shall not be bound to inquire whether such issue was in fact duly authorised.

298. Every such Debenture shall specify the time when and the place where the principal and interest are payable, and shall have annexed thereto for every payment to grow due thereon a Coupon, and every such Debenture and Coupon, unless otherwise authorised by the Governor in Council, shall be transferable by delivery. [270.]

Time and  
place of  
payment.  
[270.]

\* Section inserted by section 27 (5) of the amending Act of 1910.

† Consequentially amended by section 22 (xix.) of the amending Act of 1920.

PART XIII.—  
LOANS AND  
LOCAL WORKS  
CARRIED OUT  
BY MEANS OF  
LOANS.

Subdivision

II.—

Debentures.

Debentures  
may be sold  
in Queensland  
or elsewhere.

[271.]

Application  
of moneys.

[272.]

Payment of  
debentures  
and interest.

[273.]

Provisions  
on default of  
payment.

[274.]

**299.** The Local Authority may authorise the sale or disposal of any such Debentures in Queensland, or in places beyond Queensland, and may appoint an agent or agents to negotiate such sale.

**300.** The moneys raised by the sale of such Debentures, or such portion thereof as may be found necessary for the purpose, shall be expended for the purposes declared in the Order, and in the proportions, if any, therein specified and not otherwise.

**301.** The holder of any such Debenture shall be entitled to receive payment from the Local Authority of the principal sum named therein upon presentation of such Debenture, on or after the due date thereof, at the place where the same is expressed to be made payable. And the holder of any Coupon originally annexed to a Debenture, and whether separated therefrom or not, shall be entitled to receive payment in like manner of the interest mentioned in such Coupon upon presentation of the same at the place where, and on or after the date when, interest is payable.

**302.** If default is made by the Local Authority in making any payment, whether of principal or interest, to the holder of any Debenture or Coupon, the following provisions shall take effect:—

- (i.) The holder of such Debenture or Coupon shall be entitled to make application to and procure all necessary orders and directions from the Supreme Court for the appointment of a Receiver, and such Court shall have power to make all such orders for the appointment of a Receiver, or for his removal and the appointment of another in his place, as may be necessary, and to make any orders and give any directions which such Court may think proper. And such receiver shall be deemed to be an officer of such Court.
- (ii.) Subject to this Act, the Receiver shall have power to make, levy, and collect all Rates authorised to be made, levied, or collected by the Local Authority, and be entitled to receive all Rates and revenues whatsoever payable to the Local Authority for or in respect of which he has been appointed Receiver; but the Rates so to be made and levied shall not exceed the maximum limits permitted for the time being by law; and for such purposes such Receiver shall be deemed to be the Local Authority, and may exercise all the powers thereof.
- (iii.) The Receiver shall be entitled to such commission payable out of the Rates, as remuneration for his services, as such Court may appoint.
- (iv.) The Receiver shall, subject to any order of such Court, pay over all moneys received by him to such holder, or to and among the holders of Debentures or Coupons of the same series as such holder, or to the holders of Debentures or Coupons generally in such order of priority or otherwise as the Court may think fit; and.

if there is any balance in hand over and above the amount due and payable to him under this Act, the Receiver shall pay such balance to the Local Authority.

PART XIII.—  
LOANS AND  
LOCAL WORKS  
CARRIED OUT  
BY MEANS OF  
LOANS.

*Subdivision III.—Plans.*

**303.** Before proceeding to borrow any money for the construction of permanent works and undertakings, the Local Authority shall cause to be prepared—

*Subdivision  
III.—Plans.*  
Plans, &c., to  
be prepared  
before  
borrowing.

- (i.) Plans and specifications of the work or undertaking;
- (ii.) An estimate of the cost thereof;
- (iii.) A statement showing the proposed expenditure of the money to be borrowed; and
- (iv.) An estimate of the net revenue (if any) that may reasonably be expected to be yielded by such work or undertaking, and how it is proposed to defray the moneys from time to time accruing due upon the proposed loan.

[275.]

Such statement shall be open to inspection for one month after the publication of the notice of proposed loan hereinafter mentioned.

*Subdivision IV.—Notice of Proposed Loans.*

**304.** Every resolution for borrowing money shall be adopted at a special meeting of the Local Authority called for that purpose, and shall be confirmed at a subsequent special meeting of the Local Authority.

*Subdivision  
IV.—Notice  
of Proposed  
Loans.*

Resolution  
for  
borrowing.

[276.]

**305.** No resolution for borrowing money other than for temporary accommodation as hereinafter provided shall be adopted by the Local Authority unless a notice thereof has been published in the *Gazette*, and also twice in some newspaper, not less than one month nor more than three months before such resolution is adopted, stating the amount of the moneys proposed to be borrowed and the purposes to which the loan is to be applied, and, in case such loan is to be expended in the purchase of any works or undertakings, specifying such works or undertakings, and, in case the loan is to be expended in the construction of works or undertakings, stating that the plans and specifications and estimates of such works or undertakings are open to inspection at the office of the Local Authority, and, in case such loan is to be expended upon works or undertakings for the special benefit of any particular part of the Area, describing such part:

*Gazette*  
notice to be  
published  
before  
borrowing.

[277.]

Provided that, in all cases before the publication of the said notice, the question whether any work or undertaking will or will not be for the special benefit of a particular part of the Area shall be referred by the Local Authority to the Minister, who shall have power to decide that question, and to define the part of the Area which will be specially benefited; and the Minister, if he thinks it proper so to do, may divide the part so defined into subdivisions according to the extent to which each is respectively benefited:

§ Provided further that in the event of any money borrowed, pursuant to the provisions of this Subdivision, proving to be

\* Words to end of sentence inserted by section 50 (1) of the amending Act of 1910.

‡ Words to end of paragraph inserted by section 18 (2) of the amending Act of 1912.

§ Proviso inserted by section 17 of the amending Act of 1920.



PART XIII.—  
LOANS AND  
LOCAL WORKS  
CARRIED OUT  
BY MEANS OF  
LOANS.

Subdivision  
IV.—Notice  
of Proposed  
Loans.

inadequate to complete the works or undertaking in respect of which the same was borrowed, the Minister, if satisfied that such inadequacy arose owing to circumstances beyond the control of the Local Authority, may certify accordingly; whereupon the Local Authority shall, upon a resolution for borrowing money, be at liberty to borrow such further sum as may be necessary without complying with the procedure prescribed by this Subdivision as preliminary to such borrowing or any poll of electors in that behalf.

Request for  
poll to be  
taken.

[278.]

**306.\*** At any time within one month after the last publication of the notice of a proposition to borrow money, any electors in the Area or in the part to be specially benefited, as the case may be, being not less than ten per centum of the electors of the Area or such part may, by writing under their hands delivered to the Returning Officer, require that the question whether the money shall be borrowed shall be submitted to the vote of the electors in the Area or of such part.

Taking of  
poll.

[279.]

**307.\*** When such demand has been made, a poll shall be taken of the electors of the Area or part to be specially benefited, as the case may be, on a day to be fixed by the Returning Officer, not being less than twenty-eight nor more than forty-two clear days after the delivery of such demand, notice of which shall be published at least twice in some newspaper.

The question to be stated on the ballot-papers to be used at the taking of such poll shall be in the form following, that is to say,—

<input type="checkbox"/>	FOR THE LOAN.
<input type="checkbox"/>	AGAINST THE LOAN.

Scrutineers.

[280.]

**308:** Where the voting is by ballot, one scrutineer to be present in every polling-booth shall be appointed by the Council, and the persons demanding a poll may, by writing under their hands or the hands of a majority of them, appoint one scrutineer to be present in every polling-booth.

Schedule III.

In all cases immediately after the close of the poll the number of votes recorded thereat shall be ascertained in the manner prescribed in the Third Schedule to this Act for ascertaining the number of votes at elections, and the Returning Officer shall, as soon as conveniently may be on or after the day of the poll, give public notice of the number of votes recorded.

If upon such poll being taken the number of votes given against the loan is greater than the number of votes given in favour of the loan, the Local Authority shall be forbidden to proceed further with the loan.

Subdivision  
V.—  
Temporary  
Loans from  
Banks.

Limit of  
overdraft.

[281.]

*Subdivision V.—Temporary Loans from Banks.*

**309.** For temporary accommodation a Local Authority may obtain advances from any bank by way of overdraft of the current account: Provided that no such overdraft or accommodation shall at any time, or under any circumstances, exceed the ordinary Revenue of the Local Authority in the year then last past.

\* Old sections 278 and 279 repealed and sections 306 and 307 substituted by section 18 of the amending Act of 1920.

\*For the purposes of this section the expression "ordinary revenue of the Local Authority" shall not be deemed to include any moneys received by a Local Authority under or pursuant to an order made under section two hundred and forty-two of this Act.

PART XIII.—  
LOANS AND  
LOCAL WORKS  
CARRIED OUT  
BY MEANS OF  
LOANS.

*Subdivision VI.—Unlawful Loans.*

*Subdivision  
VI.—  
Unlawful  
Loans.*

**310.** Save as by some Act is otherwise specially authorised, no person lending money to a Local Authority and no bank lending money to a Local Authority in excess of the moneys which such Local Authority is by this Act authorised to borrow from a bank, shall have any remedy or right whatsoever to recover such money or such excess, as the case may be, from the Local Authority.

Person or  
bank lending  
unlawfully  
not to recover  
back.

[282.]

**311.** If a Local Authority borrows any money which it is not legally bound to repay, all the members who have consented to the borrowing of such money shall be jointly and severally liable to repay the same and all interest thereon to the person from whom the same was borrowed, and the same may be recovered from such members or any of them as money lent by such person to such members, by action in any court of competent jurisdiction.

Members  
borrowing  
money in  
excess of their  
powers.

[283.]

If any moneys are appropriated from the Local Fund or any other Fund under the control of the Local Authority for the purpose of repaying any money so borrowed, the members who have consented to the misappropriation of such moneys for that purpose shall be jointly and severally liable to refund the same, with interest at the rate of eight pounds per centum per annum, and the same may be recovered from such members, or any of them, by action in any court of competent jurisdiction, at the suit of any ratepayer of the Area or creditor of the Local Authority who, on recovery of the same, shall pay the amount recovered into the Local Fund or other such Fund, but shall be personally entitled to full costs of suit, including costs as between solicitor and client.

**312.** If a Local Authority borrows any money which it is not legally bound to repay, or if a Local Authority purports or attempts to bind itself or its successors to pay any money borrowed after the commencement of this Act which the Local Authority is not legally bound to repay, every member who consents to such borrowing or to such purporting or attempting to bind shall, in addition to any liability to repay such money, be liable to a penalty not exceeding two hundred pounds, which may be recovered with full costs of suit, including costs as between solicitor and client, by any person who may sue for the same in any court of competent jurisdiction. Any money so recovered shall be paid into the Local Fund.

Members  
borrowing  
illegally.

[284.]

PART XIV.—TRAMWAYS.

PART XIV.—  
TRAMWAYS.

*Subdivision I.—Tramway Area.*

*Subdivision  
I.—Tramway  
Area.*

**313.** The provisions of this Part of this Act may be applied in any Area or any division of an Area, or in any locality the boundary of which can be clearly and conveniently defined.

Definition of  
Tramway  
Area.

[285.]

**314.†** When a proposed Tramway Area is included wholly within the Area of one Local Authority or of one Joint Local Authority, any number of electors not being less than ten per

Petition.

[286.]

\* Paragraph inserted by section 51 of the amending Act of 1910.

† Printed as amended by section 19 (1) of the amending Act of 1920.

PART XIV.—  
TRAMWAYS.  
Subdivision  
I.—Tramway  
Area.

centum of all the electors of the Area may by petition request the Local Authority or Joint Local Authority to apply to the Governor in Council for the constitution of a Tramway Area under this Act.

When a proposed Tramway Area forms the whole or part of the Areas of two or more Local Authorities, any number of electors not being less than ten per centum of all the electors of such part of the proposed Tramway Area as forms or is included wholly within the Area of one Local Authority may petition such Local Authority to apply to the Governor in Council for the constitution of a Tramway Area under this Act.

Verification  
of petition.  
[287.]

**315.** Every signature to a petition shall be verified by the solemn declaration of some person who signed the petition.

No petition unaccompanied by such declaration shall be received by the Local Authority or Joint Local Authority.

Publication  
of petition.  
[288.]

**316.** On the presentation of a petition, the Local Authority or Joint Local Authority shall cause a copy of it to be published in the *Gazette*, and three times at the least in some newspaper; and the last day on which the petition is so published shall be deemed to be the day of the publication of it.

Every such petition shall be accompanied by—

- (i.) A description of the proposed Tramway Area;
- (ii.) Plans, sections, specification, and book of reference of the proposed Tramway, and, if it is proposed to purchase any existing Tramway, a plan and full particulars thereof;
- (iii.) An estimate of the cost of the proposed Tramway, or, if it is proposed to purchase any existing Tramway, the actual purchasing price or full particulars of the mode by which such price is to be ascertained; and
- (iv.) An estimate of the net revenue that may reasonably be expected to be yielded by the Tramway.

A certified copy of such petition, description, plans, sections, specification, book of reference, particulars, and estimates, shall be deposited in the office of every Local Authority having jurisdiction within the proposed Tramway Area, and shall be open for inspection.

Demand of  
poll.  
[289.]

**317.\*** At any time within one month after the publication of the petition any number of electors not being less than ten per centum of the proposed Tramway Area, or part thereof, as the case may be, may, by application to the Local Authority or Joint Local Authority, require that the question whether the Tramway Area shall be constituted shall be submitted to the vote of the electors of the proposed Tramway Area or such part thereof, as the case may be.

Poll may be  
taken.  
[290.]

**318.†** When such an application is made, the Local Authority or Joint Local Authority shall direct that a poll be taken of the electors of the proposed Tramway Area or such part thereof, as the case may be, and shall prescribe the form of ballot-paper to be used, and shall give such other directions as may be necessary for taking the poll. The poll shall be taken, and the result thereof

\* Printed as amended by section 19 (2) of the amending Act of 1920.

† Consequentially amended by section 22 (xx.) of the amending Act of 1920.

shall be ascertained in manner hereinbefore prescribed for taking a poll on the question of a proposed loan; but in all cases voting shall be by ballot.

‡ . . . . .

**319.** If upon the poll being taken the number of votes given against the constitution of the Tramway Area is greater than the number of votes given in favour of the constitution of the Tramway Area, no action shall be taken upon the petition. How question decided. [292.]

**320.** In the event of no demand being made for a poll within the time herein prescribed, or if upon a poll being taken the number of votes given in favour of the constitution of the Tramway Area is greater than the number of votes given against the constitution of the Tramway Area, then the Local Authority or Joint Local Authority shall transmit the petition, and all documents relating to it, to the Governor in Council, together with an application for the constitution of a Tramway Area under this Act. Minister to submit petition to Governor in Council. [293.]

The Governor in Council shall consider the application, and may, if he thinks fit, direct an inquiry to be held in the proposed Tramway Area, or may otherwise inquire as to the propriety of granting the application.

**321.** The Governor in Council may thereupon, by Order in Council— Order in Council thereon. [294.]

- (i.) Define the Tramway Area, the boundaries of which may be the same as the boundaries of the proposed Tramway Area described in the documents accompanying the petition, or may include or exclude lands not included or excluded in such description, respectively; and
- (ii.) Approve of the plans, sections, specification, and book of reference of the proposed Tramway, or of the proposed contract of purchase, as the case may be, with such modifications, if any, as appear to be expedient; or
- (iii.) Reject the prayer of the petition.

**322.** If the Tramway Area defined by the Order in Council is included wholly within the Area of one Local Authority or of one Joint Local Authority, then such Local Authority or Joint Local Authority, as the case may be, shall have the sole control with respect to the construction or purchase, as the case may be, and the subsequent maintenance, use, and working of the Tramway and the regulation of the traffic thereon. Control of Tramway. [295.]

In any other case the Governor in Council may constitute a Joint Local Authority under this Act, and may place under its sole control the construction or purchase, as the case may be, and the subsequent maintenance, use, and working of the Tramway and the regulation of the traffic thereon.

**323. §** The Governor in Council may, from time to time, by Order in Council— Further powers. [296.]

- (i.) Join, for the purposes of this Act, the whole of one Tramway Area, or a part of such Area to another Tramway Area, provided that such Areas are contiguous;

‡ Old section 291 repealed by section 22 (xxi.) of the amending Act of 1920.  
§ Consequentially amended by section 22 (xxiii.) of the amending Act of 1920.

PART XIV.—  
TRAMWAYS.  
Subdivision  
I.—Tramway  
Area.

- (ii.) Constitute a Joint Local Authority for the management and control of any such Tramway Area;
- (iii.) Alter or vary the boundaries of a Tramway Area;
- (iv.) Settle and adjust any rights, liabilities, or matters which in consequence of the exercise of any of the foregoing powers require to be adjusted.

The foregoing powers may be exercised without petition, or the Governor in Council may require that a petition be presented and an opportunity be afforded to take a poll of electors upon the question before exercising such powers.

Application  
for Tramway  
Area without  
petition.

[296A.]

**324.\*** Notwithstanding any of the provisions of this Part of this Act, it shall not be compulsory for a Local Authority or Joint Local Authority to await the presentation of a petition in that behalf before proceeding to make application to the Governor in Council for the constitution of a Tramway Area under this Act.

A Local Authority or Joint Local Authority may without such petition make application to the Governor in Council for the constitution of a Tramway Area under this Act. Every such application shall be accompanied by the particulars and documents required by section three hundred and sixteen of this Act to accompany a petition; and the Governor in Council may deal with any such application and exercise the powers conferred upon him with respect thereto by this Subdivision of this Part of this Act as if such application had been made consequent upon a petition in that behalf.

Subdivision  
II.—Loans.

Loans for  
Tramways.

[297.]

*Subdivision II.—Loans.*

**325.** Subject to the provisions hereinafter contained, the Governor in Council may, by warrant under his hand, addressed to the Treasurer, direct him to advance to the Local Authority or Joint Local Authority, by way of loan, out of any moneys appropriated by Parliament for that purpose, such sums as the Governor in Council may think fit for the construction or purchase, as the case may be, of the Tramway.

‡ \* \* \* \*

Amount  
borrowed not  
to limit  
other  
borrowing  
powers.

[299.]

**326.** The amount of any loan borrowed by a Local Authority under the provisions of this Part of this Act shall not be taken into consideration in estimating the amount that may be borrowed by such Local Authority under the preceding provisions of this Act.

Interest, &c.

[300.]

**327.** For a period of three years from the date of the authorisation of a loan, the Local Authority or Joint Local Authority, as the case may be, shall not be required to pay to the Treasurer any moneys by way of interest upon such loan; but the interest payable from time to time upon the same shall be added to the amount of the loan, and shall become and be deemed to be a part of the loan, notwithstanding that by the addition of such interest the loan exceeds the total amount mentioned in the last preceding section but one of this Act.

Repayment  
of loans.

[301.]

**328.** From and after the expiration of a period of three years from the date of the authorisation of a loan such loan shall be liquidated by the payment to the Treasurer by the Local Authority

\* Section inserted by section 20 of the amending Act of 1920.

‡ Old section 298 repealed by section 21 of the amending Act of 1920.

or Joint Local Authority, as the case may be, on the first days of January and July respectively, in each year thereafter, of such sum of money as under "*The Local Works Loans Acts, 1880 to 1899*,"\* is required to be paid in respect of the loan, and all such sums shall continue to be payable until the total amount of the loan, together with the interest accruing thereupon, has been so paid.

**329.** Save as herein otherwise provided, "*The Local Works Loans Acts, 1880 to 1899*,"\* and any Act amending or in substitution for those Acts or any of them, † and sections two hundred and forty-six and two hundred and forty-seven of this Act, shall be applicable to any loan advanced under the foregoing provisions. Application of Local Works Loans Acts. [302.]

**330.** Nothing in this Part of this Act shall be construed to prevent the Local Authority or Joint Local Authority raising the moneys required for the purposes of this Part of this Act by means of the issue of debentures under and subject to the provisions of †Part XIII. of this Act relating to debentures. Debentures. [303.]

*Subdivision III.—Tramway Rate.*

**331.** As soon as practicable after the issue of an Order in Council constituting a Tramway Area and approving of the construction or purchase of the Tramway, the Local Authority or Joint Local Authority, as the case may be, shall appoint a valuer or valuers to value the several rateable lands within the Tramway Area, including in such value the amount of enhancement of value which the Tramway when constructed will effect, or in case of purchase has effected, on such rateable lands. Valuers. [304.]

**332.** Notice of the valuation of each portion of rateable land and of the amount thereof shall be given to the ratepayers of the Tramway Area, and shall be given in the same manner as in the case of other valuations under this Act. Notice of valuation to be given. [305.]

**333.** Every ratepayer affected by a valuation shall be entitled to inspect and take copies of the valuation with respect to the land of any other ratepayer as well as with respect to his own land. Inspection of valuation. [306.]

**334.** If a ratepayer thinks himself aggrieved on the ground of error in the amount of the valuation with respect to his own or any other land, he shall have the same right of appeal therefrom as in the case of other valuations of rateable lands under this Act, and the same proceedings shall be had upon such appeal, as nearly as may be, as by this Act is provided in the case of such appeals, with this addition, that in the event of any person appealing against the valuation of another person's land he shall give notice of the appeal to such person, as well as to the Local Authority or Joint Local Authority. Right of appeal. [307.]

**335.** For the purpose of repaying the amount of the loan, and the interest from time to time accruing thereupon, the Local Authority or Joint Local Authority, as the case may be, shall, when and so often as the same is required, make and levy a Tramway Rate upon all rateable land within the Tramway Area in accordance with the valuation hereinbefore prescribed, and of such an amount as will be sufficient to provide in each year the moneys payable in respect of the loan. Tramway Rate on all properties benefited. [308.]

\* 44 Vic. No. 2, 62 Vic. No. 2, and 63 Vic. No. 7, Statutes, pages 2023 *et seq.*  
† Words from "and" to "Act" inserted by section 52 of the amending Act of 1910.

PART XIV.—  
TRAMWAYS.Subdivision  
III.—  
Tramway  
Rate.Recovery of  
of Rates.

[309.]

**336.** Such Tramway Rate shall be paid and borne by the rate-payers of the Tramway Area, and the same proceedings may be taken for the recovery thereof as in the case of other Rates made under this Act.

Fresh  
valuation.

[310.]

**337.** A fresh valuation shall be made once at least in every five years.

Subdivision  
IV.—  
Accounts.  
Account of  
Tramways.

[311.]

*Subdivision IV.—Accounts.*

**338.** Every Local Authority and Joint Local Authority shall cause to be kept a separate and distinct account of all moneys raised by Tramway Rates and received from the working of the Tramway, which shall be charged—

Firstly—With the principal money and interest required to be paid in respect of the loan advanced for the construction or purchase of the Tramway; and

Secondly—With the cost of maintaining the Tramway in good repair and of providing and maintaining plant and rolling-stock, and of carrying on the traffic thereon.

Surplus, how  
applied.

[312.]

**339.** If at any time the Tramway becomes so profitable that the receipts are more than sufficient to defray all the expenses connected with it, and also the moneys due and payable in respect of principal money and interest required to be paid in respect of the loan, the surplus so arising shall be applied by the Local Authority or Joint Local Authority, as the case may be, as follows:—

- (1) Until the total amount of the loan together with the interest accruing upon it has been paid, it shall be paid to the Treasurer, and shall be applied by him in liquidation of the loan, or, if the loan was raised by the sale of debentures, shall be placed to the credit of a sinking fund to provide for the liquidation of the loan;
- (2) After the total amount of the loan together with the interest accruing upon it has been paid, it shall be applied in or towards repayment of all Rates that may have been paid to any Local Authority or Joint Local Authority in respect of rateable land in the Tramway Area upon which the Tramway Rate was levied, in exoneration of the ratepayers who have made such payments, until the amount of the surplus so applied is equal to the amounts received on account of the Tramway Rate, with interest at the rate of four pounds per centum per annum, calculated at simple interest, from the respective dates of payment;
- (3) Subject to the last two preceding paragraphs, it shall be paid to the Local Fund or Common Fund, as the case may be.

Subdivision  
V.—  
Powers of  
Construction,  
&c.Right to  
enter lands.

[313.]

*Subdivision V.—Powers of Construction, &c.*

**340.** For the purposes of this Act every Local Authority or Joint Local Authority, its officers, workmen, and servants shall have power to enter on any land within the Tramway Area, and to break

the surface, excavate, and do all necessary work in connection with construction or otherwise, after giving fourteen days' notice of its intention so to do to the owners or occupiers of such land.

PART XIV.—  
TRAMWAYS.  
Subdivision  
V.—  
Powers of  
Construction,  
&c.  
Claims for  
compensation.  
[314.]

**341.** Any land required for the purposes of the Tramway may be taken or an easement acquired thereon by every Local Authority or Joint Local Authority under the provisions of "*The Public Works Lands Resumption Acts*,"\* and any person whose land is injuriously affected by the works shall be entitled to compensation from every Local Authority or Joint Local Authority, to be determined in the manner provided by those Acts for assessing compensation for land taken by a constructing authority.

**342.** Subject to the provisions of the laws in force for the time being relating to the construction, maintenance, and management of railways, and to the approval of the Governor in Council, every Local Authority or Joint Local Authority shall have and may exercise in respect of the Tramway the same powers and privileges as are under those laws exercised by the Commissioner in regard to any of the undermentioned matters and things, that is to say,—

Exercise of  
powers under  
Railway Acts.  
[315.]

- (i.) The preparation of plans, sections, and books of reference;
- (ii.) The carrying out of works required for the use and benefit of owners and occupiers of lands adjoining the Tramway;
- (iii.) The running of trains propelled by steam, electricity, or other motive power;
- (iv.) The conditions under which passengers, goods, live stock, and parcels shall be carried on the Tramway;
- (v.) The prescribing of regulations governing the use of the Tramway for regulating and levying the tolls and charges, and the mode of conducting the traffic thereon; and
- (vi.) The making and publishing of By-laws for enforcing the observance of such regulations.

**343.** The Tramway shall be constructed and maintained in the manner following, that is to say,—

Mode of  
construction  
prescribed.  
[316.]

- (1) The two rails shall be laid at a distance of three feet six inches apart, or at such other distance apart as the Governor in Council from time to time authorises or prescribes.
- (2) The rails shall be of iron or steel, of the weight of not less than forty pounds to the yard, or such other weight as the Governor in Council from time to time authorises or prescribes.

Before the Tramway or any portion thereof is deemed to be completed and ready for traffic it shall be inspected by a competent engineer, acting under the authority of the Commissioner, and such engineer shall certify that it has been proved to his satisfaction that the Tramway has been faithfully constructed of sound materials and is safe and fit for public traffic.

**344.** No engine or vehicle shall travel on the Tramway at a greater speed than at the rate of twenty miles per hour.

[317.]

\* 42 Vic. No. 5 and 52 Vic. No. 7, repealed. See now "*The Public Works Land Resumption Acts, 1906-1917*" (6 Edw. VII. No. 4, 7 Geo. V. No. 6, and 8 Geo. V. No. 20), Statutes, pages 8211 and 8362, and particularly section 14 (1).



PART XIV.—  
TRAMWAYS.  
Subdivision  
V.—  
Powers of  
Construction,  
&c.  
Supply of  
material,  
&c., by Com-  
missioner.

[318.]

**345.** Upon the application of any Local Authority or Joint Local Authority, the Commissioner may provide and supply to it all rails and all other materials, articles, and things of every description which are requisite and proper for the due construction of the Tramway, and at a price agreed upon by and between the Commissioner and the Local Authority or Joint Local Authority.

Conveyance  
of material,  
&c., by Com-  
missioner.

[319.]

**346.** Upon the application of any Local Authority or Joint Local Authority, the Commissioner shall convey to a railway station upon a Government railway, which is situated within or is nearest to the Tramway Area, all rails, and all other materials, articles, and things of every description which are requisite and proper for the due construction of the Tramway, and the amount which the Local Authority or Joint Local Authority shall pay to the Commissioner for the conveyance of the same shall not exceed one-half of the ordinary rate payable in respect of the conveyance of goods of similar description for an equal distance upon the Government railway.

Works for  
benefit of  
owners.

[320.]

**347.** Every Local Authority and Joint Local Authority shall make and at all times thereafter maintain the following works for the accommodation of the owners and occupiers of lands adjoining the Tramway, that is to say—

- (i.) Such and so many convenient bridges, arches, culverts, and passages over, under, or by the sides of, or leading to or from, the Tramway as are necessary for making good any interruption to the use of the land through which the Tramway is made;
- (ii.) All necessary arches, tunnels, culverts, or other passages over, under, or alongside the Tramway, of such dimensions as to convey the water as clearly as before the construction of the Tramway from the lands lying along or affected by the Tramway, or as nearly so as may be.

All such works shall be made during the construction of the Tramway.

If any difference arises respecting the kind or number, dimensions or sufficiency of such works, or respecting the maintenance of them, the same shall be determined by the Minister.

Communica-  
tion with  
railways.

[321.]

**348.** In every case where a Government railway passes through or forms one or more of the boundaries of a Tramway Area, the Commissioner shall, upon the application of any Local Authority or Joint Local Authority, fix some place upon such railway, within or as near as may be to the limits of the Tramway Area, at which communication may be made between the Tramway and the railway with safety to the public, and without injury to the railway, and without inconvenience to the traffic thereon; and shall, without any expense to the Local Authority or Joint Local Authority, make the junction, and do all such other acts and things as may be necessary for effecting such communication.

Use of  
railway  
wagons, &c.

[322.]

**349.** Every Local Authority or Joint Local Authority may use and employ upon the Tramway all wagons or trucks which the Commissioner may, without inconvenience to the traffic upon the Government railways, be able to place at the disposal of the Local Authority or Joint Local Authority:

Provided, however, that the Local Authority or Joint Local Authority shall be bound by any conditions or regulations which the Commissioner thinks fit to impose or make with respect to the use and employment of such wagons and trucks by the Local Authority or Joint Local Authority.

PART XIV.—  
TRAMWAYS.  
Subdivision  
V.—  
Powers of  
Construction,  
&c.

**350.** In the event of communication being established between the Tramway and a Government railway, the Commissioner may allow any wagons or trucks used in connection with the Tramway to travel on such railway, but subject always to such regulations and conditions as the Commissioner thinks fit to make or impose.

Running  
powers over  
railways.  
[323.]

PART XV.—AGRICULTURAL DRAINAGE.

**351.** The powers conferred by this Part of this Act shall be exercised by the Local Authority upon petition signed as hereinafter provided.

PART XV.—  
AGRICULTURAL  
DRAINAGE.  
Petition to be  
presented to  
Local  
Authority  
by ratepayers  
representing  
majority of  
votes on the  
watershed.

A petition must be signed by such number of the ratepayers of the Area rated as owners in respect of the land situated within the watershed as represents a majority of all the votes of the ratepayers so rated, and must be addressed to the Local Authority praying them to exercise the powers by this Part of this Act conferred in respect of draining the watershed.

[324.]

**352.** If the Local Authority is satisfied that the petition is duly signed by ratepayers representing a majority of votes of the ratepayers rated as owners in respect of the land within the watershed, it shall appoint a proper person to prepare a scheme of drainage of the watershed.

Local  
Authority  
to appoint  
person to  
draw up  
plans and  
specifications.

[325.]

**353.** The person so appointed shall prepare such scheme with proper plans and specifications, and shall submit the same to the Local Authority; and the Local Authority shall thereupon, if it approves of the same, appoint a valuer to value the amount of improvement which such proposed scheme, if completed, would effect on the several rateable lands within the watershed.

Local  
Authority  
to appoint  
valuer.

[326.]

**354.** Notice of the valuation and of the amount thereof shall be given to the owners, and shall be given in the same manner as in the case of other valuations under this Act.

Notice of  
valuation to  
be given.

[327.]

**355.** If any person thinks himself aggrieved on the ground of error in the amount of the valuation with respect to his own or any other land, he shall have the same right of appeal therefrom as in the case of valuations of rateable land under this Act, and the same proceedings shall be had upon such appeal, as nearly as may be, as are provided in the case of appeals under this Act, with this addition—that in the event of any person appealing against the valuation of another person's land he shall give notice of the appeal to such person as well as to the Local Authority.

Right of  
appeal.

[328.]

**356.** The money necessary for carrying out the proposed scheme of drainage shall either be raised by Separate Rates levied on the several rateable lands within the watershed (which Rates the Local Authority is hereby authorised to make and levy from time to time as may become necessary) or by a loan as hereinafter provided.

How scheme  
to be carried  
out.

[329.]

PART XV.—  
AGRICULTURAL  
DRAINAGE.

Plans to be forwarded to Minister, who may return plans, &c., and call on neighbouring Local Authority to continue scheme.

[330.]

**357.** If it is proposed to carry out the scheme of drainage by means of a loan the Local Authority shall forward the plans and specifications to the Minister for approval.

The Minister may approve of the plans and specifications, or may return them for amendment, and may, if he thinks it necessary or advisable that provision should be made for continuing the system of drainage through the Area or Areas of another Local Authority or other Local Authorities, require such Local Authority or Local Authorities to afford the necessary facilities for such continuance, but at the expense, nevertheless, of the Local Authority carrying out the scheme of drainage.

Minister may appoint valuer where scheme extended.

[331.]

**358.** If the Minister so requires any Local Authority or Local Authorities to afford such facilities as in the last preceding section mentioned, he may appoint some person or persons to assess the amount of compensation (if any) to be paid by one Local Authority to another, and any amount so assessed, if approved by the Minister, shall be paid.

Money advanced to be called a special loan.

[332.]

**359.** If the Minister approves of the plans and specifications, or amended plans and specifications, the Treasurer may advance to the Local Authority, by way of loan, out of any moneys available for that purpose, the necessary money for carrying out the scheme.

Such loan shall be called a Special Drainage Loan, and shall be repayable in thirty years in accordance with "*The Local Works Loans Acts, 1880 to 1899*,"\* and any Act amending or in substitution for those Acts or any of them.

Amount so borrowed not to limit other borrowing powers.

[333.]

**360.** The amount of any such loan shall not be taken into consideration in estimating the amount that may be borrowed by the Local Authority under this Act.

Right to enter on lands.

[334.]

**361.** For the purpose of carrying out the scheme the Local Authority, its officers, workmen, and servants, shall have power to enter on any land and to break the surface, excavate, and do all necessary work in connection with construction or otherwise, after giving fourteen days' notice of their intention so to do to the owners or occupiers of such land.

Claims for compensation.

[335.]

**362.** Any land required for carrying out the scheme may be taken by the Local Authority; and any person whose land is so taken or is injuriously affected by the works shall be entitled to compensation from the Local Authority.

A Special Rate on all properties benefited.

[336.]

**363.** For the purpose of repaying the amount of the loan the Local Authority shall from time to time make and levy a Special Rate (to be called a "Special Drainage Loan Rate") upon all rateable land within the watershed upon which it appears by the valuation that any improvement will be effected by the scheme, and of such an amount as will be sufficient to provide in each year the annual instalment payable in respect of the loan, together with the amount of the compensation money payable in respect of any land taken or injuriously affected thereby.

Principle of rating.

[337.]

**364.** Every Rate whether a Separate Rate or Special Drainage Loan Rate levied under this Part of this Act shall be apportioned

\* 44 Vic. No. 9, 62 Vic. No. 9, and 63 Vic. No. 7, Statutes, pages 2023 *et seq.*

upon the several rateable lands in proportion to the amount of improvement which it appears by the valuation will be effected upon them respectively.

PART XV.—  
AGRICULTURAL  
DRAINAGE.

**365.** Every such Rate shall be paid and borne by the owners, and the same proceedings may be taken for the recovery thereof as in the case of other Rates made under this Act. But an occupier not being the owner of land in respect whereof the Rate is payable shall not be liable to pay the same, nor shall his goods and chattels be liable to be distrained or sold to enforce payment thereof.

Recovery of  
Rates.  
[338.]

PART XVI.—JOINT ACTION.

*Subdivision I.—Constitution of Joint Local Authorities.*

PART XVI.—  
JOINT ACTION.  
*Subdivision  
I.—  
Constitution  
of Joint  
Local  
Authorities.*

**366.†** A Joint Local Authority may be constituted under this Act for the purpose of exercising or performing any of the powers, duties, or authorities conferred by this Act upon Local Authorities in respect of all or any of the matters following, that is to say—

Joint Local  
Authorities  
constituted  
for certain  
purposes.  
[339.]

- (i.) The formation, construction, and maintenance of boundary roads, main roads, or boundary bridges;
- (ii.) The establishment or maintenance of a ferry across a river, creek, or other watercourse which forms the boundary between the Areas of two Local Authorities;
- (iii.) The construction, management, and control of sewerage and drainage works;
- (iv.) The construction, management, and control of tramways;
- (v.) The eradication of noxious weeds;
- (vi.) The prevention and destruction of pests;
- (vii.) The establishment and management of pounds;
- (viii.) \*The establishment, maintenance, management, and working of omnibus services;
- (ix.) Administrative purposes as hereinafter defined;
- (x.) The carrying out of any public work, or the making and enforcement of any By-law, for the common benefit of the Area of the Joint Local Authority.

For the purposes of this Part of this Act, the term “administrative purposes” means and includes any of the following purposes:—

- (a) Regulating traffic;
- (b) Licensing and regulating porters, public carriers, carters, fuel carters, water-drawers, and vehicles ordinarily used for the conveyance of passengers or goods for hire;
- (c) Imposing and collecting license fees for any of such purposes, and expending the moneys raised by means of any such fees;
- (d) Making and enforcing By-laws relating to any such purposes;
- (e) Such other purposes as all the component Local Authorities concur in referring to the Joint Local Authority so constituted.

\* Paragraph inserted by section 27 (6) of the amending Act of 1919.

PART XVI.—  
JOINT ACTION.  
Subdivision  
I.—  
Constitution  
of Joint  
Local  
Authorities.  
Governor in  
Council may  
constitute  
Joint Local  
Authority,  
&c.

[340.]

**367.** Subject to the provisions hereinafter contained, the Governor in Council may, from time to time, by Order in Council—

- (i.) Constitute a Joint Local Authority by the union of any two or more Local Authorities whose Areas are conterminous; \*and if the Joint Local Authority is constituted with respect to a boundary road, main road, or boundary bridge, whether or not the same is a boundary road, main road, or boundary bridge for all such Areas;
- (ii.) Join the whole of the Area of one Local Authority, or a division or other part of such Area, to the whole or a division or other part of the Area or Areas of another Local Authority or other Local Authorities, provided that the Areas of all such Local Authorities are conterminous;
- (iii.) Constitute a Joint Local Authority for the management and control of any Area consisting of Areas or parts of Areas so joined;
- (iv.) Determine and alter the constitution of any Joint Local Authority;
- (v.) Alter or vary the boundaries of an Area under the management and control of a Joint Local Authority;
- (vi.) Dissolve a Joint Local Authority;
- (vii.) Settle and adjust any rights, liabilities, or matters which in consequence of the exercise of any of the foregoing powers require to be adjusted.

†An Order in Council made under this section may distinguish between the capital cost of the formation, construction, or establishment of the work or undertaking subjected to the jurisdiction of the Joint Local Authority and the annual or recurring expenses of the maintenance, management, and control of the same, and provide that all or some only of the component Local Authorities shall be liable for the repayment of such capital cost, and that all or some only of the component Local Authorities shall be liable for the repayment of such annual or recurring expenses.

§ \* \* \* \* \*

\*Order to  
assign name  
and date of  
commence-  
ment.

[342.]

**368.** Every such Order constituting a Joint Local Authority shall assign a name to the Joint Local Authority, and shall define the powers, duties, authorities, and obligations, to be had, exercised, performed, and assumed by such Joint Local Authority; and shall appoint a day on which such Order shall take effect.

Constitution  
of Joint  
Boards. [ ]

[343.]

**369.** (1.) The governing body of a Joint Local Authority shall be a Joint Board, consisting of a representative or representatives of, and appointed by, every Local Authority having jurisdiction within any part of the Area of the Joint Local Authority.

(2.) The number of representatives to be appointed for the several Local Authorities shall be prescribed by the Order constituting the Joint Local Authority.

\* Words from " and " to " Areas " inserted by section 26 of the Amending Act of 1912.

† Paragraph inserted by section 26 of the amending Act of 1912.

§ Old section 341 repealed by section 21 of the amending Act of 1920.

(3.) The number of representatives of each of the several Local Authorities need not be the same, but the number of representatives of any one Local Authority shall never be more than one-half of the whole number of members of the Joint Board.

(4.)\* In determining the number of representatives of each Local Authority regard shall be had as far as practicable to the number of electors of those parts of the Areas of the several component Local Authorities which are comprised in the Area of the Joint Local Authority.

(5.) The representative or representatives of each Local Authority shall be elected by it from its own body.

(6.)\* If a Local Authority refuses or neglects, for one month after the constitution of a Joint Local Authority, or after the occurrence of a vacancy in the office of any representative of such Local Authority, to elect a member or members of the Joint Board, the Governor in Council may appoint some elector or electors of the Area rated in respect of land within the Area of the Joint Local Authority to act as such member or members.

(7.) When an elected member ceases to be a member of a Local Authority by which he was elected, he shall cease also to be such member.

(8.) If a member fails to attend three or more consecutive duly convened meetings of the Joint Board, extending over a period of not less than three months, without leave of absence obtained from the Joint Board, he shall cease to be such member.

(9.) Subject as aforesaid, an elected member shall remain in office for the period of two years from the date of his election.

(10.) A member appointed by the Governor in Council shall hold office for any period not exceeding one year from the time when the power to appoint him accrued.

(11.) If any person, elected or appointed as aforesaid, refuses or neglects to act, or to attend any duly convened meeting of the Joint Board, all lawful acts and proceedings of the Joint Board shall be as valid and effectual as if they had been done or authorised by the full Joint Board.

**370.‡** In the case of a Joint Local Authority constituted for administrative purposes only, the Governor in Council may dispense with any of the provisions of the last preceding section relating to the number and relative proportions of members of the Joint Board, and requiring that there shall be a representative or representatives of, and appointed by, every Local Authority having jurisdiction within the Area of the Joint Local Authority, and may direct that any two or more of the component Local Authorities shall proceed in such manner as may be directed by the Order in Council to elect one or more members of the Joint Board, and that another or other of the component Local Authorities shall separately elect a member or members.

Exception  
in certain  
cases.

[344.]

Where two or more Local Authorities are so directed to proceed to elect a member or members of a Joint Board, any member of either of the Local Authorities shall be eligible to be so elected.

And when two or more Local Authorities so directed to proceed to elect a member or members fail to do so for one month after the

\* Consequentially amended by section 72 (xxiii.) of the amending Act of 1920.

‡ Consequentially amended by section 22 (xxiv.) of the amending Act of 1920.

PART XVI.—  
JOINT ACTION.  
Subdivision  
I.—  
Constitution  
of Joint  
Local  
Authorities.  
Joint Local  
Authorities  
may be  
constituted  
for same  
Area for  
different  
purposes.  
[345.]

constitution of the Joint Local Authority, the Governor in Council may appoint some elector or electors of one of the Areas of such Local Authorities to act as such member or members.

**371.** Notwithstanding anything hereinbefore contained, two or more Joint Local Authorities may be constituted having jurisdiction over the same Area or part of the same Area:

Provided that the purposes for which such several Joint Local Authorities are constituted must be different and not conflicting.

Meetings.  
[346.]

**372.** Every Joint Board shall hold its first meeting at such time and place as the Governor in Council appoints, and shall thereafter meet in the month of March in each year, at a time and place to be notified at least fourteen days previously to the members by the President of the Joint Board, or, if there is no President, then by the Minister, and at such other times and places as the Joint Board from time to time appoints.

Every such meeting shall be public, and all questions shall be decided by the majority present, and a quorum shall comprise not less than two members nor less than one-third of the whole number of members for the time being.

President.  
[347.]

**373.** At the first meeting of every Joint Board held after the month of February in each year, or at some adjournment thereof, the members present shall elect a President, who shall hold office until the President for the next following year is elected.

At every meeting for the election of a President the Clerk shall preside, and shall have and may exercise all the powers and authorities of the President other than the right to vote.

The President shall be the executive officer of the Joint Board, and shall preside at all meetings at which he is present. In the absence of the President, the members present at any duly convened meeting shall elect from their number a chairman for the day.

The President, or in his absence the chairman for the day, shall have a vote, and when there is an equal division of votes upon any question, and more than three members take part in such division, shall have a second or casting vote.

Rules.  
[348.]

**374.** A Joint Board may make rules for the conduct of its proceedings, and such rules shall, after approval by the Governor in Council and publication in the *Gazette*, have the force of law.

Until rules have been so made the Joint Board may, by resolution, temporarily adopt any rules of procedure of any of the component Local Authorities:

Provided that the provisions of this Act relating to the proceedings of Local Authorities shall apply to the proceedings of Joint Boards so far as the same are applicable thereto.

Provision in  
case of  
dissolution of  
Joint Local  
Authority.  
[349.]

**375.** When a Joint Local Authority is dissolved, its rights, assets, and liabilities shall devolve upon the component Local Authorities, and the Governor in Council may, by Order in Council, declare and apportion the rights and liabilities of the several component Local Authorities in respect thereof, and such Local Authorities shall respectively have and be liable to such part of the rights, assets, and liabilities of the Joint Local Authority as are so declared.

**376.\*** Where by any Act heretofore passed any bridge has been placed under the control of a Board constituted by such Act and composed of representatives of Local Authorities having jurisdiction in a district described in such Act, the Governor in Council may from time to time by Order in Council—

- (i.) Alter the constitution of such Board and the number of members thereof;
- (ii.) Alter or vary the boundaries of such district by the inclusion therein or the exclusion therefrom of any Area or division of an Area of a Local Authority;
- (iii.) Distinguish between the capital cost of the construction of such bridge and the annual or recurrent expenses of the maintenance, management, and control of the same, and provide that all or some only of the component Local Authorities represented on such Board shall be liable for the repayment of such capital cost, and that all or some only of such component Local Authorities shall be liable for the repayment of such annual or recurring expenses;
- (iv.) Settle and adjust any rights, liabilities, or matters which in consequence of the foregoing powers require to be adjusted, and give all such directions as to elections of representatives as appear to him to be necessary.

This section does not apply to the Victoria Bridge over the River Brisbane.

Every such Order in Council shall be read as one with the Act constituting such Board and district, and shall be deemed to form part thereof, and the said Act as modified by the said Order shall be construed accordingly.

*Subdivision II.—Powers of Joint Local Authorities.*

**377.** The Joint Board shall have and may exercise and perform within the limits of its Area all such powers, duties, and authorities, and shall be liable to such obligations, conferred or imposed upon Local Authorities by this Act, and under and subject to the provisions thereof as are specified in the Order in Council constituting the Joint Local Authority, or by any subsequent Order made under this Act, and all the powers, duties, authorities, or obligations to be so exercised, performed, or assumed shall be severally specified in the Order.

**378.** From and after the constitution of a Joint Local Authority, and during the existence thereof but no longer, the several Local Authorities having jurisdiction within the Area of the Joint Local Authority shall cease to exercise or perform therein any of the powers, duties, or authorities, or to be subject to any of the obligations which the Joint Local Authority is authorised to exercise or perform, or to which it is liable:

Provided nevertheless that all By-laws of any such Local Authority which were in force in the Area at the time of the constitution of the Joint Local Authority shall continue in force therein, or in that part thereof in which they were in force, until the Joint Board makes other By-laws repealing, suspending, or

PART XVII.—  
JOINT ACTION.  
*Subdivision I.—  
Constitution of Joint Local Authorities.*

*Constitution of Bridge Boards under other Acts.*  
[349A.]

*Subdivision II.—  
Powers of Joint Local Authorities.*

Joint Boards may exercise powers specified in Order in Council.  
[350.]

Thereupon Local Authorities to cease to exercise such powers.  
[351.]

\* Section inserted by section 27 (1) of the amending Act of 1912.



PART XVI.—  
JOINT ACTION.  
Subdivision  
II.—  
Powers of  
Joint Local  
Authorities.

superseding them. And the Joint Board may take under any such By-laws any action which the Local Authority might have taken if the Joint Local Authority had not been constituted:

And provided also that no licenses, registrations, or permits granted or made, or rights arising, under any such By-laws of a Local Authority shall be prejudiced or affected by any such repeal, suspension, or supersession.

Joint Board  
may delegate  
power to  
Local  
Authorities.

[352.]

**379.** A Joint Board may nevertheless delegate to any Local Authority represented in the Joint Board the exercise or performance, within so much of the Area of the Joint Local Authority as is within the Area of that Local Authority, of any of the powers, duties, or authorities of the Joint Board.

Appointment  
of officers of  
Joint Board.

[353.]

**380.** A Joint Board may appoint a clerk and such other officers as may be necessary to assist in the execution of its duties, and may out of the Common Fund pay such salaries and allowances to such officers as the Joint Board may determine.

Subdivision  
III.—  
Expenses of  
Joint Boards.

Expenses of  
Joint Boards  
to be  
equitably  
apportioned  
among  
component  
Local  
Authorities.

[354.]

*Subdivision III.—Expenses of Joint Boards.*

**381.** †\*Subject to the provisions of any Order in Council made under section three hundred and sixty-seven relating to the cost and expenses of works or undertakings, any expenses incurred by a Joint Local Authority in pursuance of this Act shall be defrayed out of a Common Fund to be contributed by the component Local Authorities in such proportions as the Joint Board determines, subject to the following general rules, that is to say,—

- (i.) When the expense is incurred for a matter of general and as nearly as may be equal benefit of the whole of the Area, the amounts to be severally contributed shall be in proportion to the value of the rateable land in those parts of the Areas of the respective component Local Authorities which are comprised within the Area of the Joint Local Authority as ascertained from the valuation lists in force for the time being: Provided that where the value of rateable land in the whole Area has not been assessed on a uniform scale, the Joint Board shall, for the purpose of this Act, adjust such rateable value so as to make the basis as nearly as may be uniform;
- (ii.) When the expense is incurred for a matter of unequal benefit to the several parts of the Area, the respective contributions shall, as nearly as practicable, be in proportion to the benefit severally received by the several parts of the Area;
- (iii.) When the expense is incurred for the exclusive benefit of a portion only of the Area, the contributions in respect thereof shall be made solely by the component Local Authorities whose Areas or parts of whose Areas are comprised in such portion.

If a component Local Authority thinks itself aggrieved by any such apportionment, it may appeal against the same to the

\* Words from "Subject" to "undertakings" inserted by section 28 of the amending Act of 1912.

Governor in Council, who shall cause to be made such inquiry as he considers necessary, and whose decision shall be final and binding upon all the Local Authorities.

PART XVI.—  
JOINT ACTION.  
Subdivision  
III.—  
Expenses of  
Joint Boards.

**382.** For the purpose of obtaining payment from component Local Authorities of the sums to be contributed by them, the Joint Board may issue a precept signed by the President and in the form hereunder set out or to the like effect to each component Local Authority, stating therein the sum to be contributed by such Local Authority and requiring such Local Authority within a time limited by the precept to pay the sums mentioned to the Joint Board, or to such person as the Joint Board directs.

Precepts.  
[355.]

PRECEPT.

“The Local Authorities Acts, 1902 to 1920.”

[Name of Joint Local Authority.]

To the Council of the Town [or City or Shire] of  
These are to require you, the Council of the Town [or City or Shire] of  
of from and out of your Town [or City or Shire] Fund, to pay  
on or before the day of , 19 , into the hands of  
A.B., the President of the Joint Board of the [name of Joint Local Authority]  
the sum of , being the amount required for the expenses of such  
Joint Board.

Dated this day of , 19 .

(Signed) C.D., President of the Joint Board.

**383.** The amount so required to be paid in any one year by a component Local Authority shall in no case, whether on the precept of one Joint Board or on the precepts of several Joint Boards, exceed in the whole a sum equivalent to two pence in the pound of the value of the rateable land within so much of the Area of such Local Authority as is comprised in the Area of the Joint Local Authority or Joint Local Authorities.

Limit of  
Rate.  
[356.]

If a Local Authority to which a precept has been addressed as aforesaid refuses or neglects within a reasonable time to pay the sum therein mentioned to the Joint Board, the Joint Board shall report the fact of such neglect or refusal to the Treasurer, and thereupon the payment of such sum, together with all expenses, may be enforced by the Treasurer in the same manner as in the case of any debt due by a Local Authority to the Treasurer in respect of loan moneys advanced under the provisions of “*The Local Works Loans Acts, 1880 to 1899*,”\* or any Act amending or in substitution for those Acts or any of them.

Recovery of  
amount.

The Treasurer shall, after deducting the expenses of recovery, pay to the Joint Board all sums the payment of which has been so enforced by him.

**384.** Save as hereinafter provided every such contribution shall be deemed expenses to be defrayed out of the Local Fund, and shall be paid by the Local Authority accordingly, and the receipt of the President of the Joint Board shall be a good discharge for the amount so paid:

Contribution  
to be  
defrayed out  
of Local  
Fund.  
[357.]

Provided that a Local Authority may, if it thinks fit, out of any Special Health Rate levied under this Act, pay any contribution required to be paid by such Local Authority under a precept

\* 44 Vic. No. 9, 62 Vic. No. 9, and 63 Vic. No. 7. Statutes, pages 2023 et seq.

PART XVI.—  
JOINT ACTION.  
Subdivision  
III.—  
Expenses of  
Joint Boards.

issued by a Joint Board constituted pursuant to section \*nineteen of "*The Health Act of 1900*‡ so far as the amount raised by such Special Health Rate will permit; but any balance of such contribution which such Rate is insufficient to defray shall be defrayed out of the Local Fund.

Rates may be  
increased to  
reimburse  
such  
contribution.  
[358.]

**385.** If a Local Authority has no moneys to the credit of the Local Fund; it shall, or if it has paid out of such Fund the amount required by such precept, it may, for the purpose of reimbursing itself, notwithstanding any limit prescribed by this Act, increase the amount of the next ensuing General Rate levied and collected in its Area, or such part of its Area as is within the Area of the Joint Local Authority, by an amount which, added to any endowment payable under the provisions of any Act upon such increase, will be equivalent to the sum mentioned in the precept.

Works  
executed  
from loan  
moneys.  
[359.]

**386.** The component Local Authorities may provide the cost of a local work executed by a Joint Board out of moneys raised by way of loan; but in such case the proportions of the cost to be defrayed by them respectively shall be agreed upon by them respectively, before the execution of the work, and the component Local Authorities shall severally raise their respective proportions of such sums, and shall pay the amounts so raised to the Joint Board.

Local works  
on loan  
entrusted to  
Joint Board.

All amounts required to be paid from time to time in respect of any such loan shall be so paid by the several component Local Authorities, and such payment may be enforced in the same manner as in the case of other loans advanced to or raised by a Local Authority.

Application  
of penalties.  
[360.]

**387.** All penalties recovered for offences against any By-laws of the Joint Board, or any By-laws in force in the Area relating to any matter under the control of the Joint Board, or for offences against this Act, so far as such offences relate to the Joint Board or the performance of its duties, shall be paid into the Common Fund.

Disposition  
of revenue of  
Joint Boards.  
[361.]

**388.** When any fees or other moneys are received by a Joint Board, the same shall be applied in the first instance towards defraying the expenses of the collection thereof and of the carrying out of the public work or administration of the By-law in respect whereof such fees or moneys were received; and the surplus (if any) shall be divided amongst the component Local Authorities in the same proportions in which such component Local Authorities would under the provisions of this Act be liable to contribute.

Subdivision  
IV.—Joint  
Action in  
other cases.

*Subdivision IV.—Joint Action in Other Cases.*

Contracts in  
matters of  
joint interest.  
[362.]

**389.** A Local Authority may from time to time make contracts with any other Local Authority for the following purposes, that is to say,—

- (a) For the construction, maintenance, or management of local works for the joint use or benefit of the contracting parties;
- (b) For the employment of engineers, surveyors, clerks, or other officers or servants for the joint service of the contracting parties.

\* Reference to section amended by "*The Health Acts Amendment Act of 1917*" (7 Geo. V. No. 13. section 4 (3), Statutes, page 7484, and renumbered pursuant to section 13 of that Act.

‡ 64 Vic. No. 9, Statutes, page 5297.

**390.** (1.) Every boundary road and every boundary bridge, including all proper approaches to such bridge, shall be jointly formed and constructed, and shall be under the joint care and management of the Local Authorities between whose Areas such road, or one side of it, or in the case of a boundary bridge, the river, creek, or watercourse, forms the boundary.

(2.) Any of the Local Authorities may request the other or others to enter into an agreement for the formation, maintenance, or control of any such road or for the construction, maintenance, or control of any such bridge and approaches; and if the Local Authority or Local Authorities so requested shall refuse or neglect within a reasonable time to enter into a reasonable agreement for that purpose, the Local Authority making the request may apply to the Minister to exercise the powers hereby conferred.

(3.) Upon such application the Minister shall give notice to the Local Authority or Local Authorities so refusing or neglecting, and shall consider all such representations as may be made to him by any of the Local Authorities, and may thereupon, by Order published in the *Gazette*, direct that such road or bridge and approaches shall be formed or constructed or maintained or controlled at the joint expense of the Local Authorities, on such terms and conditions as he thinks just, but so that the conditions shall not be more onerous upon the refusing or neglecting Local Authority or Local Authorities than the conditions of the agreement into which it or they was or were requested by the first-mentioned Local Authority to enter.

(4.) Any Order so made and published shall have the same effect as if it were an agreement made between the Local Authorities, and may be rescinded or varied by an agreement made between them or by a subsequent Order of the Minister made and published in like manner.

(5.) If none of the Local Authorities requests the other or others to enter into such an agreement, the Minister may require them so to do, and, in default of their so doing within a reasonable time, may make and publish an Order in the same manner, and which shall have the same effect, as if one of such Local Authorities had made such request and the other or others had refused or neglected to comply with it, except that an Order so made shall not be liable to be rescinded or altered without the consent of the Minister.

(6.) If at any time after the expiration of two months from the publication of any Order made under this section any Local Authority or Local Authorities concerned has or have failed to obey the Order, then the remaining Local Authority or Local Authorities may proceed with and execute the necessary works without reference to the defaulting Local Authority or Local Authorities.

The Minister may, upon request by the constructing Local Authority or Local Authorities, issue a precept upon the defaulting Local Authority or Local Authorities, which precept shall state

\* Subsection 6 substituted for original subsection 6 by section 29 of the amending Act of 1912, and this amendment is to be deemed to have been made on 1st January, 1911, and to this extent this section is to have retrospective operation; and sections 390, 391, and 392 are to be construed accordingly.

PART XVI.—  
JOINT ACTION.

Subdivision  
IV.—Joint  
Action in  
other cases.

Formation  
and control  
of boundary  
roads and  
bridges.

[363.]

PART XVI.—  
JOINT ACTION.  
Subdivision  
IV.—Joint  
Action in  
other cases.

the sum to be contributed, and the person to whom, and the time within which, payment of the amount therein stated shall be made; and payment pursuant to such precept shall be made accordingly.

In default of payment within the time so stated, the Minister may make and levy such Rate upon the ratepayers of the Area concerned as will be sufficient to raise the amount stated in the precept together with the expenses of levy, and for that purpose shall have all the powers conferred by this Act upon the Local Authority in respect of levying, collecting, and enforcing the payment of Rates.

Every such precept shall be based upon the terms and conditions of the Order, and may be issued from time to time during the progress of any works to which the Order relates.

Construction  
&c., of  
bridges on  
main roads.  
[364.]

**391.\*** (1.) Any Local Authority having the construction, care, and management of a bridge, or the Local Authorities having the joint construction, care, and management of a bridge under the last preceding section, for, with the previous approval in writing of the Minister, one of the last-mentioned Local Authorities, may, if the site of such bridge is situated upon a main road, request any Local Authority or Local Authorities through whose Area or Areas the main road passes to enter into an agreement with them for contributing towards the cost of the construction or maintenance of such bridge and approaches thereto. And if the Local Authority or Local Authorities so requested shall refuse or neglect within a reasonable time to enter into a reasonable agreement in accordance with such request, the Local Authority or Local Authorities making the request may apply to the Minister to exercise the powers hereby conferred.

(2.) The Minister shall thereupon proceed in the same manner as prescribed by the last preceding section in the case of boundary roads, and may make the like Order, which shall have the like effect, as in that case, and may be rescinded, altered, or enforced, in like manner.

Repairs of  
main roads.  
[365.]

**392.\*** (1.) Any two Local Authorities having jurisdiction over portions of a main road may, if such portions are in fair repair, request the Local Authority or Local Authorities having jurisdiction over the remainder thereof to put it in fair repair, or to enter into an agreement with them for that purpose. And if the Local Authority or Local Authorities so requested shall refuse or neglect within a reasonable time to enter into a reasonable agreement in accordance with such request, the Local Authorities making the request may apply to the Minister to exercise the powers hereby conferred.

(2.) The Minister shall thereupon proceed in the same manner as prescribed by the last preceding section but one in the case of boundary roads, and may make the like Order, which shall have the like effect, as in that case, and may be rescinded, altered, or enforced, in like manner.

\* See note to section 390.

‡ Words "or, with the previous approval in writing of the Minister, one of the last-mentioned Local Authorities," inserted by section 30 of the amending Act of 1912.

## PART XVII.—GENERAL PROVISIONS.

*Subdivision I.—Exercise of Powers by Government.*

393. The Governor in Council and the Minister, respectively, in exercising any powers conferred by this Act, shall have due regard to the representations of the several Local Authorities which, or the Areas of which, may be affected by the exercise of such powers. But he shall not be bound to wait for any representation of any Local Authority before exercising such powers, or to comply with any such representation. [366.]

394. (1.) The Governor in Council may from time to time make all such Proclamations, Orders, and Regulations as he thinks fit for the further or more effectually, or particularly carrying out the objects and purposes of this Act, and for facilitating proof of any document or matter, and for extending periods of time, and for curing irregularities and substituting new for lost or destroyed documents, and for prescribing the powers and duties of inspectors and other officers of the State appointed for the purposes of this Act, and may by such Regulations prescribe forms and fees, and impose penalties for breach of any of the provisions thereof, not exceeding fifty pounds for any offence. [367.]

†\*(2.) The Governor in Council may, in the same manner and subject to similar penalties for the breach thereof, from time to time make all such Regulations as he thinks fit for prescribing the qualifications required of candidates for employment by any Local Authority in the capacity of engineers, surveyors, or otherwise in the designing, laying-out, or superintendence of any works to be carried out by or on behalf of any Local Authority, and the tests to which such candidates must conform in order to obtain a certificate of competency, and for the appointment of a Board of Examiners of such candidates, and for authorising such Board to grant certificates of competency, and for prescribing the fees payable by such candidates, and for prohibiting the employment, on and after a date to be fixed by such Regulations, by any Local Authority of any candidate who has not obtained the necessary certificate of competency, and who is not on the first day of January, one thousand nine hundred and eleven, actually in the employment, in the same capacity, of such Local Authority.

(3.) Such Proclamations, Orders, and Regulations may be of general application, or refer to certain classes of cases, or to any particular cases.

(4.) The generality of this section shall not be qualified or affected by any provision of this Act giving power to make Proclamations, Orders, or Regulations with regard to any subject-matters in such provision specified.

(5.) All such Proclamations, Orders, and Regulations, when published in the *Gazette*, shall be of the same force and effect as if contained in this Act.

395. (1.) Every Order in Council and Proclamation made under this Act shall be published in the *Gazette*. [368.]

\* Subsection inserted by section 54 of the amending Act of 1910.

PART XVII.—  
GENERAL  
PROVISIONS.  
Subdivision  
I.—  
Exercise of  
Powers by  
Government.

Regard to be  
had to repre-  
sentations  
of Local  
Authorities.

General  
power  
to make  
Regulations.

Publication  
of Orders &c.

PART XVII.—  
GENERAL  
PROVISIONS.  
Subdivision  
I.—  
*Exercise of  
Powers by  
Government.*  
Amending or  
rescinding  
Orders, &c.  
Misnomer,  
&c., not to  
prejudice.

(2.) The Governor in Council may by another Order in Council or Proclamation amend or rescind any Order in Council or Proclamation made under this Act.

(3.) No misnomer or inaccurate description or omission contained in any such Order in Council or Proclamation, shall in anywise prevent or abridge the operation of this Act with respect to the subject of such description, provided the same is designated so as to be understood.

(4.) No Order in Council or Proclamation purporting to be made under this Act, and being within the powers conferred on the Governor in Council, shall be deemed invalid on account of any non-compliance with any of the matters required by this Act as preliminary to the same.

Subdivision  
II.—*Legal  
Proceedings.*  
Appearance  
of Local  
Authorities.  
[369.]

*Subdivision II.—Legal Proceedings.*

396. (1.) The Local Authority may appear before any Court, or in any legal proceedings, by its clerk, or by any officer authorised generally or in respect of any special proceeding by writing under the hand of the Chairman; and the clerk, or any officer so authorised, may institute and carry on any proceeding which the Local Authority is authorised to institute and carry on under this Act.

(2.) The clerk or other officer authorised as last aforesaid shall be reimbursed out of the Local Fund all damages, costs, charges, and expenses to which he may be put, or with which he may become chargeable.

(3.) The chairman or clerk may, in all proceedings under or for the purpose of procuring any adjudication of insolvency against any person against whom the Local Authority has any claim or demand, represent the Local Authority, and act in its behalf in all respects as if such claim or demand had been the claim or demand of such Chairman or clerk.

Actions for  
negligence.  
[370.]

397. (1.) No person shall be entitled to recover against a Local Authority any damages in respect of any injury to the person or to property, alleged to have been sustained by himself or any other person, by reason of the negligence of the Local Authority, unless the following conditions are complied with by him or on his behalf, namely:—

(i.) Notice in writing that injury has been sustained shall be given to the Local Authority within one month, and the action shall be commenced within six months from the date on which the injury was sustained, or, in case of the death of the person injured, within twelve months from the date of death;

(ii.) In the case of injury to the person, the medical officer of the Local Authority (which officer it is empowered to appoint at such remuneration as it thinks fit), shall, on the demand of the Local Authority, be permitted to examine the person injured, and all facilities and information shall be given to him necessary to enable him to fully ascertain the nature and extent of the injury;

- (iii.) In the case of injury to property, an officer of the Local Authority shall, on demand of the Local Authority, be permitted to inspect the property injured, and all facilities and information shall be given to him necessary to enable him to fully ascertain the value of the property injured, the nature and extent of the injury, and the amount of money (if any) expended in repairing the same.

Non-compliance with all or any of the conditions herein imposed shall be no bar to the maintenance of an action if the Judge who tries the action is of opinion that there was reasonable excuse for such non-compliance.

(2.) No person who caused or contributed to the injury by his own negligence shall be entitled to recover any damages against the Local Authority.

(3.) A notice under this section shall give the name and address of the person injured or of the owner of the property injured, and shall state in ordinary language the cause of the injury and the date and place at which it was sustained.

Such notice shall not be deemed invalid by reason of any defect or inaccuracy therein, unless the Judge who tries the action brought in respect of the injury mentioned in the notice is of opinion that the Local Authority is prejudiced in its defence by such defect or inaccuracy, and that the defect or inaccuracy was intentional and for the purpose of misleading.

**398.\*** In any action brought against a Local Authority to recover damages in respect of personal injury under the last preceding section, the Court or jury shall not find or assess nor shall judgment be given or entered for the plaintiff for any amount of money exceeding the amount following, that is to say,—

Limit of  
liability of  
Local  
Authority.  
[370a.]

If the personal injury results in death, one thousand pounds;

If the personal injury results in permanent disablement, one thousand pounds;

If the personal injury results in temporary disablement, five hundred pounds.

**399.** An action other than action for damages under the last preceding section† shall not be brought against a Local Authority, or any member thereof, or any officer of a Local Authority, or person acting in his aid, for anything done or intended or omitted to be done under this Act, until the expiration of one month after notice in writing has been served on such Local Authority, member, officer, or person, clearly stating the cause of action, and the name and place of abode of the intended plaintiff, and of his solicitor or agent.

Notice of  
action.  
[371.]

‡ *Semble* the  
reference is  
to s. 397,  
which was  
the last  
preceding  
section until  
s. 398 was  
inserted, in  
1913.

On the trial of any such action the plaintiff shall not be permitted to go into evidence of any cause of action which is not stated in the notice so served.

Unless such notice is proved, the jury shall find for the defendant.

\* Section inserted by section 23 of the amending Act of 1913, but nothing in the new section is to be construed to take away or prejudicially affect any right or remedy under any cause of action which had arisen at the passing of the Amending Act of 1913—viz., 26th November, 1913.



PART XVII.—  
GENERAL  
PROVISIONS.  
Subdivision  
II.—Legal  
Proceedings.

Except in the case of a registered proprietor of or other person having any estate or interest in land who claims to have been wrongfully deprived of such land or such estate or interest by reason of the sale of such land in pursuance of the provisions of Subdivision VI of †Part XI. of this Act, every such action shall be commenced within six months next after the accruing of the cause of action, and not afterwards, and shall be tried in the circuit, district, or place where the cause of action occurred, and not elsewhere.

Any person to whom any such notice of action is given may tender amends to the plaintiff, his solicitor, or agent at any time within one month after service of the notice, and, in case the same is not accepted, may plead such tender.

Protection of  
Local  
Authority  
and their  
officers from  
personal  
liability.

[372.]

**400.** No matter or thing done, and no contract entered into, by a Local Authority, and no matter or thing done by any officer or other person acting under the direction of a Local Authority, shall, if the matter or thing was done or the contract was entered into *bonâ fide* for the purpose of executing this Act, subject any member of such Local Authority or any such officer or person to any personal liability in respect thereof; any expense incurred by any member, officer, or other person acting as last aforesaid shall be deemed to be an expense authorised by this Act.

\*Nothing in this section shall be construed to relieve any member of a Local Authority from any personal liability incurred by him under †section two hundred and eighty-four, or †section three hundred and eleven, or †section three hundred and twelve of this Act.

Punishment  
of offences.

[373.]

**401.†** (1.) Except as in this Act is expressly provided, any penalty or other moneys payable in respect of any offence against this Act may be recovered in a summary way by complaint before any two justices.

(2.) Except as in this Act is expressly provided, or unless with the consent in writing of the Attorney-General, proceedings for the recovery of any penalty or other moneys payable in respect of any offence against this Act shall be had and taken only by a party aggrieved, or by or on behalf of the Local Authority of the Area in which the offence is committed.

(3.) Except when it is by this Act provided to the contrary, all penalties or other moneys recovered for offences against this Act, committed in or in any way in respect of the Area, shall be paid into the Local Fund.

(4.) Every person guilty of an offence against this Act shall be liable, if no other penalty is imposed, to a penalty not exceeding twenty pounds.

Saving of  
civil remedy.

[374.]

**402.** The institution of criminal proceedings against, or the conviction of a person for any offence against this Act shall not affect any remedy which any other person aggrieved may be entitled to in any civil proceeding.

\* Paragraph inserted by section 55 of the amending Act of 1910.

† As to constitution of Court, see further section 2 of "The Justices Act Amendment Act of 1909" (9 Edw. VII. No. 11), Statutes, page 1192.

PART XVII.—  
GENERAL  
PROVISIONS  
Subdivision  
11.—Legal  
Proceedings.  
No  
abatement.  
[375.]

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

‡ \* \* \* \* \*

404. No judge, justice, or judicial officer shall be disqualified or prevented from presiding, sitting, acting, or adjudicating in any action or proceeding whatsoever in or to which any Local Authority is a party, or is sought to be made a party, by reason only of his being a ratepayer or a person liable to be rated in respect of land within the Area of such Local Authority:

Provided that no appellant at any sitting of a Valuation Court shall be qualified to act as a member of such Court at such sitting.

405. Where jurisdiction is by this Act given to a police magistrate or to justices, he or they may settle the time and manner of executing any work or of doing any other thing, and may put the parties to the case upon such terms as respects the execution of the work, as he or they may think fit:

Provided that, except when otherwise expressly provided, any person shall have the same right of appeal from any decision of a police magistrate or justices in any matter in which jurisdiction is given to him or them by this Act as he would have from any decision of justices in the case of a simple offence or breach of duty under "The Justices Act of 1886,"§ or any Act amending or in substitution for that Act.

406. (1.) If any person made liable by this Act for the payment to the Local Authority of any expenses incurred by it does not, as soon as the same becomes due and payable by him, pay all such expenses to the Local Authority, the Local Authority may recover the same in a summary manner by complaint before any two justices.¶

(2.) The Local Authority may by way of additional remedy, whether any such proceedings have been brought or taken against an owner or not, require the payment of all or any part of the expenses payable by an owner for the time being from the person who then or at any time thereafter occupies the building or land under such owner, and in default of payment thereof by such occupier on demand, the same may be recovered from him in like manner.

(3.) The foregoing provisions shall be in addition to any other remedies which the Local Authority may have for the recovery of such expenses.

407. (1.) In any proceeding instituted by or on behalf of or against a Local Authority under this Act, it shall not be necessary for the plaintiff to prove the corporate name of the Local Authority, its constitution, or the limits of its Area, or the limits of any division. But this section shall not prejudice the right of any defendant to prove such constitution or limits.

‡ Old section 376 repealed by section 56 of the amending Act of 1910.

§ 50 Vic. No. 17, Statutes, page 1132.

¶ As to constitution of Court, see further "The Justices Act Amendment Act of 1908" (9 Edw. VII. No. 11), Statutes, page 1192.

PART XVII.—  
GENERAL  
PROVISIONS.Subdivision  
II.—Legal  
Proceedings.

Appointments  
and  
authority  
of officers  
presumed.

(2.) In any proceeding for an offence against this Act, the due appointment of all officers of the Local Authority, and the authority of any officer to do any act or to institute such proceedings, shall be presumed until the contrary is proved.

Proof of  
By-laws, &c.

(3.) The production of a copy of the *Gazette* containing a notification of the approval or adoption of any By-law or the making of any Regulation shall be sufficient evidence of the due making or adoption of such By-law or Regulation and of the contents thereof until the contrary is proved.

Copy of Roll  
to be  
evidence.

(4.) In any proceeding any printed or written copy purporting to be a copy of the Voters' Roll of an Area, and purporting to be signed by the Returning Officer of such Area, shall be *prima facie* evidence of such Roll and of the contents thereof.

Evidence  
of entries.

(5.) Every entry in any book kept by the clerk, purporting to be an entry relating to the proceedings of a Local Authority, or of a committee thereof, and to be signed by the Chairman, or a certified copy of or an extract from any such entry, sealed with the seal of the Local Authority, and signed by the Chairman and clerk, shall, upon the production thereof alone, be received in any court as evidence of the proceedings appearing by such entry to have been taken, without proof of any meeting to which the same may refer having been duly convened or held, or of the persons attending any such meeting having been or being members of the Local Authority, or members of committee respectively, or of the signatures of the Chairman or clerk, or of the fact of their having been Chairman or clerk respectively; and all such matters shall be presumed until the contrary is proved.

Evidence of  
appointment  
of Deputy  
Chairman.

(6.) A minute made and authenticated in the prescribed manner of the appointment of any person as Deputy Chairman shall, as regards all persons having any business with the Local Authority, and acting in good faith, be deemed conclusive evidence of the validity of the appointment of such person as Deputy Chairman, and of his continued authority to act as such, and shall relieve all persons having business as aforesaid from the necessity of making any inquiries in the matter.

Rate-Books  
to be  
evidence.

(7.) In any proceeding to levy and recover, or consequent on the levying or recovering of, a Rate under this Act or relating to the liability of any person to be rated, the valuation lists and Rate-Book of the Local Authority and all entries purporting to be made therein in manner by this Act directed, sealed with the seal of the Local Authority, or certified copies thereof or extracts therefrom, signed by the Chairman, and sealed with such seal, shall, upon the production thereof alone, be *prima facie* evidence of the contents of such book, and of the due making of such Rate, and of the obligation of the person charged with the Rate to pay the same, without any evidence that the notices required by this Act, or other provisions of this Act, have been given or complied with.

Map.

(8.) In any proceeding the production of any map or plan purporting to be made by the Local Authority, or any officer thereof, under the provisions of this Act, and sealed with the seal of the Local Authority, or purporting to be issued or published by

any Department of the Government, or any officer thereof, shall be sufficient evidence of the matters stated or delineated thereon until the contrary is proved.

(9.) All documents whatever purporting to be issued or written by or under the direction of the Local Authority or the Chairman, and purporting to be signed by the Chairman, clerk, or surveyor, shall be received in evidence in all courts, and shall be deemed to be issued or written by or under the direction of the Local Authority until the contrary is proved. The expression "document" includes all orders, directions, and notices.

(10.) The production in any Court of a certificate of title, memorandum of transfer, or other instrument creating an interest in land, or of a duly certified copy thereof, shall be sufficient evidence that the person named therein as registered proprietor, or as entitled to such interest, is the owner of or person entitled to an interest in such land until the contrary is proved.

(11.) In any question relative to any building, structure, or work, every notice served in pursuance of this Act shall be deemed to be *primâ facie* evidence as against the owner of the nature of the building, structure, or work proposed to be built or done.

(12.) Whenever in any proceeding under this Act it becomes necessary to mention or refer to the owner or occupier of any land or premises, it shall be sufficient to designate him as the "owner" or "occupier" of such land or premises, without name or further description.

**408.** No Rate, order, conviction, or thing, made or done under or in the execution of this Act shall be vacated, quashed, or set aside for want of form, or be removed 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 the Supreme Court, or of any Rate, order, conviction, or thing to which such special case relates.

**409.** No proceedings of the Local Authority or of any committee thereof, or of any person acting as Chairman or member of the Local Authority or of a committee, shall be invalidated by reason of any defect in the appointment or election or of any disqualification of any such person, or by reason of there being any vacancy in the number of members or committee at the time of such proceedings.

#### *Subdivision III.—Miscellaneous Provisions.*

**410.** When any day, or when the last of several days, provided or appointed by or in pursuance of this Act for any purpose in any year happens on a Sunday, or a day which is a public holiday throughout Queensland or in the Area, then such provision and appointment shall take effect as for the next following day which is not a Sunday or a public holiday.

**411.** Every notice, order, summons, or other document under this Act which requires authentication by the Local Authority may be sufficiently authenticated without the seal of the Local Authority if signed by the Chairman or clerk or other authorised officer delivering or transmitting the same.

#### PART XVII.— GENERAL PROVISIONS.

##### *Subdivision II.—Legal Proceedings.*

Documents  
signed by  
chairman.  
&c., to be  
admitted in  
evidence.

Presumption  
against  
registered  
proprietor.

Notice to be  
evidence of  
intended  
works.

Reference to  
"owner" and  
"occupier."

Proceedings  
not to be  
quashed for  
want of form.  
[381.]

Defective  
election, &c.,  
not to  
invalidate  
proceedings.  
[382.]

##### *Subdivision III.— Miscellaneous Provisions.*

Sundays and  
public  
holidays.  
[383.]

Notices, &c.,  
to be signed.  
[384.]

\* Words "of the Local Authority or" inserted by section 57 of the amending Act of 1910.

PART XVII.—  
GENERAL  
PROVISIONS.Subdivision  
III.—  
Miscellaneous  
Provisions.Service of  
notice.

[385.]

**412.** (1.) Any notice, order, process, or other document under this Act required or authorised to be given or served to or upon any person may be served—

- (i.) By delivering the same to such person; or
- (ii.) By leaving the same at his usual or last known place of abode; or
- (iii.) By forwarding the same by post in a prepaid letter addressed to such person at his usual or last known place of abode.

(2.) Any such document, if addressed to the owner or occupier of premises, may be served by delivering the same, or a true copy thereof, to some person on the premises, or, if there is no person on the premises who can be so served, by fixing the same on some conspicuous part of the premises.

(3.) Except as is hereinafter provided, when a notice is required to be given to a person whose name and address are unknown, the notice may be served by publishing it in the *Gazette* and some newspaper three times, at intervals of not less than one week between any two publications.

(4.) Any notice, order, or document required to be given to or served on the owner or occupier of any land or premises may, if the name of the owner or occupier is not known, be addressed to him by the description of the "owner" or "occupier" of the land or premises in question (naming them) without further name or description.

(5.) Any document may be served on a Local Authority—

- (i.) By delivering the same to the clerk; or
- (ii.) By forwarding the same by post in a prepaid letter addressed to the clerk.

(6.) Any document forwarded by post shall be deemed to have been served at the last moment of the day on which the same ought to be delivered at its destination in the ordinary course of post, and in proving service it shall be sufficient to prove that the same was properly stamped and addressed and put into the post.

Absent and  
unknown  
owners.

[386.]

**413.** (1.) If any owner of land rated is absent from Queensland he may be rated or a complaint or summons may be served upon him or notice may be given to him by delivering it or posting it in a registered letter to his agent in Queensland.

(2.) If the name or address of an owner and the name and address of the agent in Queensland of such owner are also unknown, a complaint or summons may be served upon him or notice may be given to him by publishing it once in the *Gazette* and in some newspaper.

(3.) A judgment or order for the payment of any Rates due may be given by any Court against an owner whose name is not known to the Local Authority, under the designation of "the owner" of the land in question without stating his name, on proof by the Chairman or clerk that the name of such owner is unknown, and that service of the complaint or summons was made in manner hereinbefore provided.

**414.** Every Registrar of Titles \*and mining registrar shall permit the clerk or other authorised officer of the Local Authority, free of charge, to make searches of, and to make copies of or extracts from any books, plans, and documents registered in the Registry relating to land in the Area. This section takes effect from the passing of this Act.

PART XVII.—  
GENERAL  
PROVISIONS.  
Subdivision  
III.—  
Miscellaneous  
Provisions.  
Free search  
at Real  
Property  
Office.  
[387.]

**415.** Applications, plans, and other documents delivered at the office of the Local Authority or to any officer thereof in pursuance of this Act shall, on delivery there, become the property of the Local Authority.

Plans and  
documents  
to be  
property of  
Local  
Authority.  
[388.]

†            \*            \*            \*            \*            \*

*Subdivision IV.—Compensation.*

**416.** Except as by this Act is otherwise provided, if any person sustains any damage by reason of the exercise by a Local Authority of any of the powers of this Act, in relation to any matter as to which he is not himself in default, full compensation shall be made to such person by the Local Authority exercising such powers.

Subdivision  
IV.—  
Compensa-  
tion.  
Compensation  
in case of  
damage.  
[390.]

**417.‡** Except as by this Act is otherwise expressly provided, and notwithstanding the provisions of any other Act to the contrary, any compensation payable by a Local Authority to any person by reason of the exercise of any powers conferred by this Act shall be such sum as may be agreed upon by and between the parties, or, as in the case of dispute, may be fixed by a police magistrate upon summons.

Compensation  
payable, how  
to be fixed.  
[391.]

Every police magistrate shall have jurisdiction to hear and determine the matter of such dispute, and to grant such costs as, in his opinion, are just and reasonable.

Any party may appeal to a District Court from the whole or any part of an order of a police magistrate under this section.

Every such appeal shall be by way of rehearing, and shall be heard and determined in the same manner, including the right to a jury, as if the matter of such dispute had been brought before the District Court in the first instance.

Subdivision  
V.—  
Powers for  
Execution  
of Act.  
Entry.  
[392.]

*Subdivision V.—Powers for Execution of Act.*

**418. (1.)** The Local Authority and its officers shall have power to enter at all reasonable times and as often as may be deemed necessary into and upon any land, structure, or premises, for the purpose of examining whether any of the provisions of this Act are being contravened, or of executing any work or making any valuation or inspection authorised to be executed or made under this Act, and generally for the purpose of enforcing the provisions of this Act.

\* Words " and mining registrar " inserted by section 58 of the amending Act of 1910.

‡ Old section 389 repealed by section 59 of the amending Act of 1910.

§ For provision as to determining compensation on the taking of land see " The Public Works Land Resumption Act of 1906 " (6 Edw. VII. No. 14), s. 14 (3), Statutes, page 8220.

## PART XVII.—

GENERAL  
PROVISIONS.  
*Subdivision*V.—  
*Powers for*  
*Execution*  
*of Act.*

If such admission to any land, structure, or premises is refused, any justice, on complaint thereof by any such officer (made after reasonable notice in writing of the intention to make it has been given to the occupier), may, by order under his hand, require the occupier to admit such officer into such land, structure, or premises; and if no occupier can be found, the justice may, on proof of that fact, by order under his hand authorise any such officer to enter such land, structure, or premises.

Any such order made by a justice shall continue in force until the work or valuation or inspection required has been completed.

Any person who refuses to obey an order of a justice for the admission of any such officer shall be liable to a penalty not exceeding five pounds and to a penalty not exceeding twenty shillings for every day during which such order is not complied with.

Gas meters,  
&c.

(2.) Any officer of the Local Authority duly authorised in that behalf may, at all reasonable times, and as often as he thinks necessary, enter upon any premises within the Area for the purpose of examining and testing any meter used in connection with the supply of gas, electricity, or water to such premises.

(3.) The provisions of this section shall be in addition to and not in derogation of any powers of entry for any purpose authorised by the By-laws or Regulations.

Valuer may  
make  
inquiries.

[393.]

**419.** Any valuer may put to the owner, or agent of the owner or any person in occupation or charge of any rateable land which such valuer is authorised to value, any such questions as may be necessary to enable such valuer to state correctly the several particulars by this Act required to be stated in his valuation with regard to the land.

Every such person who, after being informed by the valuer of his purpose in putting such questions, and of his authority under this Act to put the same, refuses or wilfully omits to answer the same to the best of his knowledge and belief, or in reply to any such question makes any answer or statement which, in any material particular, is to his knowledge false, shall be liable to a penalty not exceeding twenty pounds.

Entry by  
owner, &c.,  
to execute  
work.

[394.]

**420.** Any owner, builder, or other person, and his servants, workmen, and agents, may, for the purpose of complying with any notice or order served or made on him in pursuance of this Act in respect of any structure, room, premises, or place, after giving seven days' notice to the occupier thereof, and on production of the notice or order, enter and from time to time without further notice re-enter such structure, room, premises, or place, and do all necessary works and things therein, thereto, or in connection therewith.

Limitation  
of time for  
proceedings  
where notice  
not given.

[395.]

**421.** When any building has been erected or work done without due notice having been given to the surveyor in accordance with this Act, the surveyor may, at any time within one month after he has discovered that such building has been erected or work done, enter the premises for the purpose of seeing that the provisions of this Act, or any notice served or order made under the same, have been complied with.

The time during which the surveyor may take any proceedings, or do anything authorised or required by this Act to be done by

him in respect of such building or work, shall begin to run from the date of the discovering that such building has been erected or work done.

• 422. Whenever default is made by the owner of any structure or land in the execution of any work by this Act required to be executed by him, the occupier of such structure or land may with the approval of the Local Authority cause such work to be executed. In such case and in any case in which any occupier is compelled to do any work or pay any money which ought primarily to be done or paid by the owner, the expense of such work or the money so paid shall be repaid to such occupier by the owner, and such occupier may deduct the amount of such expense or the money so paid out of the rent from time to time becoming due from him to such owner.

PART XVII.—  
GENERAL  
PROVISIONS  
Subdivision  
V.—  
Powers for  
Execution  
of Act.

Occupier  
may act in  
certain cases.  
on default  
of owner.

[396.]

423.\* (1.) Whenever under or pursuant to this Act or any other Act, or any By-law or Regulation in force for the time being, the Local Authority incurs any expenses in or upon or in connection with any land, or for or on behalf of any owner of any land, then, in addition to any other remedies which the Local Authority may have for the recovery of such expenses, the amount thereof shall, until payment, be and remain a charge upon the land, in priority to all mortgages, charges, liens, and encumbrances whatsoever, except Rates due to the Local Authority, and notwithstanding any change that may take place in the ownership thereof.

Expenses to  
be a  
charge.

[396A.]

(2.) Whenever any such moneys have become a charge as aforesaid upon any land, and are in arrear for three years and upwards, it shall be lawful for the Local Authority to serve on the owner and to publish for three consecutive weeks in the *Gazette*, and in three consecutive numbers of a newspaper, a notice specifying the land and the moneys charged thereon, and stating that if the same are not paid within six months from the first publication of such notice the Local Authority will apply by petition to the Supreme Court for a sale of the land:

Provided that if any proprietor, mortgagee, encumbrancee, lessee, or trustee of any land has previously registered himself as such, by notice in writing sent by registered letter, in respect of any land, in the office of the Local Authority a like notice shall be served upon him.

(3.) If after six months from the first publication of such notice any part of the moneys due to the Local Authority at the time of such first publication are still unpaid—

(a) The Local Authority may let the land or any part thereof from year to year or for any term not exceeding seven years, and may receive the rents and profits thereof and apply the same towards the payment of all moneys whatsoever due or accruing due, from time to time, to the Local Authority in respect of the land and the costs and expenses incurred, and hold any surplus in trust for the rightful owner of the land, and for this purpose any tenant of the land shall attorn to the Local Authority; and also

\* Section inserted by section 60 of the amending Act of 1910.



PART XVII.—  
GENERAL  
PROVISIONS.  
Subdivision  
V.—  
Powers for  
Execution  
of Act.

(b) The Local Authority may, by petition to the Supreme Court or a judge thereof, apply for a sale of the land or of so much thereof as is necessary to produce the amount so charged together with all sums since accrued due.

(4.) The Court or judge, on being satisfied by affidavit or otherwise that six months' notice of such petition has been served on the owner, and that any part of the amount claimed in the notice is still due, and that such amount was in arrear at the time of the first publication of such notice, and that all things required by this Act to be done by the Local Authority have been done, shall order the sale of the said land or so much thereof as is sufficient to produce the amount due together with any subsequent sums accrued due to the Local Authority on any account whatsoever in respect of the land up to the time of sale and all costs and expenses of and attending the proceedings and the sale of such land, and that the proceeds be paid into court.

(5.) The Court or judge shall order payment of every amount due to the Local Authority on any account whatsoever to be first made out of the proceeds of sale, and the conveyance or transfer, as the case may be, shall be executed by the Registrar or such other officer of the Court as the Court or judge may direct to the purchaser, in the form approved by the Court or judge.

Such conveyance or transfer shall vest the land sold in the purchaser for an estate in fee-simple free from encumbrance; and in cases where the land is under "*The Real Property Acts, 1861 to 1877*,"\* the purchaser shall be entitled to receive a certificate of title to the land.

The balance, if any, arising from the proceeds of such sale shall be subject to any orders of the Court.

Owners of  
estate less  
than  
fee-simple  
may claim  
contribution  
[396b.]

**424.†** If any owner is entitled to a less estate than an estate in fee-simple in the land, such owner or any persons having any interest in the land may make application in a summary way to a judge of the Supreme Court sitting in Chambers to have the expenses which by this Act are made payable by the owner, or for which he is liable, apportioned between the persons interested in the land.

The judge shall apportion such expenses between such persons in such proportions as, having regard to the nature and extent of their interests, he deems just.

Thereupon such person shall become liable to the owner for the proportions respectively assigned to them, and if the owner has paid such expenses he may recover from each person liable to contribute under the order made by the judge the proportion payable by such person.

Upon the registration of such order with the clerk by lodging a copy thereof, such proportion shall until payment be and remain a charge (with interest at the rate of five pounds per centum per annum) upon such person's share and interest in the land in priority to all mortgages, charges, liens, and encumbrances whatsoever except Rates and expenses as aforesaid.

\* 25 Vic. No. 14 and 41 Vic. No. 18, Statutes, page 2984.

† Section inserted by section 60 of the amending Act of 1910.

A receipt signed by the person in whose favour such charge is made and attested by a justice, bank manager, solicitor, or solicitor's clerk, and lodged at the office of the Local Authority, shall be a sufficient discharge of such charge.

The clerk shall, in a book to be provided by the Local Authority for the purpose, which book shall be open to inspection, keep, without fee, a record of all such copy orders and receipts lodged with him.

In any application under this section, the judge may make such order in regard to the payment of the costs of and incidental to the application as he deems just.

Rules may be made by the judges of the Supreme Court for defining the practice to be followed in making such application; until such rules are made, the practice relating to summary applications in Chambers shall be observed.

**425.** It shall be the duty of every member of the police force who finds any person committing a breach of any of the provisions of this Act to demand from such person his name and place of abode, and to report the fact of such breach and the name and place of abode of such person, as soon as conveniently may be, to the clerk. Duty of police officers. [397.]

Any such person who refuses to state his name and place of abode when required by a member of the police force so to do, or who in the opinion of such officer states a false name or place of abode, may, without any other warrant than this Act, be apprehended by such officer and taken before justices, there to be dealt with according to law.

Any person who refuses to state his name and place of abode, or states a false name or place of abode, shall be liable to a penalty not exceeding ten pounds.

**426.** (1.) Except as is herein otherwise provided, any person who wilfully obstructs, hinders, resists, or in any wise opposes a Local Authority, or any person appointed, employed, or authorised under this Act, or any person appointed by the Governor in Council, or the Minister, in the performance of anything which it or he is respectively empowered or required to do by this Act, shall be liable to a penalty not exceeding twenty pounds, and if the offence is a continuing one to a further penalty not exceeding forty shillings for every day during which the offence continues. Obstructing execution of Act. [398.]

(2.) Any person who wilfully destroys, pulls down, injures, or defaces any board on which any By-law, Regulation, notice, order, or other matter is inscribed, shall, if the same was put up by authority of the Local Authority, be liable to a penalty not exceeding five pounds.

(3.) If the occupier of any premises prevents the owner thereof from obeying or carrying into effect any of the provisions of this Act, any justice to whom application is made in that behalf shall, by order in writing, require such occupier to permit the execution of any works required to be executed, provided that the same appear to such justice to be necessary for the purpose of obeying or carrying into effect the provisions of this Act; and if within forty-eight hours after the making of the order such occupier fails to comply therewith, he shall be liable to a penalty not exceeding five pounds for every day during the continuance of such non-compliance.

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PROVISIONS.Subdivision  
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Execution  
of Act.

Every such owner, during the continuance of such refusal, shall be discharged from any penalties to which he might otherwise have become liable by reason of his default in carrying into effect any provisions of this Act.

(4.) Any occupier of any premises who, when requested by or on behalf of the Local Authority to state the name of the owner of such premises, refuses or wilfully omits to disclose, or wilfully misstates the name, shall be liable to a penalty not exceeding five pounds.

Subdivision  
VI.—Application  
to Joint  
Local  
Authorities.

This Part  
applies to  
Joint Local  
Authorities.

[399.]

*Subdivision VI.—Application to Joint Local Authorities.*

**427.** The provisions of this Part of this Act apply to every Joint Local Authority and its proceedings, and to the President, members, and officers thereof, and to the Common Fund thereof, in like manner and to the same extent as if they were specifically mentioned and referred to therein.

## FIRST SCHEDULE.

FIRST  
SCHEDULE.  
[Section 4.]

Date of Act.	Title of Act.	Extent of Repeal.
5 Wm. IV. No. 13 ..	An Act for Protecting Public Wharves, Piers, Quays, and Jetties	The whole, so far as relates to Works under the control of a Local Authority.
6 Wm. IV. No. 4 ..	An Act for Abating the Nuisance occasioned by Dogs in the Streets of certain Towns and on Highways in New South Wales	The whole.
2 Vic. No. 2 ..	An Act for regulating the Police in the Towns of Parramatta, Windsor, Maitland, Bathurst, and other Towns respectively, and for removing and preventing Nuisances and Obstructions, and for the better Alignment of Streets therein	Sections 12 to 21, both inclusive, and 23 to 41, both inclusive, so far as they relate to the Area of a Local Authority, and sections 43 to 55, both inclusive.
4 Vic. No. 17 ..	An Act for the further and better Regulation and Government of Seamen within the Colony of New South Wales and its Dependencies, and for establishing a Water Police	Section 27.
14 Vic. No. 23 ..	An Act to amend the Law for regulating places of Public Exhibition and Entertainment	The whole.
16 Vic. No. 23 ..	An Act to prevent Cattle being driven through populous Towns and Places except within certain hours.	The whole.
16 Vic. No. 44 ..	An Act to Facilitate and Encourage the Destruction of Native Dogs	The whole.
17 Vic. No. 36 ..	An Act to amend the Laws relating to the engagement, discharge, and desertion of Seamen, and for the regulation of Seamen's Lodging-houses, and for the better management of the Water Police Department	Section 45.
19 Vic. No. 24 ..	An Act to make Further Police Regulations for the City, Port, and Hamlets of Sydney and other Towns and Places in the Colony of New South Wales	Section 21, so far as relates to the Area of a Local Authority.
25 Vic. No. 10 ..	The Streets Closing Act of 1861 ..	The whole.
27 Vic. No. 7 ..	" <i>The Bathurst Burr Act</i> " .. ..	The whole.
27 Vic. No. 22 ..	" <i>Impounding Act of 1863</i> " ..	The whole.
28 Vic. No. 19 ..	" <i>Enclosure of Roads Act of 1864</i> " ..	The whole.

## FIRST SCHEDULE—continued.

FIRST  
SCHEDULE.

Date of Act.	Title of Act.	Extent of Repeal.
29 Vic. No. 15 ..	" <i>Cemetery Act, 1865</i> " .. ..	The whole, so far as relates to cemeteries under the control of Local Authorities.
29 Vic. No. 16 ..	" <i>Impounding Act of 1863 Amendment Act</i> "	The whole.
*30 Vic. No. 22 ..	" <i>The Carriers Act of 1866</i> " .. ..	Sections 8 to 13, both inclusive.
31 Vic. No. 8 ..	" <i>Impounding Act of 1863 Further Amendment Act</i> "	The whole.
41 Vic. No. 3 ..	" <i>The Navigation Act of 1876</i> " ..	So much of section 93 as relates to regulations for the granting and issuing of licenses to watermen carrying on the business of ferrymen at ferries under the control of the Council.
42 Vic. No. 8 ..	" <i>The Local Government Act of 1878</i> " ..	The whole.
43 Vic. No. 2 ..	" <i>Impounding Act Amendment Act</i> " ..	The whole.
44 Vic. No. 6 ..	An Act to Amend the Law relating to Endowments to Municipalities and Divisions	The whole.
45 Vic. No. 7 ..	" <i>The Local Government Act Amendment Act of 1881</i> " ..	The whole.
48 Vic. No. 6 ..	" <i>The Divisional Boards Endowments Act of 1884</i> " ..	The whole.
48 Vic. No. 15 ..	" <i>The Local Authorities By-laws Act of 1884</i> " ..	The whole.
48 Vic. No. 17 ..	" <i>The Health Act of 1884</i> " .. ..	The whole remaining unrepealed.
50 Vic. No. 16 ..	" <i>The Local Authorities (Joint Action) Act of 1886</i> " ..	The whole.
50 Vic. No. 21 ..	" <i>The Health Act Amendment Act of 1886</i> " ..	Part II.
50 Vic. No. 23 ..	" <i>The Local Government Act Amendment Act of 1886</i> " ..	The whole.
51 Vic. No. 7 ..	" <i>The Divisional Boards Act of 1887</i> " ..	The whole.
51 Vic. No. 8 ..	" <i>The Local Government Act of 1878 Amendment Act of 1887</i> " ..	The whole.
53 Vic. No. 19 ..	" <i>The Local Government Acts Amendment Act of 1889</i> " ..	The whole.
54 Vic. No. 23 ..	An Act to Amend the Provisions of the Local Government Acts relating to Endowment.	The whole.
54 Vic. No. 24 ..	" <i>The Valuation and Rating Act of 1890</i> " ..	The whole.
56 Vic. No. 26 ..	" <i>The Harbour Boards Act, 1892</i> " ..	Section 104, subsections 11, 13, 14, 16, 17, 18, and 19, so far as the same relate to ferries under the control of the Council and watermen carrying on the business of ferrymen at ferries under the control of the Council.
156 Vic. No. 33 ..	" <i>The Steam Rollers Regulation Act of 1892</i> " ..	Section 6.
64 Vic. No. 10 ..	" <i>The Health Act Amendment Act of 1900</i> " ..	The whole.
1 Edw. VII. No. 27	" <i>The Local Authorities Act of 1901</i> " ..	Sections 3, 4, 5, 6, 7, 10, and 11.

\* Sections 4, 6, 7, and 14 to 17 also repealed by section 33 of the amending Act of 1912.

‡ Subsections 1 and 2 of section 4 repealed and subsection 6 of section 4 amended by section 34 of the amending Act of 1912.

SECOND  
SCHEDULE.  
[Section 6.]

## SECOND SCHEDULE.

- \*18 Vic. No. 33 .. "The Public Parks Act of 1854."  
 27 Vic. No. 20 .. "The City of Brisbane Town Hall Act, 1863."  
 †33 Vic. No. 2 .. "The Trustees of Public Lands Act of 1869."  
 \*39 Vic. No. 4 .. "The Brisbane Drainage Act of 1875."  
 \*39 Vic. .. "The Rockhampton Waterworks Act of 1875."  
 41 Vic. No. 3 .. "The Navigation Act of 1876."  
 44 Vic. No. 9 .. "The Local Works Loans Act of 1880."  
 46 Vic. No. 5 .. "The Sale to Local Authorities Land Act of 1882."  
 46 Vic. No. 10 .. "The Tramways Act of 1882."  
 46 Vic. .. "The Brisbane Town Hall Act of 1882."  
 48 Vic. .. "The Maryborough Town Hall Act of 1884."  
 50 Vic. No. 21 .. "The Health Act Amendment Act of 1886."  
 \*53 Vic. No. 9 .. "The Brisbane Water Supply Act of 1889."  
 ‡53 Vic. No. 15 .. "The Granville and Burnett Bridges Act of 1889."  
 54 Vic. No. 16 .. "The Tramways Act of 1882 Amendment Act of 1890."  
 54 Vic. No. 18 .. "The Local Works Loans Act Amendment Act of 1890."  
 55 Vic. No. 11 .. "The Water Authorities Act of 1891."  
 \*55 Vic. No. 34 .. "The Irrigation Act of 1891."  
 56 Vic. No. 22 .. "The Fitzroy Bridge Loan Act of 1892."  
 56 Vic. No. 26 .. "The Harbour Boards Act, 1892."  
 †56 Vic. No. 33 .. "The Steam Rollers Regulation Act of 1892."  
 57 Vic. No. 13 .. "The Brisbane Municipal Loan Act of 1893."  
 58 Vic. No. 22 .. "The Musgrave Wharf Extension Act of 1894."  
 \*59 Vic. No. 34 .. "The Brisbane Traffic Act of 1895."  
 \*60 Vic. No. 1 .. "The Diseases in Stock Act of 1896."  
 60 Vic. No. 7 .. "The Musgrave Wharf Extension Act Amendment Act of 1896."  
 60 Vic. No. 16 .. "The Statistical Returns Act of 1896."  
 \*60 Vic. No. 20 .. "The Brisbane Traffic Act Amendment Act of 1896."  
 60 Vic. No. 24 .. "The Electric Light and Power Act, 1896."  
 60 Vic. No. 27 .. "The Brisbane Municipal Loan Act of 1896."  
 61 Vic. No. 11 .. "The South Brisbane Municipal Loan Act of 1897."  
 61 Vic. No. 15 .. "The Victoria Bridge Act of 1897."  
 61 Vic. No. 19 .. "The Mareeba to Chillagoe Railway Act of 1897."  
 61 Vic. No. 22 .. "The Lamington Bridge Act of 1897."  
 62 Vic. No. 9 .. "The Local Works Loans Acts Amendment Act of 1898."  
 62 Vic. No. 12 .. "The Victoria Bridge Act Amendment Act of 1898."  
 62 Vic. .. "The Toowoomba Town Hall Act of 1898."  
 63 Vic. No. 7 .. "The Local Works Loans Acts Amendment Act of 1899."  
 63 Vic. No. 9 .. "The Criminal Code."  
 64 Vic. No. 9 .. "The Health Act of 1900."  
 \*64 Vic. No. 19 .. "The Albert River, Burketown, and Lilydale Tramway Act of 1900."  
 64 Vic. No. 22 .. "The Mount Garnet Freehold Mining Company's Railway Act of 1900."  
 64 Vic. No. 32 .. "The Brisbane Municipal Loan Act of 1900."  
 \*1 Edw. VII. No. 16 "The Port Norman, Normanton, and Cloncurry Railway Act of 1901."  
 1 Edw. VII. No. 19 "The South Brisbane Municipal Loan Act of 1901."  
 1 Edw. VII. No. 26 "The Animals Protection Act of 1901."  
 1 Edw. VII. No. 27 "The Local Authorities Act of 1901."

THIRD  
SCHEDULE.  
[Section 22.]

## ||THIRD SCHEDULE.

## RULES FOR THE CONDUCT OF ELECTIONS.

1. In these Rules "Presiding Officer" means the Returning Officer or other person duly appointed to preside and take the poll at any polling-place at an election under this Act, or the substitute duly appointed of either.
2. At every election the clerk shall by virtue of his office be the Returning Officer.

Returning  
officer.

\* Repealed.

‡ Section 18 amended by section 27 (2) of the amending Act of 1912.

§ Amended by section 34 of the amending Act of 1912.

|| New Schedule substituted for original Schedule by section 22 (xxv.) of the amending Act of 1920.

3. The clerk and every person appointed a deputy returning officer, presiding officer, or poll clerk shall, before he enters on the duties of his office, in connection with an election, make and subscribe a solemn declaration before some justice in the prescribed form.

THIRD  
SCHEDULE.  
Returning  
officers, &c.,  
to make  
declaration.

And such justice shall transmit the declaration so made by the first convenient opportunity to the Local Authority.

4. (1.) For the purposes of every election, the Returning Officer shall from time to time appoint and cancel polling-places, but so that if the Area is divided there shall be always one polling-place at the least in every division for which the election is held:

Provided that no such appointment shall be valid unless it is made three clear days, and no such cancellation shall be valid unless it is made six clear days, before the day of nomination for the election.

(2.) No polling-place shall be appointed in a house or place licensed or registered for the sale of fermented or spirituous liquors.

(3.) A polling-place may be appointed outside of the Area or division for which the election is held.

5. The Voters' Roll, with all corrections and erasures thereof or therefrom made pursuant to this Act, shall be the roll of electors entitled to vote in the Area or division at all elections and shall, except as by this section is provided, be conclusive evidence of the title of every person therein named to vote:

Provided as follows:—

- (a) No female elector shall be disqualified from voting under the name appearing on such roll merely because she has changed her surname upon marriage;
- (b) Any person whose name appears on such roll at the time of an election and who is then subject to any of the disqualifications mentioned in section eleven of the Elections Act shall be disqualified from voting;
- (c) Any elector who claims to vote, if still resident in an Area or division, as the case may be, shall be entitled to vote notwithstanding that he has changed his place of residence to another in the same Area or division.
- (d) When any person claims a vote at an election and it is found that, in consequence of mistaken identity and through no fault of himself, his name has been erased from the Voters' Roll for that Area or division, as the case may be, such person, upon making a statutory declaration that he is the person whose name has been wrongly erased, shall be permitted to vote.

6. The returning officer shall give public notice of such election by advertisement in some newspaper.

The notice shall specify a day, not less than ten nor more than twenty-one days after the publication of the notice of election as the day of nomination, and a day not less than seven nor more than twenty-eight days after the day of nomination as the day on which the poll shall be taken, and shall require the candidates at such election to be nominated in manner hereinafter mentioned at some place within the Area to be named in the notice:

Provided that if the office of the Local Authority is situated outside the Area such office may be named as the place of nomination.

7. (1.) In order that a person may be or become a candidate at an election, he must be nominated by not less than six electors of the Area, or division, as the case may be, entitled to vote, in manner following, that is to say:— Before noon on the day of nomination there shall be delivered to the returning officer, at the place appointed by the notice, who shall if required give a receipt for the same, a nomination paper naming such person as a candidate at such election, and signed by the persons nominating him, in the following form:—

We, the undersigned electors of the Town [or City or Shire] [or of Ward No. \_\_\_\_\_ of the Town (or City) or Division No. \_\_\_\_\_ of the Shire] of \_\_\_\_\_ hereby nominate [stating christian and surname] \_\_\_\_\_ of \_\_\_\_\_ for the office of Chairman [or member] of the Council of the said Town [or City or Shire or of the said Ward or Division, as the case may be] [in the case of an extraordinary vacancy, add, in the place of A.B., deceased, or as the case may be].

Dated the \_\_\_\_\_ day of \_\_\_\_\_, 19 \_\_\_\_\_.

[Here are to follow the Signatures.]

THIRD  
SCHEDULE.

(2.) No. person who is not so nominated shall be or be deemed to be a candidate at the election:

Provided that no nomination paper shall be rejected for any mere formal defect or error therein, if the returning officer is satisfied that the provisions of this Act have been substantially complied with.

(3.) If the returning officer is satisfied that the provisions of this Act with respect to a nomination paper have been substantially complied with, he shall make and sign at the foot of the nomination paper a certificate in the form following, or to the like effect:—

Certificate of returning officer. I, the undersigned Returning Officer at and for the abovenamed Election, do hereby certify that I received this nomination at [name of place where received], this day of , 19 and that the provisions of "The Local Authorities Acts, 1902 to 1920," with respect to it have been complied with.  
(SIGNED) A.B.,  
Returning Officer.

But no such certificate shall be construed to qualify any person to be a candidate or to sign the nomination paper who is not qualified to be a candidate or to sign the same, or to validate any signature thereto which is false or forged.

Returning officer to post names of candidates. 8. The returning officer shall at all times, between the hours of nine o'clock in the forenoon and four o'clock in the afternoon upon each day between the giving of the public notice of an election and the day of nomination named therein, keep posted, outside the place of nomination, the names of all persons who have already become candidates at such election.

Nomination of incapacitated persons. 9. Every person who—  
(i.) Procures himself to be nominated as a candidate for the office of Chairman or member knowing himself to be under the provisions of this Act incapable of being or continuing Chairman or a member; or  
(ii.) Knowingly signs a nomination paper nominating or purporting to nominate as a candidate for such office a person incapable of being or continuing Chairman or a member; or  
(iii.) Knowing that he is not an elector, signs a nomination paper nominating or purporting to nominate any person as a candidate at such election;  
shall for every such offence be liable to a penalty not exceeding fifty pounds.

Result if only number to be elected nominated. 10. If the number of persons who are duly nominated as candidates at any election does not exceed the number to be elected, the returning officer shall, on the day of nomination or as soon thereafter as is practicable, publicly notify, by advertisement in some newspaper, the name or names of the candidate or candidates who has or have been duly elected.

Result if more nominated than to be elected. 11. (1.) If the number of persons who are duly nominated as candidates exceeds the number to be elected, then for deciding between such candidates a poll shall be taken in manner hereinafter provided.  
(2.) The returning officer shall—

- (a) Forthwith post in some conspicuous position at the place of nomination the names of the persons who have been duly nominated as candidates, and that a poll will be so taken; and
- (b) Publish an announcement to the like effect in some newspaper.

Time may be extended in Shires. 12. The time by this Act prescribed for the length of the notice to be given of the day of nomination or of the day for taking the poll may be extended by the Governor in Council with respect to any Shire, or any election for any Shire or division. Every such extension shall be notified by the Minister in the *Gazette*.

Governor in Council may appoint chairman or members when none elected. 13. If at the time prescribed or appointed for holding an election—  
(a) No election is held, or  
(b) No candidates are nominated, or  
(c) The number of candidates nominated is less than the number of candidates to be elected,

the Governor in Council may appoint an elector or a sufficient number of such electors to be Chairman or a member or members, as the case may require, to fill the vacancies which ought to be filled at such election, and the elector or electors so appointed shall be deemed to have been duly elected at such election.

14. If after a poll has been appointed to be taken a candidate desires to retire from his candidature, he may, not less\* than seventy-two hours after the hour of noon on the day of nomination, sign and deliver to the returning officer a notice in the following form or to the like effect:—

I, [A.B.] do hereby retire from being a candidate for election at the ensuing election of Chairman [or members] for the Town [or City or Shire] [or Ward of the Town (or City) or Division of the Shire] of

Dated this                      day of                      , 19                      (Signed)                      A.B.

Witness—  
C.D.

THIRD  
SCHEDULE.  
Candidate  
may retire.  
\*See in  
Gazette;  
semble should  
be "later."  
see "Elections  
Act of 1915,"  
s 46 (1).

The returning officer, on receipt of such notice, shall omit the name of the person so retiring from the ballot-papers to be used at the election; or if any of such papers have been printed, shall erase his name therefrom, and shall make known as publicly as possible, by advertisement or otherwise, the fact of his retirement.

The person so retiring shall not be capable of being elected at the election, and if the number of candidates is by his retirement reduced to the number to be elected at the election, then the returning officer shall, as soon as conveniently may be, declare the remaining candidate or candidates to be duly elected.

15. At an election the returning officer shall—

- (i.) Cause booths to be erected or rooms to be provided and used as such booths at the several polling-places;
- (ii.) Cause to be furnished for use at each booth or polling-place a copy of the Voters' Roll, certified under his hand to be a true copy.

Polling-  
booths, &c.

16. (1.) The returning officer may preside at one polling-place, and shall by writing under his hand appoint presiding officers to take the poll at the polling-places, or at the polling-places other than the polling-place at which he himself presides, and shall supply a copy of the Voters' Roll, certified by him under his hand, to each presiding officer.

Presiding  
officers.

(2.) When a larger number of voters is likely to vote at a polling-place than can conveniently vote in the same polling-booth, the returning officer may appoint two or more polling-booths at that polling-place, and shall in such case appoint presiding officers to take the poll at the polling-booths, or the polling-booths other than the polling-booth at which he himself presides.

Several  
polling-  
booths at  
same polling-  
place.

All provisions relating to presiding officers shall apply to presiding officers presiding at such polling-booths.

(3.) The returning officer, and each presiding officer with the approval of the returning officer, may in like manner appoint one or more persons to be a poll clerk or poll clerks to assist him in taking the poll.

Poll clerks.

(4.) If the returning officer or a presiding officer is prevented from attending to any of his duties by illness or other sufficient cause, he may, by writing under his hand, appoint a substitute to act for him. And the substitute shall thereupon for the time being have all the power and authority of and be deemed to be the returning officer or such presiding officer.

Substitutes  
for presiding  
officers.

(5.) If by reason of the absence of the presiding officer the poll is not taken at any polling-place, the election shall not be therefore void, but it shall be lawful for the returning officer to appoint another day not later than thirty-six days from the day appointed for taking the poll at such polling-place, of which appointment due notice shall be publicly given, and the poll shall be taken accordingly and be deemed to have been taken on the day first appointed.

Absence of  
presiding  
officer not to  
invalidate  
election.

(6.) If after a poll stands appointed for any election it happens that from any cause other than the absence of the presiding officer, no such election takes place on the day appointed for the same, either at all the polling-places or any polling-place, the election shall stand adjourned until the same day of the following week, and the returning officer shall give not less than three days' previous notice thereof by advertisement in some newspaper, or by placards affixed in public places in the Area or division. In any such case the members, if any, who would on the day appointed for the election have retired from office by rotation shall continue in office until the day to which such election or the polling at any booth for the same stands adjourned.

Adjournment  
election on  
day  
appointed.

(7.) No person shall be appointed to act as presiding officer, or as substitute for the returning officer or a presiding officer, or as poll clerk, who is under the age of twenty-one years.



THIRD SCHEDULE. Proceedings in case of riot or violence.

17. (1.) If the proceedings at any election are interrupted or obstructed by any riot or open violence, the presiding officer shall not for such cause finally close the poll, but shall—

- (a) Adjourn the poll at the particular polling-place at which the interruption or obstruction happens, to the following day; and
(b) If necessary further adjourn such poll from day to day until the interruption or obstruction has ceased;

when the presiding officer shall again proceed with the business of taking the poll at the place at which it was so interrupted or obstructed.

(2.) Any day whereto the poll is so finally adjourned shall, as to such place, be reckoned the day of polling at such election within the meaning of this Act.

(3.) When any poll has been so adjourned by any presiding officer other than the returning officer he shall forthwith give notice of such adjournment to the returning officer, who shall not finally declare the state of the poll or the name of the member elected until the poll has been finally closed and the ballot-papers have been examined and counted by him as hereinafter provided.

Ballot-papers to be printed and furnished.

18. (1.) Forthwith after a poll stands appointed for an election, the returning officer shall cause to be printed or written ballot papers containing the candidates' names in alphabetical order according to the following form—

- DOE, JOHN
ROE, RICHARD
SMITH, JAMES
THOMPSON, HENRY

and shall supply to the presiding officer of each polling-place so many of such ballot-papers as are fully equal to the number of electors likely to vote at such polling-place, and shall keep for himself a like sufficient number for the polling-place at which he is to preside.

(2.) If two candidates have the same surname and christian name, the residence and description of each candidate shall be added to his name on the ballot-paper.

(3.) Each ballot-paper—

- (a) Shall bear in the right-hand upper corner of the face thereof a number which shall be machine-printed or otherwise legibly marked thereon; and
(b) Shall be so numbered in regular arithmetical sequence beginning with 1, so that no two or more of them shall bear the same number.

Such number is hereinafter referred to as the ballot-number.

Duration of poll.

19. At every poll the voting shall commence at eight o'clock in the forenoon and shall finally close at six o'clock in the afternoon of the same day, unless adjourned by reason of riot or other interruption.

Scrutineers.

20. Each candidate may, by writing under his hand, appoint one person to be his scrutineer at each booth or polling-place; and every person so appointed a scrutineer shall, upon his appointment, make and subscribe a solemn declaration, in the presence of the presiding officer in the following form:—

I, A.B., a scrutineer appointed by [Name], a candidate for election in and for the Town [or City or Shire] [or Ward of the Town (or City) or Division of the Shire], of [Name] do hereby solemnly declare that I will faithfully assist at such election, and that I will not attempt to improperly discover, or by any word or action directly or indirectly aid in discovering, the person for whom any vote is given; and that I will keep secret all knowledge of the person for whom any vote is given, which I may obtain in the exercise of my office, unless in answer to any question which I am legally bound to answer.

Declared before me this day of 19 A.B. Returning Officer or Presiding Officer.

Presiding officer to provide ballot box and papers.

21. The presiding officer shall provide a locked box, of which he shall keep the key, with a cleft or opening in such box capable of receiving the folded ballot-papers.

This box shall be open to be inspected by the poll clerks, candidates, and scrutineers previously to its being locked for receiving the ballot-papers, and shall stand upon the table at which the presiding officer presides.

22. (1.) At every booth there shall be a compartment or compartments provided with all necessary materials to enable the electors to mark the ballot-papers.

No person shall be entitled to be present in such booth other than the presiding officer, the poll clerk, the candidates, and the scrutineers of the several candidates, and the electors who for the time are voting.

(2.) The presiding officer or poll clerk may summon to his assistance in such booth any member of the police force for the purpose of preserving the public peace or preventing any breach thereof, and for removing out of such booth any person who in his opinion is obstructing the polling or wilfully violating this Act.

23. (1.) At every election the presiding officer may, if he thinks fit, and shall, if called upon so to do by any candidate or scrutineer, put to any person offering to vote the three questions following:—

1. Are you the person whose name appears as A.B. in the Voters' Roll for this Town [or City or Shire or Ward or division]?
2. Have you already voted at this election [for this Ward or division]?
3. Are you disqualified from voting?

(2.) No person required to answer such questions, or any of them, shall be permitted to vote until he has answered the same in writing signed by him to the satisfaction of the presiding officer, and in such a manner as to show that he is entitled to vote.

(3.) If any person having been required to answer all or any of the questions hereinbefore prescribed makes a false answer in any material particular and thereafter votes, his vote may be disallowed upon a scrutiny.

24. The presiding officer may if he thinks fit, and shall, if called upon so to do by any candidate or scrutineer, require any person claiming to vote to make a solemn declaration against bribery in the form following, that is to say—

I [A.B.] do solemnly declare that I have not received or had, by myself or any person whatsoever in trust for me or for my use and benefit or for the use and benefit of any member of my family or kindred or any friend or dependent, directly or indirectly, any sum or sums of money, office, place of emolument, gift, or reward, or any promise of or security for any money, office, place of emolument, gift, or reward, by way of consideration, either expressed, implied, or understood for giving my vote at this election.

No person who refuses to make such declaration shall be entitled to vote.

25. No elector shall at any election be required to answer any questions or to take any oath, affirmation, or declaration, except as herein provided.

No person claiming to vote at any election shall be excluded from voting except by reason of its appearing to the presiding officer, upon putting the prescribed questions or any of them, that he is not the person whose name appears on the Voters' Roll, or that he has previously voted at the same election, or that he is otherwise not entitled to vote, or except by reason of such person refusing to answer any of such questions or to make any prescribed declaration.

26. (1.) When an elector has satisfied the presiding officer that he is entitled to vote at the election the presiding officer shall deliver to him a ballot-paper.

(2.) The presiding officer shall, before delivery of the ballot-paper to the elector—

- (a) Fold down the right-hand upper corner of the paper so as to entirely conceal the ballot-number; and
- (b) Securely fasten the fold with gum or otherwise in such a manner that the number cannot be discovered without unfastening the fold.

(3.) Any returning officer or presiding officer who fails to comply with this section shall be deemed to have been guilty of wilful neglect of duty.

27. (1.) Upon delivery of the ballot-paper to the elector, the presiding officer or poll clerk shall, upon the copy of the Voters' Roll in use by him, or, in the case of a presiding officer other than the returning officer, upon the certified copy of the Voters' Roll supplied to him by the returning officer, write the ballot-number of such ballot-paper against the name of the elector.

(2.) The presiding officer or poll clerk shall use ink or pencil of uniform colour in writing the ballot-number on the roll.

THIRD  
SCHEDULE.  
Returning  
officer to  
provide a  
ballot-room.

Questions to  
be put to  
voter.

Consequence  
of answers.

Declaration  
against  
bribery.

No other  
question or  
declaration  
necessary.

Ballot-papers  
to be given  
to electors.

And number  
to be  
concealed.

Elector's  
name to be  
marked on  
roll.

THIRD  
SCHEDULE.

(3.) The ballot-number so written on the roll shall be *prima facie* evidence of the identity of the person to whom the ballot-paper is delivered with the elector against whose name on the roll it is so written, and of the fact that such elector voted at the election.

(4.) The ballot-number written against the name of an elector on the roll shall, upon a scrutiny, be conclusive evidence that the ballot-paper bearing the same ballot-number was delivered to and used by the person who claimed to vote as the person against whose name such number is written in the roll.

Mode of  
voting.

28. (1.) The elector having received a ballot-paper shall, in one of the compartments provided for the purpose, mark his ballot-paper by making a cross in the square opposite the name of each candidate for whom he votes and shall make no other mark or writing thereon, and shall forthwith fold up the paper in such manner as will conceal the names of the candidates, and deposit it in the ballot-box in the presence of the presiding officer.

(2.) While an elector is in a compartment preparing his ballot-paper no other person shall be allowed in such compartment:

Provided that if any elector is unable to read, or is blind, he shall signify the fact to the presiding officer, who shall thereupon, in the booth, and in the presence and sight of the poll clerks, candidates, and scrutineers, mark the ballot-paper by making a cross in the square opposite the name of each candidate for whom the elector says that he desires to vote; and the presiding officer shall, if requested by the elector, state the names of the candidates.

(3.) No elector shall take out of the booth any ballot-paper either before or after the same has been so marked:

Provided that, before the elector has deposited the original ballot-paper issued to him in the ballot-box, the presiding officer may, if he thinks fit, issue a second or duplicate ballot-paper to such elector in substitution for the original ballot-paper if the original ballot-paper has been accidentally defaced.

But the elector shall first make a declaration before the presiding officer that the original ballot-paper has been so accidentally defaced and that he has not already voted at the election, and shall deliver to the presiding officer the original ballot-paper.

The presiding officer shall, before the issue of the second or duplicate ballot-paper, securely fasten the original ballot-paper by means of gum or otherwise to the declaration, and shall set the same aside for separate custody.

Duty of  
returning  
officer when  
a second vote  
is tendered  
for one  
name.

29. (1.) If at any booth a ballot-paper has been delivered to any person who has claimed to vote as an elector, and afterwards another person claims to vote at such booth as being the person in whose name such first-mentioned person received the ballot-paper, the presiding officer shall put to the person so secondly claiming to vote the prescribed questions, and such person and such ballot-paper shall be dealt with in all respects in the same manner as any other person claiming to vote, but his ballot-paper shall not be deposited in the ballot-box or allowed by the presiding officer, but shall be set aside for separate custody.

(2.) Every such ballot-paper shall be dealt with as hereinafter provided, and may be allowed and counted by order of the Supreme Court or a Judge thereof on a scrutiny, but not otherwise.

Compulsory  
voting.

30. (1.) It shall be the duty of every elector to record his vote at every election held for the Area or division, as the case may be, on the Voters' Roll of which he is enrolled.

(2.) It shall be the duty of the returning officer at the close of every election to compile a list of the names and descriptions, as appear by the Voters' Roll, of the electors who have not voted at the election for which he is the returning officer, and to certify such list by statutory declaration under his hand.

Such list so certified shall in all proceedings be *prima facie* evidence of the contents thereof and of the fact that the electors whose names appear therein did not vote at the said election.

(3.) Within seven days after the close of the said election the returning officer shall send by post to each elector whose name appears on such list, at the address therein mentioned, a notice in the prescribed form.

The returning officer, before sending such notice, shall insert therein the name of the elector, and his number on the Voters' Roll, and a date on which such notice is to be in the hands of the returning officer.

THIRD  
SCHEDULE.

(4.) Every elector to whom such notice has been sent shall on the prescribed form at the foot of the said notice state the true reason why he failed so to vote, and sign the same, and post the same so as to reach the said returning officer not later than the date in the said notice mentioned.

The returning officer shall, after making all reasonable inquiries, decide whether such reason is a valid and sufficient excuse for such failure to vote, and shall write his decision on the said notice.

(5.) The returning officer, within two months after the date in the said notice mentioned, shall send to the Local Authority the certified list mentioned in subsection two hereof and all the forms of notice received by him from electors as mentioned in the last preceding subsection, together with a list of electors, certified by statutory declaration under his hand, to whom the said form was posted and by whom it has not been duly returned properly filled up and signed.

The last-mentioned list so certified shall in all legal proceedings be *prima facie* evidence of the contents thereof and of the fact that the electors whose names appear therein did not vote at the said election, and having received the said notice did not comply with the requisitions thereof.

(6.) Every elector who—

- (a) Failed to vote at the election without a valid and sufficient excuse for such failure; or
- (b) On receipt of such notice, fails to fill up and sign and post the same to the returning officer so as to reach him within the time prescribed; or
- (c) States in such form a false reason for not voting;

shall for each such offence be liable, on the complaint of the Local Authority, to a penalty not exceeding two pounds.

31. (1.) Every ballot-paper which—

- (a) Does not bear a ballot-number; or
- (b) Has such number torn off; or
- (c) Has no cross in a square opposite the name of a candidate, or has fewer crosses or more crosses in such squares than the number of candidates to be elected; or
- (d) Has upon it any mark or writing not by this Act authorised to be put thereon which in the opinion of the returning officer will or may enable any person to identify the ballot-paper or the elector;

For what causes ballot-paper to be rejected.

shall be rejected at the close of the poll.

(2.) Provided that no ballot-paper shall be rejected merely because of some informality, or alleged informality, in the manner in which it has been dealt with by the elector or presiding officer if it is regular in other respects, and if, in the opinion of the returning officer, the intention of the elector in voting is clearly apparent.

Ballot-paper when not to be rejected.

(3.) Nothing in this section contained shall be deemed to affect the jurisdiction of the Supreme Court or a Judge thereof with respect to elections.

32. The presiding officer other than the returning officer shall at the close of the poll, in the presence of the poll clerk, if any, and of such of the candidates and scrutineers as may attend—

- (i.) Examine and count the number of votes received for each candidate at the polling-place at which he presided; and
- (ii.) Make out a written statement, signed by himself and countersigned by his poll clerk, if any, and any scrutineers who are present and consent to sign the same, containing the numbers in words as well as figures of the votes received for each candidate so counted as aforesaid; and,
- (iii.) After making out and signing such statement, make up in separate and distinct parcels—
  - (a) All the ballot-papers together with the Voters' Roll supplied to him by the returning officer (which shall be signed by him and the poll clerk, if any), and all books and papers used by him during the polling; and
  - (b) All ballot-papers set aside for separate custody as aforesaid; and
- (iv.) Seal up parcels and permit the same to be sealed by the scrutineers present if they so desire; and

Presiding officer to seal and forward ballot-papers to returning officer.

\* Sic in Gazette; semble "to."

THIRD  
SCHEDULE.

- (v.) With the least possible delay deliver such parcels and statement or cause them to be delivered to the returning officer; and,
- (vi.) By the next practicable opportunity thereafter, also transmit a duplicate of such statement signed and countersigned as aforesaid.
- 33.** Every returning officer shall at the close of the poll, in the presence of his poll clerk, if any, and of such of the candidates and scrutineers as may attend—
- (i.) Examine and count the number of votes received for each candidate at his own polling-place, if any; and
- (ii.) Make out a written statement, signed by himself and countersigned by his poll clerk, if any, and by any scrutineers who are present and consent to sign the same, containing the number in words and figures of the votes received for each candidate; and
- (iii.) After making out and signing such statement, make up in separate and distinct parcels—
- (a) All the ballot-papers, rolls, books, and papers kept and used by him during the polling; and
- (b) All ballot-papers set aside for separate custody as aforesaid; and
- (iv.) Seal up such parcels and permit the same to be sealed by the scrutineers present if they so desire; and
- (v.) Endorse the same when so sealed with a description of the contents thereof, and with the name of the Area or division and polling-place, and the date of polling, and sign such endorsement with his name.

Returning officer to examine and count votes at his polling-place and then seal up the same.

Returning officer to open sealed parcels transmitted by presiding officers and count the votes, after which each parcel to be re-sealed.

**34.** As soon as possible after the returning officer has received from the several presiding officers the sealed parcels so transmitted to him, containing the ballot-papers taken at the polling-places at which such presiding officers respectively presided, and the several statements of the numbers of votes so transmitted by them, he shall—

- (i.) From his own statement, if any, and such other statements ascertain the gross number of votes for each candidate; and
- (ii.) In the presence of his poll clerk, if any, and of such candidates and scrutineers as may attend, open such sealed parcels and examine and count the number of votes for each candidate at each polling-place; and
- (iii.) After having counted the same, make up in separate parcels the ballot-papers, declarations, Voters' Rolls, books, and papers received from each presiding officer in like manner as hereinbefore prescribed concerning the ballot-papers, Voters' Rolls, books, and papers kept and used by him at the polling-place, if any, at which he presided, and securely fasten and seal up, and also permit to be sealed up by the scrutineers, and endorse in like manner as aforesaid, the said several parcels, and deal with the same as hereinafter provided; and
- (iv.) Make out in respect of each polling-place a like written statement, signed and countersigned as hereinbefore required, concerning the polling-place, if any, at which he presided; and
- (v.) Examine the Voters' Rolls which have been used by himself and the presiding officers at the several polling-places, and ascertain whether any voters appear to have voted at more than one polling-place; and
- (vi.) Make out a list showing the names and numbers of all voters who appear to have voted at more than one polling-place, or to have voted twice at any one polling-place, and forward a copy thereof to each of the candidates, and enclose the original list in the sealed packet with the Voters' Rolls.

No returning officer shall open or examine any sealed packet in the joint absence of any candidate and his scrutineer unless he has given twenty-four hours' previous notice in writing to such candidate, or to his scrutineer, of his intention to open and examine the same.

Declaration of poll.

**35.** (1.) The returning officer, as soon as possible after he has examined and counted all the ballot-papers and ascertained the gross number of votes received for each candidate, shall forthwith or as soon as practicable publicly notify, by advertisement in some newspaper, the general state of the poll so ascertained and the name of each candidate who has been elected.

(2.) In the event of the number of votes for any two or more candidates being found to be equal, the returning officer shall decide by his casting vote which shall be elected.

(3.) No returning officer shall vote at any election except in the case of an equality of votes.

THIRD SCHEDULE

36. The returning officer shall forthwith, after the declaration of the poll at any election—

Ballot-papers to be transmitted to the Local Authority.

- (i.) Enclose in one packet the several sealed parcels so made up and sealed by him;
- (ii.) Securely fasten and seal up such packet;
- (iii.) Endorse upon such packet a description of the several contents thereof, and the name of the Area and division, if any, and the date of polling, and sign such endorsement with his name;
- (iv.) Cause such sealed packet to be delivered at the office of the Local Authority.

The clerk shall safely keep the same for twelve months after the receipt thereof. At the expiration of such twelve months the Chairman shall cause the ballot-papers to be destroyed in the presence of at least three members of the Local Authority.

If any question at any time arises touching the votes alleged to have been given at any election, the ballot-papers contained in any such sealed packet shall be received in evidence as proof of such votes in any Court of Justice, upon production thereof, and upon proof that the same was transmitted to the Local Authority in due course by the returning officer.

37. No election shall be liable to be questioned by reason of—

Election not to be questioned.

- (i.) Any defect in the title, or any want of title, of any person by or before whom such election is held, if such person really acted at the election; or
- (ii.) Any formal error or defect in any declaration or other instrument, or in any publication made under this Act or intended to be so made; or
- (iii.) Any such publication being out of time; or
- (iv.) Any delay in holding the election at the time appointed, or in taking the poll; or
- (v.) In consequence of any impediment of a merely formal nature.

And the Governor in Council may adopt such measures as may be necessary for removing any obstacle of a merely formal nature by which the due course of any election might be impeded:

Provided that the validity of the election and the measures so taken shall be forthwith declared by the Governor in Council.

38. Any act which would avoid the election of a member of the Legislative Assembly shall avoid the election of a member under this Act.

Corrupt practices.

The acts of an authorised agent of a candidate shall be held to be acts of his principal if proved to have been committed with the consent of the candidate.

39. The following acts are, on polling-day and on all days to which the polling is adjourned, prohibited, within fifty feet from the main entrance of the building within which a polling-booth is situated or within a polling-booth, namely:—

Prohibition of canvassing, &c., near polling-booth.

- (a) Canvassing for votes; or
- (b) Soliciting the vote of any elector; or
- (c) Inducing any elector not to vote for any particular candidate; or
- (d) Inducing any elector not to vote at the election; or
- (e) Loitering in the vicinity of or obstructing the free passage of voters to or from the polling-booth.

Any person who contravenes this section shall be liable to a penalty not exceeding twenty pounds.

40. The wearing or displaying in any polling-booth of any party emblem or badge by any returning officer, presiding officer, poll clerk, or scrutineer is prohibited.

Party emblems not to be worn in polling-booth.

Any person who contravenes this section shall be liable to a penalty not exceeding twenty pounds.

41. Every returning officer shall have power and authority to maintain and enforce order, and to keep the peace at any election held before him.

Returning officer to maintain order.

All police officers shall aid and assist the returning officer in the performance of his duty.

THIRD  
SCHEDULE.  
Expenses of  
returning  
officer.

42. All reasonable expenses of, or incident to, any election incurred by the returning officer shall be repaid to him by the Local Authority out of the Local Fund.

Election of  
members in  
division.

43. In a divided Area the provisions of these rules shall be read as applying to elections of members to be held for each division, instead of for the Area at large; and the polling for every such election shall be held at one or more polling-places within or for each division appointed as hereinbefore provided.

Cases of polls  
other than  
for election.

44. The provisions of these rules shall also be applicable to any poll taken under this Act other than a poll for an election of a Chairman or member, with, however, such modifications of such provisions as the Governor in Council deems necessary in any particular case or as he may generally prescribe.

FOURTH  
SCHEDULE.  
[Section 203.]  
Advertising  
vans, &c.

FOURTH SCHEDULE.  
SUBJECT-MATTER FOR BY-LAWS.

1.—ADVERTISING VANS, ETC.

Prohibiting, or regulating by permit, the passage of advertising vans and men carrying advertisements and placards upon any road, and the throwing or distributing of handbills or other printed matter in or upon any road or land under the control of the Local Authority.

2.—ANIMALS.

Trespass.

(i.) Prohibiting the straying or trespass of animals upon roads or land under the control of the Local Authority, or upon any land not securely fenced off from any such road or land; prescribing a penalty in respect of the offence, or authorising the seizure and detention of such animals until the payment to the Local Authority of a reasonable sum of money by way of liquidated damages.

Destruction  
or removal  
of animal,  
&c.

(ii.) Prescribing the conditions under which any diseased, infected, or worthless animal, matter, or thing in any pound may be removed or destroyed.

Prevention  
of disease.

(iii.) Securing the prevention or preventing the spread of any disease in any pound under the control of the Local Authority.

Poundage  
fees.

(iv.) Prescribing the scale of fees payable in respect of each and every impounded animal for the respective times during which the same is impounded, not exceeding the sum of two pence for every day during which any animal is impounded.

Rates of  
damage.

(v.) Prescribing the scale of rates of damage payable to any owner or occupier of land or to the Local Authority in respect of animals impounded: Provided that such rates of damage shall not in the case of an owner or occupier of land exceed five shillings in respect of any animal trespassing in or upon any paddock of grass enclosed by a sufficient fence, or twenty shillings in respect of any animal trespassing in or upon any garden, uncut meadow, or growing crop of any kind enclosed by a sufficient fence; or in the case of the Local Authority shall not exceed ten shillings in respect of any animal trespassing upon any road or land not securely fenced off from any road or land under the control of the Local Authority.

Driving  
charges.

(vi.) Prescribing the scale of charges payable in respect of driving or leading any animal for the purpose of impounding it.

Inspection  
of pound  
book, notices,  
&c.

(vii.) Regulating and prescribing the fees that may be demanded by the poundkeeper for the inspection of any book kept by him, and the making of entries therein or extracts therefrom, and for giving notice to the proprietors of impounded animals.

Sustenance  
rates.

(viii.) Prescribing the rates to be charged for the sustenance of impounded animals.

Stallions on  
goldfields,  
&c.

(ix.) Compelling the registration of stallions kept within any goldfield or mineral field in the Area, and prescribing a fee not exceeding ten pounds per annum to be paid by the owner of any stallion depasturing upon unenclosed land.

Dogs, goats.

(x.) Compelling the registration of dogs and goats, and prescribing a registration fee not exceeding ten shillings per annum to be paid by the person keeping any dog or goat; authorising the sale or destruction of unregistered dogs or goats found straying in the Area.

(xi.) Prohibiting, or licensing and regulating the depasturing of animals upon any land under the control of the Local Authority.

FOURTH  
SCHEDULE.  
Agistment.

### 3.—ARREST OF OFFENDERS.

Authorising officers, servants, or persons appointed by the Local Authority or any member of the Police Force to arrest or remove persons offending against this Act. Arrest or removal.

### 4.—BATHING AND PUBLIC BATHS.

(i.) Prohibiting, or regulating bathing in any river, creek, stream, sea, or other open public water or any part thereof situated within the Area or on the boundary thereof. Bathing.

(ii.) Setting apart any place or any portion of such water for the sole use of either sex. Sexes.

(iii.) Fixing the hours within which the public of either sex may bathe thereat. Hours.

(iv.) Requiring persons bathing to wear some suitable clothing. Costume.

(v.) Permitting the erection and use of bathing houses, sheds, or machines. Bathing-houses.

(vi.) Providing for such matters as appear expedient for preserving order, decency, and good conduct, or promoting the public convenience in connection with bathing. Generally.

(vii.) The management and control of public baths established by the Local Authority, and the conduct of visitors thereat; prescribing fees to be paid by persons using the same. Public baths.

(viii.) Licensing public baths and regulating the conduct of attendants and visitors, and fixing the charges to be made therein. Licensing.

(ix.) Securing adequate privacy to persons using public baths, and that men and boys above five years old shall bathe separately from women and girls and children under five years old. Privacy.

(x.) Preventing damage, disturbance, interruption, and indecent or offensive language and behaviour and nuisances in or in connection with public baths. Nuisances.

### 5.—BROTHELS.

The suppression of brothels and houses of ill-fame. Brothels, &c.

### 6.—BUILDINGS.

(i.) The construction, elevation, materials, and form of buildings. Construction, &c.

(ii.) Foundations and sites of buildings, and other erections. Foundations and sites.

(iii.) The mode in which and the materials with which such foundations and sites are to be made, excavated, filled up, prepared, and completed, for securing stability, and for purposes of health. Excavation.

(iv.) The mode in which and the materials with which any excavation made within a line drawn outside the external walls of a building, or other erection, and at a uniform distance therefrom not exceeding three feet, shall be filled up. Filling and excavations.

(v.) Requiring a sufficiency of space about buildings to secure a free circulation of air, and requiring a sufficiency of ventilation and air-space within buildings and rooms. Air-space and ventilation.

(vi.) Preventing the overcrowding of land by structures. Overcrowding land.

(vii.) Regulating the distance from any other building at which it shall be lawful to construct any building or any building erected or used for a particular purpose. Distance between buildings.

(viii.) Prohibiting, or regulating the erection of buildings not having a frontage to a road. Frontages.

(ix.) The thickness, and the description, and quality of the substances of which walls may be constructed for securing stability, the prevention of fire, and for purposes of health. Thickness and materials of walls.

(x.) The dimensions of bresssummers. Bresssummers.

\* "Five" substituted for "eight" by section 32 of the amending Act of 1912.



FOURTH  
SCHEDULE.

Joists.	(xi.) The dimensions of joists of floors.
Ironwork.	(xii.) The protection of ironwork used in the construction of buildings from the action of fire.
Woodwork.	(xiii.) Woodwork in external walls.
Plastering.	(xiv.) The description and quality of the substances of which plastering may be made.
Stability.	(xv.) Securing the stability of any building or any part thereof.
Stores for inflammable substances.	(xvi.) Regulating the construction of buildings and premises wherein hay, straw, bark, oil, coal, wood, or any combustible substance or thing other than explosives may be sold or stored.
Fireplaces, furnaces, and chimneys.	(xvii.) The construction, elevation, materials, form, and cleansing of fireplaces, furnaces, and chimneys, for securing safety from accidents and protection from sparks, and for the prevention of nuisances from smoke, ashes, or soot.
Combustible materials.	(xviii.) Prohibiting or restraining the use of combustible materials in the construction, alteration, repair, or renewal of buildings, roofs, or chimneys, flues, smoke vents, or stovepipes or of parts thereof respectively to be specified in the By-law.
Certain fireplaces and furnaces.	(xix.) Regulating the construction, materials, and enclosing by buildings or otherwise of fireplaces or furnaces to be used in the working of engines by steam or in any mill, brewery, bakehouse, or gasworks, or in any manufactory whatsoever, although a steam engine be not used therein.
Party walls &c.	(xx.) Regulating the height, thickness, construction, or materials of the party walls of buildings adjoining each other, and of the external walls of buildings and of chimneys, and the materials for and mode of enclosing the same.
Rights, &c., of owners of adjoining lands respecting works on line of junction.	(xxi.) When lands of different owners adjoin and are unbuilt on at the line of junction, and either owner is about to build on the line of junction, declaring the powers, rights, and duties of the respective owners as between themselves; prescribing rules as to the exercise of such powers, rights, and duties, as to the settlement of disputes between such owners by arbitration under the provisions of the " <i>Interdict Act of 1867</i> "* or otherwise, and as to the payment or apportionment of the expenses incurred by the execution of the works at the line of junction.
Escape from fire.	(xxii.) The means of escape from fire in buildings.
Fire-resisting materials.	(xxiii.) Declaring any material to be fire-resisting.
Limitation for alteration of existing defects.	(xxiv.) Limiting a time, not in any case less than seven years from the coming into force of the limiting By-law, after which it shall not be lawful without the consent of the Local Authority to use, keep, continue, or suffer to remain, any building, roof, fireplace, furnace, or chimney, or the enclosure of any fireplace, furnace, or chimney originally constructed or made without violation of law and existing at the time of such coming into force, being of any such construction, height, thickness, materials, or description, or within any such distance of other buildings, as respectively are contrary to any By-law existing at the time of such coming into force.
Alterations.	(xxv.) Prohibiting buildings or structures which have been erected or constructed in accordance with the By-laws from being altered in such a way that if at first so erected or constructed they would have contravened the By-laws.
Distance from road.	(xxvi.) Requiring that when new buildings are erected, or any buildings are rebuilt or re-erected, or are substantially rebuilt or re-erected, such buildings shall not stand within thirty-three feet from the middle line of any road or private road specified in the By-law; or requiring that any such new or other buildings on one side of a road or private road shall not stand within sixty-six feet from the opposite side line of the road or private road.
Tents.	(xxvii.) Regulating the erection of tents or other erections of a similar character.
Demolition.	(xxviii.) Regulating and controlling the demolition of houses and other structures, and whether such houses or structures are or are not ruinous or unfit for habitation.

\* 31 Vic. No. 11, Statutes, page 2387.

FOURTH  
SCHEDULE  
Removal of  
unlawful  
buildings.

(xxix.) Requiring the pulling down and removal of and authorising the Local Authority to pull down and remove any building, structure, or work, or any part thereof erected or constructed contrary to any Act or By-law, or not pulled down or removed as required by any Act or By-law, and authorising the Local Authority to sell the materials and apply the proceeds in reimbursing the expenses of pulling down and removal, and any fees or penalties due by the owner thereof, and authorising the Local Authority to order the owner of such building, structure, or work to pay all expenses incurred by the Local Authority under any By-law.

(xxx.) The deposit of plans and sections by persons intending to construct, alter, or rebuild buildings or structures, or any part thereof. Deposit of plans.

(xxxi.) Any By-law under this Subdivision may be made to apply to the whole or separately to a part or parts of the Area described by boundaries in such By-law, and may provide, with respect to the several matters of prohibition, restraint, and regulation hereinbefore in this Subdivision mentioned, either absolutely or with relation to classes, rates, situations, distances, or other like data to be laid down or referred to in general terms therein, and with or without relation to a right of approval, disapproval, or inspection, to be vested in the Local Authority or some officer of the Local Authority. Application of By-laws.

(xxxii.) The Local Authority may provide by any such By-law that in any case in which the Local Authority thinks expedient it may dispense with the observance of any By-law made under this Subdivision on such terms and conditions (if any) as it thinks proper. Dispensing with powers.

(xxxiii.) Appointing fees, not in any case exceeding the amounts hereunder specified for any inspection, superintendence, or other service made or performed under any By-law in this Subdivision provided for. Fees.

*New Buildings.*

	£	s.	d.
For any building not exceeding thirty square feet in area and not exceeding ten feet in height .. .. .	0	10	0
For every building not exceeding four hundred square feet in area and not more than two stories in height .. .. .	1	10	0
For every additional story .. .. .	0	5	0
For every additional square or fraction of a square .. .. .	0	2	6
For every building not exceeding four hundred square feet in area and of one story only in height .. .. .	0	15	0

Provided that in the case of public buildings, buildings constructed of concrete, and buildings divided into separate sets of chambers or tenements by party structures, the fees hereinbefore specified shall, in every case, be increased by one-half.

*Additions, Alterations, or other Works.*

For every addition or alteration or other work to which the provisions of this Act apply, made or done to or on any building after the roof thereof has been covered in—One-half of the fee charged in the case of a new building calculated upon the area of the whole building.			
For inspecting the arches of fire-resisting floors over or under public ways .. .. .	0	10	0
For inspecting the formation of openings in party walls, for each opening .. .. .	0	10	0
For inspecting the closing of openings in party walls, for each opening .. .. .	0	10	0

Provided that in the case of public buildings, buildings constructed of concrete, and buildings divided into separate sets of chambers or tenements by party structures, the fees hereinbefore specified shall, in every case, be increased by one-half.

*Chimneys and Flues.*

On the construction of a furnace, chimney-shaft, or similar shaft for ventilation or other purposes, in addition to the fee for any other operation in progress at the same time, if not exceeding seventy-five feet in height .. .. .	2	0	0
If exceeding seventy-five and not exceeding one hundred feet in height .. .. .	2	10	0
For every additional ten feet or portion of ten feet in height .. .. .	0	10	0

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SCHEDULE.

	£	s.	d.
On the carrying of a flue from an oven, stove, steam-boiler, furnace, or close-fire into an old flue .. .. .	0	10	0
On certifying that a chimney breast in a party wall may be cut away .. .. .	0	10	0

*Certifying Plans.*

For examining and certifying plans of an old building .. .. .	2	2	0
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*Wooden and Temporary Structures.*

On inspection of any wooden structure, or on inspection of any structure or erection put up on any public occasion, the same amount as for a new building calculated on the area of the structure or erection without reference to the area of any building to which it may be attached, or in or on which it may be put up.

*Dangerous Structures.*

On each dangerous structure—

*Where there are not more than four adjoining or nearly contiguous structures in the same ownership—*

1. For making a survey of the structure reported as dangerous and certifying opinion thereon—
  - If the structure do not exceed four squares in area and two stories in height .. .. . 0 7 6
  - If exceeding four squares .. .. . 0 10 0
  - For every additional story above two .. .. . 0 2 6
2. For each inspection of the structure and report as to completion or progress of the works .. .. . 0 5 0
3. For inspecting the structure before the hearing of the summons and attending the court to give evidence—
  - If one structure only .. .. . 0 10 0
  - If more than one structure, for each structure .. .. . 0 5 0
4. For inspecting the structure before the hearing of the summons against the occupier, the owner having failed to comply, and attending the court to give evidence—
  - If one structure only .. .. . 0 10 0
  - If more than one structure, for each structure .. .. . 0 5 0
5. For every adjournment of the summons .. .. . 0 5 0
6. For superintending the erection of shoring, including needling when requisite, and hoarding, whether done by the Local Authority or not, and for certifying the account for the same when done by the Local Authority .. .. . 0 10 0
7. For shoring without hoarding, or hoarding without shoring, and certifying the account .. .. . 0 7 6
8. For supervision, including the report of the officer in cases where it is necessary for the Local Authority to execute works to ensure the safety of the public under an order made by a court 0 5 0

*Where there are more than four adjoining or nearly contiguous structures in the same ownership—*

For Nos. 2, 3, and 4 in the above table .. .. .	0	4	0
For No. 5 .. .. .	0	2	6
And for No. 8 .. .. .	0	4	0

For general services—

- i. For preparation of notices, forms for same, and postage 0 3 6
- ii. For service of notices, clerk's time .. .. . 0 2 6
- iii. For travelling per mile, one way .. .. . 0 0 3
- iv. For obtaining summonses and orders, clerk's time .. .. . 0 2 6
- v. For cost of each summons or order .. .. . 0 3 0

*Where there are two or more adjoining or nearly contiguous structures in the same ownership—*

For Nos. ii. and iv., above, each .. .. .	0	2	0
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The fees payable upon ten structures shall be the maximum fees.

	£	s.	d.
<i>Dilapidated and Neglected Buildings or Structures.</i>			
1. For each inspection of the building or structure and report ..	0	5	0
2. For obtaining summons and order, clerk's time .. .. .	0	2	6
3. For cost of each summons or order .. .. .	0	2	0
4. For attendance at a court to give evidence .. .. .	0	5	0
5. For every adjournment .. .. .	0	2	6
6. For supervision of works, including report of officer in cases where the magistrate's order is executed by the Local Authority ..	0	5	0
7. For travelling, per mile, one way .. .. .	0	0	3
8. The cost of procuring local evidence to satisfy the magistrate that the condition of the structure is prejudicial to the property or to the inhabitants of the neighbourhood is to be considered separately in each case.			

Where there are two or more adjoining or nearly contiguous structures in the same ownership—

For Nos. 1, 4, or 6, above, each .. .. .	0	3	0
For Nos. 2 or 5, above, each .. .. .	0	2	0
The fees payable upon ten structures shall be the maximum fees.			
For travelling, per mile, one way .. .. .	0	0	3

*For Special Services.*

The fees payable by a builder to the Local Authority for special services of the surveyor shall be the following:—

For superintending the construction of floors and partition walls to stables, per building .. .. .	0	5	0
For superintending the construction of overhanging oriel windows, per building .. .. .	0	5	0
For superintending the fixing of any oven, copper, steam-boiler, or stove to be used for trade purposes and not heated by gas ..	0	10	0
For superintending the fixing of pipes for conveying heated air or hot water or steam at high pressure, for each floor of a building on which pipes are fixed .. .. .	0	10	0
For services relating to the erection of buildings on low-lying lands, per building .. .. .	0	5	0

*Rules as to Fees.*

- (1.) The fees specified in respect of works to a party wall comprise the fees payable in respect of both sides of the wall.
- (2.) No fee shall be charged in respect of the fixing of a chimney pot.
- (3.) No fee shall be charged in respect of the repairing of a chimney top, unless the top has been pulled down to a greater extent than twelve inches.
- (4.) No fee shall be charged in respect of the repairing of a parapet, unless the parapet shall have been pulled down to a greater extent than twelve inches.
- (5.) In calculating the area of every new building the area of all out-buildings not exceeding thirty feet in area, whether attached or not, shall be included, provided such outbuildings are erected at the same time as the main building.
- (6.) If any special service is required to be performed by the surveyor for which no fee is specified, the Local Authority may order such fee to be paid for that service as it thinks fit.

7.—BUSINESS.

The transaction and management of the business of the Local Authority generally. Business generally.

8.—CAMELS.

- (i.) Requiring every driver of camels within the Area to obtain a license from the Local Authority; prohibiting camels being driven within the Area by any person other than a licensed driver; limiting the number of camels to be driven by each licensed driver. Licensing drivers.
- (ii.) Requiring the registration of every camel within the Area, and providing for the seizure and sale of every unregistered camel. Registration of camels.
- (iii.) Prohibiting, or regulating the driving of camels along any part of a Road, road or within twenty yards from the centre thereof.

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SCHEDULE.  
Fees.

(iv.) Imposing a license fee not exceeding five shillings per annum on every licensed camel-drier, and a registration fee not exceeding ten shillings per annum for every registered camel.

9.—CEMETERIES.

- Management. (i.) The establishment, maintenance, and management of any cemetery under the control of the Local Authority.
- Enclosure. (ii.) The enclosure of lands comprised in the cemetery, and the erection of suitable gates and entrances.
- Embellishment. (iii.) Laying out and ornamenting the cemetery, and embellishing the same with walks, avenues, roads, trees, and shrubs.
- Maintenance. (iv.) The preservation, maintenance, and keeping in order of the cemetery, its walls, rails, fences, palisades, gates, and entrances, and all monuments, tombstones, vaults, graves, enclosures, buildings, erections, walks, avenues, roads, trees, and shrubberies therein, and the protection of the same from damage or destruction.
- Graves, &c. (v.) Regulating the position and construction of graves and vaults, the depth of graves, and construction of coffins to be admitted into vaults.
- Covering. (vi.) The covering of vaults and coffins so as to prevent any noxious exhalation or evaporation.
- Visitors. (vii.) The proper conduct of visitors to the cemetery and of the servants and workmen of the Local Authority and of all other persons employed in the cemetery.
- Fees. (viii.) The fees payable in respect of land for any vault or grave, the digging, making, or opening of any vault or grave, the erection of any mortuary chapel, monument, tombstone, or enclosure, the right of burial in any private grave, the filling up, turfing, tiling, and keeping in order of graves or enclosures, and for any other necessary purpose, and the mode of recovering and enforcing payment of such fees.
- Interment elsewhere. (ix.) Prohibiting or regulating the interment of the dead elsewhere than in cemeteries.

10.—CHIMNEY SWEEPS.

- Licensing and regulating. (i.) Licensing and regulating chimney sweeps.
- Tariff. (ii.) Fixing a tariff of the rates to be paid to licensed chimney sweeps.

11.—CROSSINGS.

- Crossings. (i.) Imposing upon the owners and occupiers of premises abutting on a road or footway the duty of making and maintaining proper crossings for traffic across footways and channels.
- Use of crossings. (ii.) Prohibiting, or regulating the traffic of animals or vehicles upon, along, or across any footway or any water channel or gutter of any road except at some proper crossing.

12.—DAMAGE.

- Injury to property. Preventing injury to, or misuse of, bridges, ferries, buildings, wells, reservoirs, or other works, appliances, or things, the property of, or under the control of, the Local Authority.

13.—DANGEROUS GOODS.

- Dangerous goods. The carriage and storage of dangerous goods and explosives.

14.—DECENCY.

- Decency. Public decency.

15.—DELEGATION OF POWERS.

- Delegation of powers. Granting or delegating to members or officers of the Local Authority the power to sign, seal, or sign and seal, notices, orders, and agreements, the power to issue, sign, seal, renew, revoke, or cancel licenses, permits, authorities, or consents which the Local Authority is entitled to issue, sign, seal, renew, revoke, or cancel, the power to sign letters, receipts, and other documents, and to do or perform any act, deed, or thing necessary, ancillary, or incidental to the carrying out of the powers or duties of the Local Authority.

16.—DISORDERLY CONDUCT.

- Disorder. The prevention of disorderly conduct and the use of foul or abusive language in or upon any road, or land, or place under the control of the Local Authority.

## 17.—DROVING.

Prohibiting, or regulating the driving of animals upon any road or land Droving.  
under the control of the Local Authority, or any part of such road or land.

## 18.—ENCROACHMENTS.

Preventing encroachment on any road or land under the control of the Local Authority by any building, or other structure. Encroach-  
ment

## \*19.—EXTRAORDINARY TRAFFIC.

(i.) Defining what traffic shall be deemed to be extraordinary traffic, Defining  
having regard to the average expense of repairing roads within the Area, or extraordinary  
any division or part of an Area or division specially affected. traffic.

(ii.) Regulating and, if necessary, restricting extraordinary traffic on Regulation,  
roads or any specified roads. &c.

(iii.) Compelling any person, corporation, or other body by whom or by Expenses.  
whose order extraordinary traffic has been conducted to pay to the Local  
Authority any expenses incurred by the Local Authority by reason of damage  
arising to the roads or any road used by such traffic.

(iv.) Authorising the Local Authority to enter into any agreement with Agreements.  
any such person, corporation, or other body as last aforesaid for the payment  
to the Local Authority of a composition in respect of such traffic in lieu of the  
expenses actually incurred as aforesaid.

(v.) Regulating and, if necessary, restricting the carrying on vehicles Timber, &c.  
upon any road of long, large, heavy, or projecting goods, whether the same  
constitute extraordinary traffic as defined or not.

## 20.—FENCING.

The enclosure of land where necessary for the public safety. Enclosure of  
land.

## 21.—FERRIES.

(i.) Regulating ferries under the control of the Local Authority, the Ferries.  
rights and duties of persons using the same, and the form, construction, and  
loading of ferry boats.

(ii.) Requiring ferrymen to obtain licenses from the Local Authority. Licensing  
ferrymen.

(iii.) Licensing vessels plying at a ferry, and preventing unlicensed vessels Licensing  
from so plying. vessels.

(iv.) Fixing the fares and tolls to be charged for the carriage of  
passengers, animals, and goods on ferry boats and on such vessels.

(v.) Prescribing the times of running and the route.

(vi.) Regulating or prohibiting the establishment of ferries, or the carry- Opposition  
ing on of the business of ferrymen by unlicensed persons, on any river, creek, to ferries.  
or watercourse in the Area or at the boundary thereof within a reasonable  
distance from a ferry under the control of the Local Authority, except in the  
case of flood or fire or other urgent or unavoidable necessity.

## 22.—FLOOD WARNINGS.

The erection, control, and maintenance of flood warnings. Flood  
warnings.

## 23.—FORMS.

Prescribing forms of and in connection with proceedings and matters. Forms.

## 24.—GAS, ETC.

The supply and distribution of gas, electricity, or hydraulic, or other Gas, &c.  
power, and the making, levying, and collection of rates payable therefor by  
consumers in cases where the works have been constructed or acquired by and  
are under the management and control of the Local Authority.

## 25.—HAND CARTS.

Licensing, regulating, or restricting the use and management of hand Hand carts.  
carts upon any road.

\* Subsection inserted by section 14 (2) of the amending Act of 1912.

‡ Subsection repealed by section 14 (2) of the amending Act of 1912.

FOURTH SCHEDULE.	
	26.—HOARDINGS.
Hoardings, &c.	Compelling the use of hoardings, fences, lights, and other appliances for the prevention of accident or injury where works are in progress in or upon any premises abutting on a road or land under the control of the Local Authority.
	27.—HORSEBREAKING.
Horse- breaking.	Prohibiting or restricting the breaking-in of horses either by leading, riding, or driving in or upon any road or land under the control of the Local Authority.
	28.—LICENSED GATES.
Licensed gates.	In the case of Shires, prescribing fees to be charged per annum for licensed public gates, not exceeding two pounds for each gate upon a main thoroughfare and not exceeding one pound for each gate upon a road other than a main thoroughfare.
	29.—LICENSES, ETC.
Licenses, permits, and registrations.	(i.) Regulating the mode of application for licenses, permits, and registrations; the manner in which licenses, permits, and registrations shall be granted or transferred, and the duration and renewal of licenses, permits, and registrations.
Conditions.	(ii.) Prescribing any conditions on which any licenses, permits, and registrations may be granted, transferred, suspended, or revoked by the Local Authority or the Chairman.
Fees.	(iii.) Prescribing fees for licenses, permits, and registrations, and for the renewal thereof.
	30.—LIGHTING ROADS, ETC.
Lighting.	(i.) The lighting of roads, public places, and lands under the control of the Local Authority with gas, electricity, or otherwise.
Protecting lights.	(ii.) The protection of lights maintained by the Local Authority in roads and public places and lands under its control.
	31.—MARKETS.
Markets.	(i.) The establishment and regulation of markets and market-places and the approaches thereto and appurtenances thereof.
Dues and charges.	(ii.) Imposing market dues and charges, and providing for the collection and recovery of the same.
	32.—MEETINGS OF LOCAL AUTHORITY.
Meetings.	The times for holding meetings of the Local Authority and committees thereof, the summoning and adjournment of such meetings and the proceedings and preservation of order thereat.
	33.—MEETINGS ON ROADS, ETC.
Meetings; music.	Prohibiting, or regulating by permit the holding of meetings, or the use of musical instruments, upon any road or land under the control of the Local Authority.
	34.—MINING UNDER ROADS.
Mining.	Prohibiting mining for minerals other than gold under the surface of roads without the license of the Local Authority where any road is likely to be injured by such mining.
	35.—NAMING ROADS AND NUMBERING BUILDINGS.
Naming and numbering.	The naming of roads; the numbering of buildings; the marking of the names of roads and numbers of buildings upon walls or otherwise, and preventing their removal or effacement therefrom.
	36.—NOTICES.
Notices.	The giving and publication of notices.
	37.—NOXIOUS WEEDS.
Noxious weeds.	Declaring any weed or plant to be a noxious weed or plant within the meaning of this Act.
	38.—NUISANCES.
Nuisances.	(i.) Prohibiting expectoration upon footways and the casting or deposit of waste food or peelings of fruit or other vegetable substances, or of any offensive, noxious, or dangerous matter or thing on any road, footway, or land under the control of the Local Authority.
Cleansing.	(ii.) Compelling owners or occupiers to keep their premises free from offensive or unwholesome matters.

## 39.—OFFICERS.

FOURTH  
SCHEDULE.

(i.) Regulating the appointment and removal and the powers and duties of clerks, inspectors, engineers, surveyors, poundkeepers, and other officers and servants of the Local Authority. Officers.

(ii.) The punishment of persons falsely representing themselves to be officers or servants of the Local Authority. False representations.

## \*40.—OMNIBUS SERVICES.

(i.) Regulating omnibus services and the traffic thereby, whether such services have been established or acquired by and are under the management and control of the Local Authority or otherwise.

(ii.) Fixing the fares and charges to be charged for the conveyance of passengers and parcels thereby.

(iii.) Prescribing the times of running and the route.

## 41.—OPENING UP ROADS.

(i.) The prevention of injury or obstruction to roads or other public places by digging or otherwise. Digging, &c.

(ii.) Prohibiting or requiring the issue of a permit for the opening up of the soil of roads, footways, and pavements by persons other than authorised officers of the Local Authority or persons authorised by any enactment so to do. Opening up of soil of road.

## 42.—PESTS.

(i.) Regulating or prohibiting the introduction into or the removal from the Area or part thereof of any pest, or any animal, tree, plant, vegetable, or any part or product thereof, or any matter or thing affected by a pest. Conveyance of pest.

(ii.) Ensuring the seizure, detention, examination, and disinfection of animals, trees, plants, vegetables, or any part or product thereof suspected to be affected by pest, and of vehicles, boxes, baskets, and packages suspected to contain the same or to harbour or to be infested by pests, and the disposal of all such animals, trees, plants, vegetables, products, vehicles, boxes, baskets, and packages. Search, &c.

(iii.) Prescribing methods and appliances for the effectual destruction of pests. Methods and appliances.

(iv.) Imposing fees or charges to be paid by persons using any appliances or methods under the control of the Local Authority for the destruction of pests or preventing the spread of disease in animals, trees, plants, and vegetables, and the conditions under which such appliances or methods may be used. Fees.

†(v.) When a Joint Board has been constituted for the prevention and destruction of pests—adopting all or any of the provisions of Subdivision X. of Part VI. of this Act, including the power to make by-laws set forth under the heading "2. ANIMALS" of this Schedule; and conferring upon the Joint Board all or any of the powers of a Local Authority with respect to these matters. Joint action

## 43.—PLUMBERS.

The licensing of persons to construct and repair works and appliances connected with house drainage or with the supply of water, gas, electricity, or hydraulic or other power, and the prohibiting of unlicensed persons interfering with such works or appliances. Plumbers, &c.

## 44.—PRIZE FIGHTS, ETC.

The prohibition of prize fights, dog fights, and cock fights.

Prize fights,  
&c.

## 45.—PROCESSIONS.

Regulating and prescribing the route of funeral processions; prohibiting or regulating by permit and prescribing the route of processions generally. Processions.

## 46.—PROJECTIONS.

(i.) The construction, elevation, materials, and form of balconies, porticoes, awnings, awnings, verandas, and other like projections upon or across any road or footway. Awnings.

\* Subsection inserted by section 27 (7) of the amending Act of 1910.

† Paragraph v. inserted by section 32 of the amending Act of 1912.



**FOURTH  
SCHEDULE.**

- Projections. (ii.) Prohibiting, or regulating the placing of any matter or thing so as to project upon or hang across or over any road or footway.
- Structures overhanging public way. (iii.) The regulation of lamps, signs, or other erections overhanging any road or footway.
- 47.—PUBLIC MEETINGS.
- Proceedings at meetings. Regulating the calling, holding, proceedings, and conduct of meetings of ratepayers or of the public, and punishing misconduct, obstruction, and disturbance thereat.
- 48.—PUMPING ENGINES.
- Permits for pumping engines, &c. Permitting any person to erect, maintain, and work pumping engines and gear for the supply of water or hydraulic power from any foreshore, river, watercourse, reservoir, or other water under the control of the Local Authority.
- 49.—QUARRYING AND BLASTING.
- Quarrying and blasting. Regulating and controlling quarrying and blasting operations.
- 50.—RESERVES, ETC.
- Commons and reserves. (i.) The control and management of commons, reserves, foreshores, and other land under the control of the Local Authority.
- Parks, &c. (ii.) The establishment, maintenance, and management of parks, pleasure grounds, gardens, libraries, museums, and other public places of recreation or improvement.
- Rights of inhabitants. (iii.) The rights and privileges to be enjoyed by the inhabitants of the Area or other persons over any such place of improvement or recreation, or over any common, reserve, foreshore, or other land under the control of the Local Authority.
- 51.—ROADS.
- Control and management. (i.) The control and management of roads.
- Kerbing, &c. of roads and footways. (ii.) The kerbing, paving, guttering, gravelling, asphaltting, and watering of roads and footways.
- 52.—SAFETY AND CONVENIENCE.
- Generally. (i.) Public safety and convenience generally.
- Prevention of danger from whirligigs, &c. (ii.) The prevention of danger from whirligigs and swings when such whirligigs and swings are driven by steam power, and from the use of firearms in shooting ranges and galleries.
- Steam whistles. (iii.) Prohibiting, or regulating the use of steam whistles.
- 53.—SANITARY CARTS.
- Sanitary carts, &c. Licensing and regulating vehicles used for the removal of nightsoil or other offensive substances.
- 54.—SCAFFOLDING.
- Scaffolding, &c. Prohibiting, or regulating by permit the deposit or erection of scaffolding, building materials, or obstructions of any kind in or upon any road or land under the control of the Local Authority.
- 55.—SEAL.
- Seal. The custody and use of the common seal.
- 56.—SIGNBOARDS, ETC.
- Advertisements, &c. (i.) Prohibiting, or licensing and regulating the making, erection, putting up, and situation of advertisements, signboards, posters, or other signs, upon, over, or near to any road or footway or land under the control of the Local Authority.
- (ii.) Prohibiting, or regulating by permit the erection or use within the Area of any sky sign, hanging sign, flying sign, or other similar sign.
- 57.—SLAUGHTER-HOUSES.
- Control. (i.) The management and control of slaughter-houses established by the Local Authority.
- Fees. (ii.) The imposition and collection of fees for the use of such slaughter-houses.

FOURTH  
SCHEDULE.

## 58.—SPOUTS, GUTTERS, ETC.

Imposing upon the owners and occupiers of premises abutting on a road or footway the duty of constructing and maintaining spouts, gutters, and other means for conducting storm and other water away from such premises. Spouts, &c.

## 59.—STALLS, ETC.

Prohibiting, or regulating and licensing the setting up and use of coffee-stalls and vehicles, stalls, or stands for the sale of goods or for the pursuit of any business calling, or employment, and the itinerant vending of goods, in or upon any road or land under the control of the Local Authority. Stalls, &c.

## 60.—STEAM ROLLERS.

Prescribing the hours within which, and the conditions under which, steam rollers may be used. The term "steam roller" includes any mechanical contrivance for forming, rolling, or flattening roads, which is propelled or worked by any other means than manual labour or animal power. Steam rollers.

## 61.—THEATRES, ETC.

(i.) The situation, form, and construction of buildings, rooms, gardens, and other places, whether licensed for the sale of fermented or spirituous liquors or for the sale of wine, or not requiring to be so licensed, which are or are intended to be used, kept, or let for public meetings, theatres, dancing-halls, music-halls, athletic entertainment or boxing, or for circuses, or cinematograph exhibitions, or for exhibitions for hire or profit, or for bowling-alleys, or for other places of public amusement, whether a charge is made for admission or not. Situation, form, and construction.

(ii.) The licensing and inspection of such premises. Licensing.

(iii.) Regulating the management thereof and the conduct of persons frequenting the same. Management.

(iv.) Prohibiting persons of bad character, and persons misconducting themselves, from coming or being in such premises. Good conduct.

## 62.—TIMBER.

The control of timber standing or lying upon any road or land under the control of the Local Authority. Timber.

## 63.—TRAFFIC.

(i.) Requiring motormen of motors and conductors of cars used on tramways to obtain licenses from the Local Authority. Licenses for tramcars, &c.

(ii.) Requiring the owners of vehicles used, kept, or let for hire, or for the use of which any payment, recompense, or remuneration is made, given, or received, to obtain a license from the Local Authority in respect of every such vehicle; requiring the drivers and conductors of such vehicle to obtain licenses from the Local Authority. Licenses for certain vehicles, and of drivers and conductors.

(iii.) Prescribing the qualifications of persons who are required to obtain licenses as motormen, drivers, or conductors of any vehicle; defining the ages at which they shall be entitled to become licensees; prescribing the badges to be worn by such persons. Qualifications and limit of age; badges.

(iv.) The form, construction, and equipment of vehicles ordinarily used, kept, or let for the conveyance of passengers for hire, not being cars used on tramways; the number of passengers that may be carried in or on such vehicles and in or on cars used on tramways. Form of vehicles carrying passengers for hire and number of passengers.

(v.) The width of the tires of wheels of vehicles used in the Area. Tires.

(vi.) Requiring persons carrying on the business of carriers, carters, fuel carters, or water-drawers by means of any vehicles, whether plying for hire or not, or porters, to obtain licenses from the Local Authority. License of carriers, &c.

(vii.) The marking of licensed vehicles with names and distinguishing numbers; requiring the number of the license to be painted in the manner and form prescribed on the outside lamps of every such vehicle as is ordinarily used, kept, or let for the conveyance of passengers for hire. Names and numbers.

(viii.) The amount of luggage and weight of goods that may be carried in or on any licensed vehicle not being cars used on tramways. Luggage, &c.

(ix.) The registration, and identification by prescribed form, of vehicles other than public vehicles, ordinarily used by wholesale merchants or warehousemen for the conveyance of goods in the pursuit of their business. Registration, &c., of merchants' vehicles.

<p>FOURTH SCHEDULE. Routes, &amp;c.</p>	<p>(x.) Regulating what routes shall be followed by vehicles or by any prescribed description of vehicles; prescribing, in the case of licensed omnibuses plying from one locality to another, the route of such omnibuses and the time to be taken by the drivers thereof for performing the whole or any portion of their journey; requiring such omnibuses to be plied in accordance with time-tables approved by the Chairman; providing for the publication of such time-tables.</p>
<p>Public stands.</p>	<p>(xi.) Appointing and regulating public stands for licensed vehicles and cars used upon tramways.</p>
<p>Safe custody.</p>	<p>(xii.) Regulating the safe custody of any property which may be accidentally left in any licensed vehicle or car used upon a tramway or at any public stand.</p>
<p>Sale of unclaimed articles.</p>	<p>(xiii.) Regulating the sale, after reasonable notice and upon reasonable conditions, of any unclaimed articles found in any licensed vehicle or car used upon a tramway or at any public stand.</p>
<p>Misconduct; touting.</p>	<p>(xiv.) Prohibiting drivers, motormen, or conductors of licensed vehicles in any road from misconducting themselves; prohibiting any person from touting or calling out or otherwise importuning to hire or use any licensed vehicle.</p>
<p>Tariff.</p>	<p>(xv.) The rates of fares to be charged for the use of vehicles ordinarily used, kept, or let for the conveyance of passengers or goods for hire; prohibiting licensees of such vehicles from demanding or receiving more than the authorised rate or fare, and persons employing any licensee from evading the payment of such rate or fare.</p>
<p>Inspection of licensed vehicles.</p>	<p>(xvi.) Regulating and enforcing the inspection of licensed vehicles, and the inspection of the horses, harness, and equipment thereof; authorising any officer of the Local Authority, at any time between sunrise and sunset, to enter the premises of licensees or applicants for licenses, for the inspection of vehicles, horses, harness, and equipment.</p>
<p>Number of licensed passenger vehicles.</p>	<p>(xvii.) Limiting the number of licensed passenger vehicles.</p>
<p>Traffic.</p>	<p>(xviii.) Regulating the traffic and standing of vehicles and horses upon any road.</p>
<p>Age of drivers of vehicles generally,</p>	<p>(xix.) Prescribing the limit of the age at which any person shall drive or have the control of any horse or horses harnessed to any vehicle standing or being driven upon any road.</p>
<p>Unattended vehicles, &amp;c.</p>	<p>(xx.) Prescribing and regulating the seizure and custody of unattended vehicles and horses or other animals upon any road, and providing for the recovery of all expenses of the custody of the same.</p>
<p>Speed, &amp;c.</p>	<p>(xxi.) Regulating the rate of speed and pace of vehicles and of horses; regulating where and under what conditions cars used on tramways, and vehicles and horses, may stand in or upon any road; prohibiting the driving of any animal drawing any vehicle not having springs at a faster rate, speed, or pace than at a walk.</p>
<p>Accidents.</p>	<p>(xxii.) Providing for the prevention of accidents arising from the improper use of vehicles, velocipedes, and horses, or from the driving of animals.</p>
<p>Lamps.</p>	<p>(xxiii.) Requiring the owner of any description of vehicle or velocipede to provide the prescribed number of lamps to be attached to such vehicle or velocipede, and the driver, rider, or person having the control of the same to keep such lamps lighted while the same is standing or being driven at night.</p>
<p>Obstruction.</p>	<p>(xxiv.) Prohibiting loitering and the obstruction of traffic generally upon any road.</p>
<p>Removing obstacles.</p>	<p>(xxv.) Prescribing the removal by any officer of the Local Authority or member of the Police Force of any animal, vehicle, stall, stand, or other structure or contrivance causing an obstruction in any road.</p>
<p>Goods on roads.</p>	<p>(xxvi.) Prohibiting any goods of any description from being placed, stacked, or stored in or upon any road, or from remaining in or upon any road for a longer period than may be necessary for housing or removing the same.</p>
<p>Traffic on footways.</p>	<p>(xxvii.) Requiring any person standing or loitering upon the footway to the inconvenience of passers-by to immediately comply with the orders or directions of any officer of the Local Authority or member of the Police Force</p>

to discontinue to do so; prohibiting the riding, driving, or wheeling of any hand cart, truck, bagrow, or other similar class of vehicle or any velocipede upon or along the footway.

(xxviii.) Regulating the traffic upon tramways.

Traffic on tramways.

(xxix.) Regulating traffic at times of public interest, amusement, or excitement.

Extra-ordinary traffic.

64.—TRAMWAYS OF LOCAL AUTHORITY.

The regulation of tramways and the traffic thereon where such tramways have been constructed by or acquired by and are under the management and control of the Local Authority. Tramways.

65.—TRAVELLING EXPENSES OF SHIRE COUNCILLORS.

Prescribing the payment to the Councillors of a Shire (including the Chairman) out of the Shire Fund of the expenses incurred by them in attending meetings of the Council: Provided that— Allowances to members in Shires.

- (a) No payments by way of expenses shall be made to any Councillor in excess of the actual money expended by the Councillor in payment of the fare by coach, railway, steamboat, or other public conveyance (or in lieu thereof a sum of sixpence per mile computed for one way only), for the distance actually and necessarily travelled by the nearest practicable route between the residence of the Councillor and the place of meeting; and
- (b) No such payments to any Councillor in any year shall in the aggregate exceed twenty pounds.

66.—TREE-PLANTING.

Planting and preserving trees and shrubs in roads and lands under the control of the Local Authority. Tree-planting.

67.—WATER.

(i.) The supply and distribution of water, and imposing fees or charges therefor in cases where the works for the storage of water have been formed at the expense of the Local Authority, or have been duly placed under the control of the Local Authority. Water supply

(ii.) Prohibiting the pollution of any river, stream, watercourse, public well, fountain, dam, or other public water, or place for water, within the Area or at the boundary thereof. Pollution of streams.

(iii.) Prohibiting the deposit of any matter or thing in any river, stream, or public water, whereby the flow of water therein may be impeded, and compelling the removal of all such matters or things by the owners of land abutting thereon. Impeding and current.

68.—WHARVES.

(i.) Regulating and controlling the use of such of the wharves, jetties, piers, landing places, waiting-rooms, and other erections as may have been leased, purchased, or acquired by the Local Authority, or as may be already in the possession of the Local Authority. Wharves, &c.

(ii.) Establishing, levying, and imposing tolls, rates, dues, and charges upon and in respect of steamers and other vessels making fast to, or lying alongside of, or landing or receiving goods or passengers upon or from, or otherwise using any of the said wharves.

(iii.) Erecting gates, bars, and other works necessary for the collection of such tolls, rates, dues, and charges.

(iv.) The management and collection of such tolls, rates, dues, and charges.

: Subsection (xxx.) repealed by section 25 of the amending Act of 1913.

**CHECKED**  
**2008-04**