

1 GEO. VI. No. 1, 1936. *Local Government Act.*

LOCAL AUTHORITY.

See DINGOES AND MARSUPIALS.

See HEALTH.

See HOSPITALS.

See WATER.

LOCAL AUTHORITIES.

An Act to Consolidate and Amend the Laws relating to Local Government.

1 GEO. VI.
No. 1.

THE LOCAL
GOVERNMENT
ACT OF 1936.

[ASSENTED TO 17TH DECEMBER, 1936.]

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:—

[Crown
Copyright is
Reserved.]

PART I.—PRELIMINARY.

PART I.—
PRELIMINARY.

1. (1.) This Act may be cited as "*The Local Government Act of 1936.*"

Short title.

(2.) Except as herein otherwise provided, this Act shall commence and take effect on and from the first day of January, one thousand nine hundred and thirty-seven.

Commence-
ment of Act.

(3.) This Act is divided into Parts as follows:—

Division
of Act.

PART I.—PRELIMINARY—

Section 1—Short Title and Commencement and Divisions of Act,

Section 2—Repeals and Savings,

Section 3—Definitions ;

PART II.—POWERS OF CENTRAL GOVERNMENT—

Section 4—Powers of Central Government ;

PART III.—AREAS—

Section 5—Areas ;

PART IV.—CONSTITUTION OF LOCAL AUTHORITIES—

Section 6—Constitution of Local Authorities,

Section 7—Qualification and Election of Chairman and Members,

Section 8—New Elections,

Section 9—Ouster from Office ;

PART V.—CHAIRMAN—

*Section 10—Election of Deputy Chairman,**Section 11—Powers and Duties of Chairman,**Section 12—Powers and Duties of Acting
Chairman,**Section 13—Allowance to Chairman ;*

PART VI.—PROCEEDINGS—

*Section 14—Meetings,**Section 15—Committees,**Section 16—Records,**Section 17—Officers ;*PART VII. — PUBLIC OFFICE OF LOCAL
AUTHORITY—*Section 18—Public Office of Local Authority ;*

PART VIII.—CONTRACTS—

Section 19—Contracts ;

PART IX.—JOINT LOCAL AUTHORITY—

Section 20—Joint Local Authority ;

PART X.—FINANCE—

*Section 21—Rates and Charges,**Section 22—Borrowing,**Section 23—Funds,**Section 24—Valuation and Valuation Court,**Section 25—Budget,**Section 26—Rate Books,**Section 27—Levy and Recovery of Rates and
Recovery of Charges,**Section 28—Raising Loans,**Section 29—Accounts and Audit ;*PART XI.—FUNCTIONS AND POWERS OF LOCAL
GOVERNMENT—*General.**Section 30—Functions of Local Government,**Section 31—General Powers as to By-laws,**Section 32—Miscellaneous and General Powers
and Duties,**Specific Powers and Duties.**Section 33—Town Planning,*

1936.

*Local Government Act.*PART I.—
PRELIMINARY.

- Section 34—Subdivision of Land,*
Section 35—Roads,
Section 36—Sewerage,
Section 37—Drainage,
Section 38—Sanitation,
Section 39—Buildings,
Section 40—Places of Public Amusement and
Public Resort,
Section 41—Noxious Weeds and Pests,
Section 42—Impounding,
Section 43—Ferries,
Section 44—Wharves, Quays, Jetties, and Landing
Places,
Section 45—Public Reserves,
Section 46—Reclamation of Land,
Section 47—Agricultural Drainage,
Section 48—Undertaking Provisions,
Section 49—Tramways,
Section 50—Powers for Execution of this Act,
Section 51—Compensation,
Section 52—Legal Proceedings ;

PART XII.—POLLS—

- Section 53—Polls ;*

PART XIII.—LOCAL AUTHORITIES ASSOCIATION
OF QUEENSLAND—

- Section 54—Local Authorities Association of*
Queensland ;

PART XIV.—TRANSITION PROVISIONS—

- Section 55—Transition Provisions.*

Repeals and Savings.

2. (1.) Subject to the provisions hereinafter ^{Repeals.} contained, the Acts specified in the First Schedule to ^{Schedule I.} this Act are repealed to the extent in that Schedule indicated :

Provided that, without prejudice to **“The Acts Shortening Acts”*—

(i.) All Proclamations, Orders in Council, Regulations, and notifications made under the repealed

* 31 Vic. No. 6 and 3 Edw. VII. No. 10 : Statutes, pages 15 and 21.

Acts or any of them or any Act thereby repealed and in force at the coming into operation of this Act shall continue in force until the same or any of them are repealed or amended under this Act.

- Proceedings,
by-laws, &c. (ii.) All proceedings and things had or done, and all by-laws 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.
- Rates, &c.,
due. (iii.) All rates, precepts, assessments, 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.
- Penalties. (iv.) 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.
- Rights and
liabilities.
&c. (v.) 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.
- Actions, &c. (vi.) 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.
- Rights of
Treasurer. (vii.) 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.

1936.

*Local Government Act.*PART I.—
PRELIMINARY.

(viii.) All rights, powers, and authorities which at the commencement of this Act have accrued to debenture-holders under any of the said Acts may be exercised and enforced as if this Act had not been passed.

Debenture-holders.

(ix.) 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.

Documents made evidence.

(x.) 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.

Existing licenses, registrations, and permits.

(xi.) 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.

Reference to repealed Acts.

(2.) (i.) Save as hereinafter mentioned, this Act shall apply to all existing Cities and Towns as if they had been constituted Cities and Towns under this Act, and to all existing Shires as if they had been constituted Shires under this Act.

Existing Cities, Towns, and Shires.

(ii.) 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.

Existing Local Authorities.

(iii.) The Joint Local Authorities heretofore constituted under the provisions of **“The Local Authorities (Joint Action) Act of 1886”* and †*“The Local Authorities Acts, 1902 to 1935,”* and existing at the commencement of this Act shall, unless or until dissolved under this

Existing Joint Local Authorities.

* 50 Vic. No. 16 (repealed by section 4 (1) of *“The Local Authorities Act of 1902.”*)

† 2 Edw. VII. No. 19 and amending Acts, *supra*, pages 1860 *et seq.* See Alphabetical Table.

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.

(3.) Except as by this Act is otherwise expressly provided, nothing herein contained shall be construed to repeal or otherwise 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:

Provided that this subsection shall not revive any provision of any such Act in so far as such provision was repealed by the First Schedule to **“The Local Authorities Act of 1902.”*

Powers to be in addition and not in derogation of powers under other Acts.

(4.) 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.

Interpretation and definitions.

3. (1.) In this Act, unless the context otherwise indicates or requires, the following terms have the meanings set against them respectively, that is to say:—

Alignment.

“Alignment”—The boundary line between any road and any land abutting thereon;

Animals.

“Animals”—Cattle, horses, camels, sheep, dogs, goats, and swine;

Area.

“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;

Board.

“Board”—The governing body of a Joint Local Authority;

Boundary bridge.

“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,

* 2 Edw. VII. No. 19, *supra*, page 1860.

- 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 road”—A road which, or one side of which, forms the boundary between two Areas; Boundary road.
- “Bridge”—A bridge, ford, causeway, culvert, or other crossing upon a street, road, or highway, and over a river, creek, or other watercourse; Bridge.
- “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, or acting mayor or acting chairman, and in respect of a Joint Local Authority, includes the president; 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.

Component Local Authority.	“ Component Local Authority ”—One of the Local Authorities of which or of whose representatives a Joint Local Authority is composed ;
Conterminous.	“ 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 watercourse, all the Areas are “ conterminous ” within the meaning of this Act ;
Council.	“ Council ”—The council of a Town or Shire ;
Division.	“ Division ”—A division of a Shire ;
Drain.	“ Drain ”—Any drain for the carrying-off of waters other than sewage ;
Elections Act.	“ Elections Act ”—*“ <i>The Elections Acts, 1915 to 1932</i> ” (and any Act amending or in substitution for those Acts) ;
Elector.	“ Elector ”—A person named as such in an electoral roll compiled pursuant to the Elections Act and enrolled on a voters’ roll compiled under this Act, or on an electoral roll in use in a divided or undivided Area as a voters’ roll ;
Electoral registrar.	“ 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.	“ 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 ;
Engineer.	“ Engineer ”—The officer appointed by the Local Authority to be engineer for the purposes of this Act : the term includes any officer for the time being performing the duties of engineer ;

* 6 Geo. V. No. 13 and amending Acts, *supra*, pages 6779 *et seq.*

1936.

*Local Government Act.*PART I.—
PRELIMINARY.

- “ Ferry ”—Includes a punt or floating bridge ; Ferry.
- “ Fire - resisting materials ” — The following Fire-resisting materials.
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, or slag,
 - (ii.) Stone suitable for building purposes by reason of its solidity and durability,
 - (iii.) In cases approved by the Local Authority iron, steel, copper, plaster, and fibro-cement,
 - (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,
 - (vi.) Concrete composed of broken bricks, stone chippings, or ballast and lime, cement or calcined gypsum, when used for filling in between joists of floors,
 - (vii.) Approved concrete, composed of portland cement, broken stone, brick, pumice, coke breeze, chippings or ballast, and reinforced concrete,
 - (viii.) Sheet metals when used for roof coverings,
 - (ix.) Iron and steel columns, girders or wall-framing when cased in cement, concrete, or other incombustible material,
 - (x.) In the case of staircases except fire-resisting staircases and landings around lift enclosures, approved hardwood with treads

- and strings not less than two inches thick, the underside being protected by declared fire-resisting material,
- (xi.) Approved hardwood, when used for beams or posts or in combination with iron or steel, the iron or steel, if any, being protected by plastering or other incombustible or non-conducting external coating, not less than two inches in thickness,
 - (xii.) In the case of floors, fire-resisting staircases and landings around lift enclosures, brick, tile, terra cotta, concrete not less than four and one-half inches thick, in combination with iron or steel, reinforced concrete not less than four inches thick,
 - (xiii.) In the case of roofs, brick, concrete, terra cotta, or reinforced concrete,
 - (xiv.) In the case of internal partitions forming party structures, enclosing walls to lifts, staircases, and passages, reinforced concrete not less than four inches thick, terra cotta not less than six inches thick, brickwork, concrete, or other approved incombustible material not less than nine inches thick,
 - (xv.) In the case of glazing for vertical party structures and fixed borrowed lights in partition of fire-resisting construction, two thicknesses of wired glass not less than one-fourth of an inch in thickness, fixed not less than two inches apart, in panels not exceeding thirty inches by twenty-four inches, the panels to be secured in approved metal frames. In the case of glazing for the following horizontal party structures—namely, floors of lobbies, passages, and landings, floor lights of glass not less than three-quarters of an inch in thickness, or more than four inches square, set in approved metal or other incombustible frames,
 - (xvi.) Any material from time to time declared by a by-law of the Local Authority to be fire-resisting ;

1936.

*Local Government Act.*PART I.—
PRELIMINARY.

- “ Goods ” — Goods, chattels, merchandise, Goods.
materials, stone, timber, or other articles ;
- “ Horses ”—Horses, mares, geldings, colts and Horses.
fillies, asses, and mules ;
- “ Improved land ”—The site or curtilage of any Improved
land.
building, or any garden, lawn, yard, court,
park, plantation, planted walk, avenue, or
nursery for trees, and any land under
cultivation ;
- “ Licensed vehicle ”—Any stage carriage, or Licensed
vehicle.
omnibus, hackney carriage, motor, coach,
car, cab, wagon, lorry, cart, van, dray,
trolley, motor bicycle, or other vehicle in
respect of which a license under the provisions
of this Act or any Act hereby repealed is in
force ;
- “ Licensee ”—The holder for the time being of Licensee.
any license under the provisions of this Act
or any Act hereby repealed ;
- “ Local Authority ” — A Local Authority Local
Authority.
constituted under this Act: the term in
relation to any functions of local government
under this Act, or any of the powers and
duties conferred upon Local Authorities
under any other Act, also includes a Joint
Local Authority constituted under this Act
in respect thereto ;
- “ Member ”—A member of a Local Authority or Member.
Joint Local Authority, as the case may be ;
- “ Minister ”—The Secretary for Health and Home Minister.
Affairs or other Minister of the Crown for
the time being charged with the administra-
tion of this Act ;
- “ Newspaper ”—A newspaper published in the Newspaper.
Area, or, if no newspaper is so published, a
newspaper generally circulating in or near
the Area ;
- “ Noxious weed or plant ”—Any weed or plant Noxious
weed or
plant.
growing within any Area which has been
declared to be a noxious weed or plant under
this Act ;

- Obligation. “Obligation”—The term when used with reference to land, timber, or goods or chattels, as the case may be, shall mean and include any 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, timber, or goods or chattels ;
- Occupier. “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 ;
- Omnibus. “Omnibus”—A vehicle drawn or propelled by animal or other power, and used for the conveyance of passengers, goods, or parcels for hire, not being a car used on a railway or tramway: the term includes a motor vehicle or motor bicycle ;
- Open to inspection. “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, and any superintendent, overseer, or manager for such lessee residing on the

1936.

*Local Government Act.*PART I.—
PRELIMINARY.

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 ”—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 ; Pest.
- “ Place of public amusement or public resort ”—Any building or any part of a building, or any enclosure, ground, place, or premises whatsoever used or intended to be used for public meetings, or as assembly rooms, or as a theatre, or dancing hall, or music hall, or for athletic entertainment or boxing, or for circuses, or cinematograph exhibitions, or as a stand on any racecourse or on land adjacent thereto, or sports ground, or show ground, or for any public performances or public amusements whatever, whether a charge is made for admission thereto or not : and moreover shall include any building or part of a building, premises, or place in or upon which any prize-fight, dog-fight, or cock-fight takes place ; Place of public amusement or public resort.
- “ Pound-keeper ”—The officer appointed to be pound-keeper for the purposes of this Act : the term includes the officer for the time being performing the duties of the pound-keeper ; Pound-keeper.
- “ Prescribed ”—Prescribed by or in pursuance of this Act ; Prescribed.
- “ Proprietor ”—The person owning any animal, or any agent or overseer of such owner ; Proprietor.
- “ Registrar of titles ”—The registrar of titles for the time being appointed under **“ The Real Property Acts, 1861 to 1887 ”* (or any Act Registrar of titles.

* 25 Vic. No. 14 and amending Acts, *supra*, pages 2984 *et seq.*

- amending the same), including a local deputy registrar of titles, or, where the registrar of titles is not the authority charged with the registration of the instrument of title to the tenure of any land, the authority charged with registering the instrument of title to such tenure ;
- 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 ferry and the approaches thereto : the term includes any road within the meaning of * “ *The Diseases in Stock Acts, 1915 to 1935* ” (or any Act amending or in substitution for those Acts) ;
- Sanitary convenience. “ Sanitary convenience ”—Includes urinals, water-closets, earth-closets, privies, cesspits, cesspools, or other receptacles for the deposit of fæcal matter or refuse, and all similar conveniences ;
- Sewerage. “ Sewerage ”—Any sewer, manhole, ventilator, structure, engine, pump, machinery, sewerage apparatus, outfall, or other work for or in connection with sewerage connection to premises, or sewerage apparatus : and for the purposes of this definition the term “ sewer ” shall mean any sewer for the carrying-off of sewage : and “ sewage ” includes fæcal matter, urine, household slops, and objectionable waters : and the term “ sewerage apparatus ” shall mean any water closet, urinal, fitting, apparatus, appliance, sink, trap, pipe, or ventilator for or in connection with any sewer ;
- 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 ;

* 6 Geo. V. No. 16 and amending Acts, *supra*, pages 7015 *et seq.*

1936.

*Local Government Act.*PART I.—
PRELIMINARY.

- “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 ;
- “This Act”—Includes this Act and any Proclamation, Order in Council, regulation, or by-law thereunder, or any order or notice made or given under this Act, or under any such Proclamation, Order in Council, regulation, or by-law ;
- “Town”—An existing City or Town or a City or Town constituted under this Act ;
- “Town planning”—Town planning shall include all matters necessary or expedient for securing the improvement, development, healthfulness, amenity, embellishment, convenience, or commercial advancement of the Area or part of the Area of any Local Authority ;
- “Town planning scheme” or “scheme”—A scheme for town planning ;
- “Tramway area”—A tramway area defined under †*“The Local Authorities Acts, 1902 to 1935 ”* ;
- “Undertaking” (in relation to a Local Authority or Joint Local Authority)—The provision of water, gas, or electricity, transport, or any other public service which the Local Authority or Joint Local Authority is authorised by this Act or any other Act to undertake ;

* 25 Vic. No. 14 and amending Acts, *supra*, pages 2984 *et seq.*† 2 Edw. VII. No. 19 and amending Acts, *supra*, pages 1860 *et seq.*

PART I.—
PRELIMINARY.*Local Government Act.*

1 GEO. VI. No. 1,

Vehicle.	“ Vehicle ”—Any description of vehicle drawn or propelled by animal or other motive power other than a velocipede as herein defined ;
Velocipede.	“ Velocipede ”—A bicycle, tricycle, or other vehicle of similar description ;
Watershed.	“ 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 ;
Width of a road.	“ 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 ;
Writing.	“ Writing ”—Includes partly printing and partly writing, and printing, typewriting, lithography, photography, and other modes of representing or reproducing words in a visible form ;
Year.	“ Year ”—The period of time from and including the first day of July in one calendar year to and including the thirtieth day of June, in the next following calendar year.

Where in this Act reference is made to a mineral field only, such reference shall be and be deemed to be a reference both to a mineral field and a gold field.

Offence
against Act.

(2.) 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.

PART II.—
POWERS OF
CENTRAL
GOVERN-
MENT—

PART II.—POWERS OF CENTRAL GOVERNMENT.

Regard to be
had to repre-
sentations
of Local
Authorities.

4. (1.) 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 neither the Governor in Council nor the Minister shall be bound to wait for any representation of any Local Authority before exercising such powers or to comply with any such representation.

1936.

*Local Government Act.*PART II.—
POWERS OF
CENTRAL
GOVERNMENT.

(2.) The Governor in Council may from time to time make regulations providing for all or any purposes, whether general or to meet particular cases, that may be convenient for the administration of this Act or that may be necessary or expedient to carry out the objects and purposes of this Act.

General
power to
make
regulations.

Without limiting the generality of these provisions, regulations may be made for or in respect of all or any of the following matters and things:—

(i.) Subject to this Act, on the recommendation of the Auditor-General regulations with respect to all or any of the following matters, namely:—

- (a) The form and manner in which the annual budget shall be framed and the books of account of the Local Authority shall be kept;
- (b) 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;
- (c) The terms and conditions on which arrears of rates may be written off;
- (d) The duties of the clerk, chairman, and auditor as to the verification of rates in arrear at the date of the audit;
- (e) The duties of the auditor in connection with the audit and examination of the accounts;
- (f) Generally for the execution of sections 23, 25, 26, and/or 29 of this Act.

(ii.) Prescribing the conditions upon which certificates of auditors may be issued, and the conditions upon which such certificates shall continue in force and/or be cancelled and/or suspended.

(iii.) Prescribing conditions upon which certificates of clerks may be issued and the conditions upon which such certificates shall continue in force and/or be cancelled and/or suspended.

(iv.) Prescribing the conditions upon which certificates of engineers and overseers of works may be issued and the condition upon which such certificates shall continue in force and/or be cancelled and/or suspended.

(v.) With respect to town planning—

- (a) The matters to be dealt with in the preparation or adoption of town planning schemes, or in any alteration, amplification, or revocation of any such scheme by a subsequent scheme; the civic surveys appertaining thereto; model clauses for the guidance of Local Authorities in preparing such schemes; the procedure to be followed in obtaining the approval of town planning schemes.
- (b) The method of considering objections to town planning schemes by Local Authorities; the procedure to be adopted by Local Authorities in submitting such objections and their representations thereon to the Minister.
- (c) Providing for the procedure in respect of appeals and the necessary forms in regard thereto.
- (d) All matters or things required or permitted by this Act to be prescribed in relation to town planning.

The regulations may prescribe forms and fees and fix a penalty not exceeding fifty pounds in any case for any breach thereof.

Any regulation made or purporting to have been made under this Act shall be published in the *Gazette*, and shall upon publication be of the same force and effect as if it were enacted in this Act and shall be judicially noticed, and shall not be questioned in any proceedings whatsoever.

The publication in the *Gazette* of any such regulation shall be conclusive evidence of the power and authority to make the same and of all matters therein contained.

All regulations shall be laid before the Legislative Assembly within fourteen days after such publication, if Parliament is in session; or, if not, then within fourteen days after the commencement of the next session.

If Parliament passes a resolution disallowing any such regulation, of which resolution notice has been given at any time within fourteen sitting days of such House after such regulation has been laid before it, such regulation shall thereupon cease to have effect, but without prejudice to the validity of anything done in the meantime.

1936.

*Local Government Act.*PART II.—
POWERS OF
CENTRAL
GOVERNMENT.

For the purpose of this subsection, the term "sitting days" shall mean days on which the House actually sits for the despatch of business.

Any such regulation may be made on the passing of this Act.

(3.) (i.) The Governor in Council may from time to time make all such Proclamations and Orders in Council 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.

General
power to
make
Proclama-
tion and
Orders in
Council.

(ii.) The generality of this subsection shall not be qualified or affected by any provision of this Act giving power to make Proclamations and Orders in Council with regard to any subject-matters in such provision specified.

(4.) (i.) Every Proclamation and Order in Council made under this Act shall be published in the *Gazette*.

Publication
of Proclama-
tions and
Orders in
Council.

(ii.) Where under this Act the Governor in Council has power to make any Proclamation or Order in Council, he shall have power to make one or more Proclamations or Orders in Council as appears to him necessary or expedient in the circumstances, and either at one and the same time or from time to time.

(iii.) The Governor in Council may by another Proclamation or Order in Council amend or rescind any Proclamation or Order in Council made under this Act.

Amending or
rescinding
Orders in
Council, &c.

(iv.) No misnomer or inaccurate description or omission contained in any such Proclamation or Order in Council shall in any wise 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.

Misnomer,
&c., not to
prejudice.

(v.) No Proclamation or Order in Council 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.

(vi.) All Proclamations and Orders in Council made or purporting to be made under this Act when published in the *Gazette* shall have the same force and effect as if they were enacted in this Act and shall be judicially noticed, and shall not be questioned in any proceedings whatsoever, and such publication shall be conclusive evidence of the power and authority to make the Proclamation or Order in Council so published and of all matters contained therein.

Governor in
Council may
intervene.

(5.) The Governor in Council may at any time suspend or rescind any resolution or order of the Local Authority, or may prohibit the expenditure of any moneys from the general or any other fund upon any work which he deems unnecessary, or which will in his opinion impose undue burdens upon the inhabitants of the Area or any division thereof.

Extravagant
allowances,
&c.

(6.) 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 general or any other fund which the Governor in Council considers unnecessary, extravagant, or is not authorised by this Act or any other Act, 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.

Returns.

(7.) 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, and the Minister shall fix a reasonable time within which the returns so required shall be furnished.

Any person appointed for that purpose by the Minister shall at any time have access to all records 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 subsection or makes a false return, and any person who impedes or obstructs any person appointed by the Minister to perform any duty under this subsection shall be liable to a penalty not exceeding fifty pounds.

1936.

*Local Government Act.*PART II.—
POWERS OF
CENTRAL
GOVERNMENT.

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.

(8.) The Governor in Council may by Order in Council repeal any by-law or part of any by-law. Repeal of by-law.

Dissolution of Council.

(9.) Notwithstanding anything in this Act contained, the Governor in Council may in his absolute discretion or 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 either case, in his opinion circumstances have arisen rendering it necessary so to do, dissolve any council, whereupon the following consequences shall ensue :— Power to dissolve a council.

- (a) The chairman and members of the council shall forthwith go out of office ;
- (b) A fresh election of the chairman and 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.

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.

(10.) Notwithstanding anything in this Act contained, the Governor in Council may by Order in Council declare that this Act shall not apply and extend to such part of the Area of the Local Authority as is Exclusion of part of Area from this Act.

defined in such Order ; and from and after the making of such Order in Council this Act shall cease to apply and extend to the part so defined :

Provided that the Governor in Council may at any subsequent time repeal any such Order, and forthwith upon such repeal this Act shall again extend and apply to such part.

Areas.

5. (1.) (i.) Areas may be any of the following classes, namely —

- (a) City ;
- (b) Town ;
- (c) Shire.

(ii.) The Governor in Council may by Order in Council—

- (a) Include in an Area any part of Queensland which is not included in any Area ;
- (b) Abolish an Area or Areas and join such Area or Areas or join parts of such Area or Areas with another Area or other Areas ;
- (c) Alter the boundaries of Areas by including in one Area part or parts of another Area or part or parts of other Areas, and by excluding such part or parts from such other Area or Areas ;
- (d) Divide a Shire into divisions ;
- (e) Redivide a Shire into divisions ;
- (f) Abolish the divisions of a Shire ;
- (g) Alter the name of an Area :

Provided that, at the request of a council of a Shire, the Governor in Council may, by Order in Council, declare and direct that the Area of such Shire shall be divided into divisions for the purposes of Part IV. only of this Act, and thereupon such Area shall for all other purposes of this Act be administered as if such Area were not divided into divisions.

The same or any subsequent Order in Council may declare and direct and specify the divisions into which such Area of the Shire concerned shall be so divided :

1936.

Local Government Act.

Provided further, that 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. Proclamation of City.

(iii.) 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. Notice.

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.

(2.) (i.) When an Area or Areas is or are abolished and such Area or Areas is or are joined to another Area or other Areas, the assets and liabilities of the Area or Areas so abolished shall devolve upon the other Area or other Areas to which the Area or Areas so abolished have been joined, and where in any such case it becomes necessary so to do, the Governor in Council may by Order in Council declare and apportion the assets and liabilities of the abolished Area or Areas between such other Areas, and in such manner as appears to him just. Effect of inclusion or joinder.

(ii.) When the boundaries of Areas are altered by including in one Area part or parts of another Area or part or parts of other Areas and in any such case 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. Apportionment of assets, &c.

(iii.) When a part of Queensland not included in an Area is included in an Area all by-laws in force in the Area in which such part is so included shall become the by-laws to part of Queensland not in Area. Extension of by-laws to part of Queensland not in Area.

repealed or amended under this Act.

Application
of by-laws
to joined or
included
Area.

(iv.) When an Area is abolished and such Area or parts of such Area is or are joined to another Area or other Areas, or when part of an Area is excluded from such Area and included in another Area, then, and in any such case, all by-laws in force in the Area so abolished or part of an Area so excluded from such Area shall forthwith cease and have no further effect whatsoever in the Area so abolished or part so excluded from an Area, and all by-laws in force in any other Area to which such abolished Area or part of such abolished Area is joined, or in which such part so excluded from an Area is included shall become the by-laws of and remain in force in the abolished Area or part of an abolished Area so joined to such other Area, or the excluded part of an Area so included in such other Area until they are repealed or amended under this Act.

Preservation
of
valuation,
rates, &c.

(v.) When an Area is abolished and such Area or parts of such Area is or are joined to another Area or other Areas, or when part of an Area is excluded from such Area and included in another Area, then and in any such case :—

(a) The valuation, if any, last in force of the rateable land in the Area so abolished, or part of an Area so excluded from such Area shall (and notwithstanding that such abolished Area or part of such abolished Area is joined to another Area, or that such part so excluded from an Area is included in another Area) continue to be in force until a fresh valuation thereof has been made by the other Local Authority to which such abolished Area or part of such abolished Area has been joined, or in which such part so excluded from such Area has been included ;

(b) All rates (including interest thereon, if any), which have accrued due in respect of land within the Area so abolished, or within the part of an Area so excluded from such Area, and which remain unpaid at the date of such abolition or exclusion, as the case may be, shall (and notwithstanding that such abolished Area or part of such abolished Area is joined to another Area, or that such part so excluded from an Area is included in another Area) be and remain due, payable,

1936.

*Local Government Act.*PART III.—
AREAS.

and leviable and may be paid to and received, levied, and recovered by the Local Authority of the other Area to which such abolished Area or part of such abolished Area has been joined, or in which such part so excluded from an Area has been included.

(vi.) No Order in Council made under this section shall prejudice or affect any right, power, or authority which has accrued to debenture-holders.

PART IV.—CONSTITUTION OF LOCAL AUTHORITIES.

PART IV.—
CONSTITUTION
OF LOCAL
AUTHORITIES.*Constitution of Local Authorities.*

Towns.

6. (1.) (i.) Every Town shall be governed by a council comprised of seven, nine, or eleven members including the chairman, as the Governor in Council from time to time declares by Order in Council.

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." He shall be a member and an alderman by virtue of his office.

(ii.) 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 need not be the same for each division.

If the Shire is not divided, the number of members including the chairman 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.

(2.) Every Local Authority and every Joint Local Authority shall be a body corporate with perpetual succession and a common seal which shall be judicially noticed, 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.

Qualification and Election of Chairman and Members.

Qualification
for office of
chairman
or member.

7. (1.) Every adult person (whether male or female) who resides within the Area, and who under this Act is qualified to be enrolled on the voters' roll, and who is not under any of the disabilities hereinafter specified, shall be qualified to be nominated as a candidate and to be elected or appointed and to act as chairman or member of the Local Authority of such Area, but only so long as he or she 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.

Disqualifica-
tions.

(2.) No person who—

- (i.) Is concerned or participates in the profit of any contract with the Local Authority ; or
- (ii.) Is (except as hereinafter provided) an employee of any Local Authority ; or
- (iii.) Has his affairs under liquidation by arrangement with his creditors or is an uncertificated or undischarged bankrupt or insolvent ; or
- (iv.) 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
- (v.) Is an insane person within the meaning of the laws in force for the time being relating to insanity,

shall be capable of being or continuing a member :

Certain acts
not to
incapacitate
for
membership.

Provided that nothing herein shall disqualify any person from being or continuing a member solely because he is concerned or has participated or participates in a transaction with the Local Authority in respect of—

- (a) A lease, sale, or purchase of lands, or an agreement for such lease, sale, or purchase ; or

* 63 Vic. No. 9, Sch. I., *supra*, pages 344 *et seq.*

1936.

*Local Government Act.*PART IV.—
CONSTITUTION
OF LOCAL
AUTHORITIES.

- (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 one hundred pounds in any one year :

Provided further, that nothing herein shall disqualify any person who is for the time being an employee of any Local Authority and who is paid by the Local Authority with moneys received from the Unemployment Relief Fund within the meaning of **“The Income (Unemployment Relief) Tax Acts, 1930 to 1935”* (and any Act amending or in substitution for the same).

(3.) (i.) Subject to this Act the chairman and every other member shall hold office for three years. Tenure of office of member.

(ii.) 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 hereinafter provided.

(iii.) Whenever at the triennial election an election 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 until the conclusion of that election.

(4.) (i.) The office of chairman or member of a Local Authority shall be vacated— When office is vacant.

- (a) If he is or has become disqualified or has ceased to be qualified under the provisions of this Act ; or

* 13 Geo. V. No. 28 and amending Acts, *supra*, pages 10073 *et seq.*

- (b) 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
- (c) If he is ousted from his office by the Supreme Court; or
- (d) If he ceases for any reason to hold office before the day on which the office would ordinarily become vacant:

Non-attendance not to count unless meeting actually held.

Provided that the non-attendance of a chairman or 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:

Attendance at lapsed meeting.

Provided further, that the attendance of a chairman or 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.

Disqualified person acting.

(ii.) 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.

Voters.

(5.) The chairman shall be elected by the electors of the Area.

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.

One vote only.

(6.) (i.) At any election under or for the purposes of this Act, each elector shall have one vote only.

(ii.) The voting shall be by ballot.

(iii.) The election shall be held on a Saturday.

1936.

*Local Government Act.*PART IV.—
CONSTITUTION
OF LOCAL
AUTHORITIES.

Voters' roll.

(7.) (i.) 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 :—

- (a) The voters' roll shall consist of the names of all electors enrolled up to the immediately preceding thirty-first day of December on the electoral roll or rolls of the electoral district or districts or parts thereof comprised within the Area or division, as the case may be ;
- (b) 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 the figure "1," of all electors :

Provided that the returning officer may, 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 or parts thereof comprised within the Area or division as the voters' roll for such Area or division, with such eliminations from or corrections in such electoral roll or rolls as may be necessary in consequence of the boundaries of the Area or division 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 :

Provided further, that any person enrolled on an electoral roll in pursuance of proviso (i.) of subsection three of section nineteen of the Elections Act shall be entitled to be enrolled on the voters' roll for the Area or division in which he resides notwithstanding that his name does not appear on the electoral roll for the district in which he actually resides.

(ii.) 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 two shillings for every copy thereof.

(iii.) 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.

(iv.) For the purposes of any election held on any day other than the day of the triennial elections, the 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 not later than thirty clear days before the day on which the election is to be held.

Triennial
election.

(8.) (i.) In every Area a triennial election of the chairman and members shall be held.

(ii.) The election of the chairman and members shall be held on any Saturday in April, one thousand nine hundred and thirty-nine, as the returning officer appoints, and thereafter on any Saturday in April in every third year as the returning officer appoints.

(iii.) At every triennial election the chairman and the whole number of members shall be elected.

Rules as to
elections.

(iv.) 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.

Resignation.

(9.) A chairman or any 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.

Vacancy.

(10.) (i.) Save as hereinafter provided, when any vacancy arises in the office of member or chairman other than the chairman of a Town in the case provided in paragraph (ii.) of this subsection, the Local Authority shall, at a special meeting called for the purpose, within two weeks in the case of a Town and within one month in the case of a Shire of the occurrence of the vacancy, appoint a qualified person to be member or chairman, as the case may be, in his stead.

1936.

*Local Government Act.*PART IV.—
CONSTITUTION
OF LOCAL
AUTHORITIES.

If after the expiration of the time allowed as aforesaid for the filling of any vacancy, no member or chairman, as the case may be, is appointed to fill the vacancy, 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.

If vacancies occur at any time as to prevent a quorum of members from being obtained, an election shall be held to fill such vacancies.

A person elected or appointed under this subsection to fill any vacancy shall, subject to this Act, hold office for the remainder of the period for which his predecessor was elected or appointed.

(ii.) In the case of a Town, when a vacancy arises in the office of chairman within two years after his election thereto, an election shall be held to fill the vacancy. Election of chairman.

(iii.) If a sitting member is elected or appointed to be chairman as hereinbefore provided to fill a vacancy, he shall forthwith be deemed to have vacated his office as member, whereupon a vacancy in that office shall arise.

(11.) Nothing herein contained shall prevent any person from being immediately or at any time appointed or 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. Members may be re-elected.

New Elections.

8. When any Order in Council is issued under sections five or six of this Act the Governor in Council may by the same Order in Council or by another Order in Council declare and direct whether a fresh election of chairman or member or members shall be held for any Area or for any division of an Area affected by such Order in Council or change in the number of members, and if so, when such election shall be held and whether the chairman and any and which of the existing members shall go out of office, and at what time. New elections on change in boundaries or number of members.

Ouster from Office.

Disputed
elections or
exercise of
office.

9. (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 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 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

* 31 Vic. No. 13, *supra*, page 723.

1936.

*Local Government Act.*PART IV.—
CONSTITUTION
OF LOCAL
AUTHORITIES.

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 V.—CHAIRMAN.

PART V.—
CHAIRMAN.*Election of Deputy Chairman.*

10. (1.) At the first meeting of the Local Authority after the conclusion of every triennial election of members or a fresh election of all the members, or at some adjournment thereof, the members present shall elect one of the members to be deputy chairman who shall, except as hereinafter provided, hold office until the conclusion of the next triennial election of members.

(2.) If the deputy chairman resigns his office as deputy chairman or member, or his office otherwise becomes vacant, the Local Authority shall elect a member to be deputy chairman in his stead, who shall hold office until the period aforesaid. The vacancy shall be filled at a special meeting of the Local Authority to be called by the clerk forthwith.

(3.) The office of deputy chairman shall—

- (a) Commence on the day of his election or appointment thereto;
- (b) Become vacant on the day of the conclusion of the next triennial election or appointment of members or on his ceasing to be a member.

Powers and Duties of Chairman.

11. (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.

Chairman
may
authorise
certain
works.

(2.) The chairman shall give effect to any by-law, resolution, minute, or report which has been passed or adopted by the Local Authority.

Chairman to
give effect
to by-law.

(3.) The chairman shall preside at every meeting of the Local Authority at which he is present, and if he is prevented by absence, illness, or otherwise from

Chairman
to preside
at meetings.

presiding at any meeting the deputy chairman shall preside at the meeting, and if the deputy chairman is absent another member shall be elected at the meeting to be chairman during the absence of the chairman and the deputy chairman from the meeting.

When
deputy
chairman
to act.

(4.) A deputy chairman may act in the office of chairman during such time as the chairman is prevented by absence, illness, or otherwise from performing the duties of the office of chairman or during such time as a vacancy exists in the office of chairman.

Powers and Duties of Acting Chairman.

Acting
chairman.

12. If the chairman and deputy chairman are at any time prevented by absence, illness, or otherwise from performing the duties of the office of chairman the Local Authority may, if it thinks fit, appoint one of its members to act as chairman during such time as the chairman and deputy chairman are prevented by absence, illness, or otherwise from performing the duties of the office of chairman, and the acting chairman while so acting may do all acts that the chairman, as such, may do.

Allowance to Chairman.

Allowance to
chairman.

13. The Local Authority or Joint Local Authority may grant an allowance to the chairman or president from the general fund.

During such time as the chairman is prevented by absence, illness, or otherwise from performing the duties of the office of chairman the Local Authority may grant an allowance to the deputy chairman, and any such allowance to the deputy chairman shall unless otherwise determined by the Local Authority, be deducted from the corresponding allowance to the chairman.

Meetings.

Meetings.

14. (1.) In every Town on the third day after the conclusion of every triennial election, or of a fresh election of all the members, or on such other day as may be appointed by the by-laws or by resolution, and in every Shire on such day as may be appointed by the by-laws or by resolution, 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 or by resolution.

1936.

*Local Government Act.*PROCEEDINGS.
PART VI.—

(2.) The Local Authority shall have power to fix by by-law or by resolution the times at which the ordinary meetings shall be held :

Meetings of
Local
Authority.

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.

(3.) 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
of voting.

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.

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.

(4.) (i.) If a member of a Local Authority has any pecuniary interest, direct or indirect, in any contract or proposed contract or other matter, and is present at a meeting of the Local Authority at which the contract or proposed contract or other matter is the subject for consideration, he shall at the meeting, as soon as practicable after the commencement thereof, disclose the fact, and shall not take part in the consideration or discussion of, or vote on any question with respect to, the contract or proposed contract or other matter :

Disability of
members of
Local
Authorities
for voting
on account
of interest
in contracts,
&c.

Provided that this subsection shall not apply to an interest in a contract or proposed contract or other matter which a member may have as an elector or

inhabitant of the Area or as an ordinary user or consumer of gas, electricity, water, or any other service or thing, or to an interest in any matter relating to the terms on which the right to participate in any service including the supply of goods is offered for general use or consumption.

(ii.) For the purposes of this subsection, a person shall (subject as hereafter in this paragraph provided) be treated as having indirectly a pecuniary interest in a contract or proposed contract or other matter if—

- (a) He or any nominee of his is a member of a company or other body with which the contract is made or is proposed to be made, or which has a direct pecuniary interest in the other matter under consideration ; or
- (b) He is a partner or is in the employment of a person with whom the contract is made or is proposed to be made, or who has a direct pecuniary interest in the other matter under consideration :

Provided that—

- (a) This paragraph shall not apply to membership of or employment under any public body ;
- (b) A member of a company or other body shall not by reason only of his membership be treated as being so interested if he has no beneficial interest in any shares or stock of that company or other body.

(iii.) In the case of married persons living together, the interest of one spouse shall if known to the other be deemed for the purposes of this subsection to be also an interest of that other spouse.

(iv.) A general notice given in writing to the clerk of the Local Authority by a member thereof to the effect that he or his spouse is a member or in the employment of a specified company or other body, or that he or his spouse is a partner or in the employment of a specified person, shall, unless and until the notice is withdrawn, be deemed to be a sufficient disclosure of his interest in any contract, proposed contract, or other matter relating to that company or other body or to that person which may be the subject of consideration after the date of the notice.

1936.

*Local Government Act.*PART VI.—
PROCEEDINGS.

(v.) The clerk of the Local Authority shall record in a book to be kept for the purpose particulars of any disclosure made under paragraph (i.) of this subsection, and of any notice given under paragraph (iv.) thereof, and the book shall be open at all reasonable hours to the inspection of any member of the Local Authority.

(vi.) If any person fails to comply with the provisions of paragraph (i.) of this subsection, he shall for each offence be liable on summary conviction to a fine not exceeding one hundred pounds unless he proves that he did not know that a contract, proposed contract, or other matter in which he had a pecuniary interest was the subject of consideration at the meeting.

(vii.) The Minister, as respects a member of any Local Authority, may, subject to such conditions as the Minister may think fit to impose, remove any disability imposed by this subsection in any case in which the number of members of the Local Authority so disabled at any one time would be so great a proportion of the whole as to impede the transaction of business, or in any other case in which it appears to the Minister that it is in the interests of the electors or inhabitants of the Area that the disability should be removed.

(viii.) A Local Authority may by resolution provide for the exclusion of a member of the Local Authority from a meeting of the Local Authority whilst any contract, proposed contract, or other matter in which he has such an interest as aforesaid is under consideration.

(5.) The members present at a meeting may, from time to time, adjourn the meeting.

Adjourn-
ment of
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.

(6.) 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 or was appointed to be 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.

(7.) 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.

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.

Committees.

Committees
and quorum.

15. 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.

1936.

*Local Government Act.*PART VI.—
PROCEEDINGS.

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 of such committee 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.

Records.

16. (1.) (i.) The Local Authority shall cause minutes 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 recorded from time to time in minute-books to be provided for the purpose, which shall be kept by the clerk under the superintendence of the chairman. Minutes of proceedings.

The minutes of each meeting shall be signed after confirmation by the Local Authority by the chairman at the meeting next succeeding the meeting at which such proceedings have taken place.

(ii.) Such minute-books shall be open to inspection. To be open to inspection.

Any person having the custody of any such minute-book who fails to permit such inspection shall be liable to a penalty not exceeding five pounds.

(2.) The clerk shall be responsible for the safe custody of the minute-books, all books of account, agreements, receipts, vouchers, and other books, documents, papers, correspondence, 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.

All such books, documents, papers, correspondence, and writings which are not by this Act declared to be open to inspection shall nevertheless be open to inspection by any member. Any person having the custody of any such books, document, paper, correspondence, or writing who fails to permit such inspection shall be liable to a penalty not exceeding five pounds.

Loss or
destruction
of records.

(3.) 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.

Corres-
pondence.

(4) (i.) Correspondence with the Local Authority shall be addressed to the clerk.

(ii.) The Local Authority may decide whether or not correspondence shall be read by the clerk.

Officers.

Appoint-
ment of
officers.

17. (1.) The Local Authority from time to time shall appoint a clerk, and may appoint an engineer, pound-keeper, 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 or as may be fixed by an award made by the Industrial Court pursuant to **"The Industrial Conciliation and Arbitration Acts, 1932 to 1935"* (or any Act amending or in substitution for the same), or by an award pursuant to the †*Commonwealth Conciliation and Arbitration Acts, 1904 to 1934* (or any Act amending or in substitution for the same.)

* 23 Geo. V. No. 36 and amending Acts, *supra*, pages 14266 *et seq.*

† No. 13 of 1904 and amending Acts (Commonwealth).

1936.

*Local Government Act.*PART VI.—
PROCEEDINGS.

(2.) (i.) Every person who at the commencement of this Act holds office as clerk (except as hereinafter provided), engineer, or overseer of works of the Local Authority, or who is appointed to or employed in any such office after the commencement of this Act shall hold and at all times continue to hold the certificate as clerk, engineer, or overseer of works, as the case may be, prescribed by the regulations :

Qualification
of clerk,
engineer, or
overseer of
works.

Provided that nothing in this paragraph shall apply to the continuance in office as clerk by a Local Authority of any person who is not the holder of such a certificate and who held such office on the twelfth day of January, one thousand nine hundred and twenty-four :

Provided further, that nothing in this paragraph shall compel or be deemed to compel the Local Authority to appoint or employ a certificated engineer or overseer of works to do or execute any act, matter, or thing which is not required by this Act to be done or executed by a certificated engineer or overseer of works, as the case may be.

(ii.) Where the office of clerk of the Local Authority is vacant at the commencement of this Act, the Local Authority shall, within three months thereafter or, where such office becomes vacant at any time after the commencement of this Act, the Local Authority shall, within three months after the occurrence of the vacancy, appoint and employ a person who holds a certificate as clerk prescribed by the regulations and in force at the time of his appointment :

Provided that where at the commencement of this Act a person who does not hold a certificate as aforesaid and who is not exempt from the provisions of paragraph (i.) of this subsection is employed in the office of clerk, such person may, and notwithstanding anything to the contrary contained in this paragraph, be continued in such employment for a period of one calendar year thereafter, but no longer.

(iii.) Upon the occurrence of a vacancy in the office of engineer or overseer of works the Local Authority may appoint to and employ in such office for a period of three months after the occurrence of the vacancy, but no longer, any person notwithstanding that such

person is not the holder of a certificate as engineer or overseer of works, as the case may be, prescribed by the regulations :

Provided that nothing in this paragraph shall allow or be deemed to allow any person who is not a certificated engineer or overseer of works to do or execute any act, matter, or thing which is required by this Act to be done or executed by a certificated engineer or overseer of works, as the case may be.

Security by
officers
entrusted
with moneys.

(3.) 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 the State Government Insurance Office or 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.

Suspension.

(4.) 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 :

Provided that without prejudice to the power of the chairman under this subsection, a Local Authority may by by-law appoint any officer to exercise the power of suspension conferred upon the chairman under this subsection, and either generally or in respect of any class or classes of officers :

Provided that at the next meeting of the Local Authority after such suspension, the chairman or officer appointed by by-law in that behalf 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.

1936.

*Local Government Act.*PART VI.—
PROCEEDINGS.

(5.) (i.) If it comes to the knowledge of an officer employed, whether under this Act or any other Act, by a Local Authority that a contract in which he has any pecuniary interest, whether direct or indirect (not being a contract to which he is himself a party) has been, or is proposed to be, entered into by the Local Authority, he shall as soon as practicable give notice in writing to the Local Authority of the fact that he is interested therein.

Disclosure
by officers
of interest
in contracts.

For the purposes of this paragraph (i.) an officer shall be treated as having indirectly a pecuniary interest in a contract or proposed contract if he would have been so treated by virtue of paragraphs (ii.) or (iii.) of subsection four of section fourteen of this Act had he been a member of the Local Authority.

(ii.) An officer of a Local Authority shall not, under cover or by virtue of his office or employment, exact or accept any fee or reward whatsoever other than his proper remuneration.

(iii.) If any person fails to comply with the provisions of paragraph (i.) or contravenes any of the provisions of paragraph (ii.) of this subsection, he shall for each offence be liable on summary conviction to a fine not exceeding one hundred pounds.

(6.) Every officer or servant employed by a Local Authority, whether under this Act or any other Act, 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 any wise concerned or interested in any bargain or contract made by the Local Authority shall, in addition to any other penalty incurred by him under this Act or any other Act, be incapable of being afterwards employed by any Local Authority for a period of five years.

Officers
exactng or
accepting
fees.

(7.) 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

Officers
failing to
render
accounts or
to pay
balance and
deliver over
property.

- (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,

any court of petty sessions may upon complaint hear and determine the 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.

(8.) 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 any wise 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 judge of the Supreme Court may on the application of the Local Authority inquire into the conduct of such officer, and may order him to repay any moneys or

1936.

*Local Government Act.*PART VI.—
PROCEEDINGS.

restore any property so misapplied or retained, or for which he has become liable or accountable, together with interest at such rate as the judge thinks just, and to pay such sum of money to the Local Authority by way of penalty or compensation as the judge thinks fit.

Such inquiry shall for all purposes be deemed to be and have the effect of the trial of an action in the Supreme Court and (without limiting the generality of these provisions) including the conduct of such inquiry, the right to a jury and the enforcement of the finding of the judge thereon, and all acts and rules of court relating to actions in the Supreme Court shall, *mutatis mutandis*, apply and extend herein accordingly.

It shall not be an answer to any such complaint as aforesaid to plead that the conduct of the officer concerned constituted an offence punishable in a summary way under **"The Justices Acts, 1886 to 1932,"* but in ordering any sum to be paid to the Local Authority by way of penalty the judge may take into consideration any penalty imposed upon such officer by a court of summary jurisdiction.

(9.) All proceedings under this Act against any officer may be had and taken and enforced against such officer after he has ceased to hold his office.

Proceedings may be taken after officer has left office, and without prejudice to remedy against sureties.

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.

PART VII.—PUBLIC OFFICE OF LOCAL AUTHORITY.

PART VII.—
PUBLIC OFFICE
OF LOCAL
AUTHORITY.

Public Office of Local Authority.

18. (1.) The Local Authority shall 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 for holding the meetings and transacting the business of the Local Authority.

Public office.

(2.) Upon a petition signed by at 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 site.

* 50 Vic. No. 17 and amending Acts, *supra*, pages 1132 *et seq.*

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.

PART VIII.—CONTRACTS.

Contracts.

Local
Authority
may enter
into
contracts.

19. (1.) (i.) A Local Authority may enter into contracts for the discharge of any of the functions of local government.

How
contracts
made,
varied, or
discharged.

(ii.) Every contract entered into by the Local Authority shall be made, varied, or discharged as follows :—

- (a) Any contract which, if made between private persons, would by law be required to be in writing and under seal, shall be made by the Local Authority in writing and under its seal, and shall be varied or discharged in the same manner ;
- (b) 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 shall 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 shall be varied or discharged in the same manner ;
- (c) 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.

Such
contracts
binding.

(iii.) Subject as hereinafter provided, 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,

1936.

*Local Government Act.*PART VIII.—
CONTRACTS.

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 contract had been made between private persons only.

(2.) Notwithstanding anything contained in this Act or in any other Act or law or rule or process of law to the contrary, a Local Authority shall be prohibited from entering into any contract of the following nature, namely:—

Restriction
as to hire-
purchase
and time-
payment
contracts.

- (a) A hire-purchase agreement within the meaning of **“The Hire-purchase Agreement Acts, 1933 to 1934”* (or any Act amending the same);
- (b) A contract of sale whereby the payment by the Local Authority for any plant, goods, material, or other property is spread over a period of time whereby such payment may be made by way of instalments, and notwithstanding that the property in such plant, goods, materials, or other property shall at the date of the contract of sale or any subsequent date pass to the Local Authority;
- (c) A contract of the sale of land whereby the payment by the Local Authority for such land is spread over a period of time whereby such payment may be made by way of instalments, and notwithstanding that the title to the land shall at the date of the contract or any subsequent date pass to the Local Authority;
- (d) In respect of the carrying-out for and on behalf of the Local Authority by any person of any works or undertakings (other than works carried out by means of loans pursuant to this Act) a contract whereby the payment by the Local Authority for the carrying-out

* 24 Geo. V. No. 9 as amended by 25 Geo. V. No. 33, *supra*, pages 14602 and 15053.

of such works or undertakings shall be spread over a period of time whereby such payments may be made by the Local Authority by way of instalments :

Provided that nothing in this paragraph (*d*) shall prohibit a Local Authority from making any payment by way of a progress payment in respect of the part performance of any contract otherwise lawful under this Act, and notwithstanding that the carrying-out of the work under any such contract extended beyond one year.

Any such contract made contrary to the provisions of this subsection shall be absolutely void and of none effect.

And if a Local Authority having entered into any such contract of the nature aforesaid pays in respect of such contract any money, all the members who consented to the contract shall be jointly and severally liable to repay the same to the Local Authority, and the same may be recovered from such members or any of them as money due and owing by such members to the Local Authority by action in any court of competent jurisdiction.

Composition
for breaches
of contract,
&c.

(3.) 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 (other than a contract which is absolutely void and of none effect under this Act) 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.

Notice
calling for
proposals.

(4.) 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 such Local Authority shall three weeks at least before entering into such contract notify its intention to make and invite tenders for such contract by public notice published in such newspaper or newspapers and in such other manner and to such extent as will ensure that the Local Authority will receive the greatest number of tenders.

1936.

Local Government Act.

PART VIII.—
CONTRACTS.

The Local Authority may accept the tender which on a view of all the circumstances appears to it to be the most advantageous and shall take security for the due performance of every such contract, or the Local Authority may decline to accept any such proposal.

PART IX.—JOINT LOCAL AUTHORITY.

PART IX.—
JOINT LOCAL
AUTHORITY.

Joint Local Authority.

20. (1.) A Joint Local Authority may be constituted for the purpose of exercising or performing any of the functions of local government under this Act or any of the powers and duties conferred upon Local Authorities under any other Act.

Power to
constitute
Joint Local
Authority.

Two or more Joint Local Authorities may be constituted having jurisdiction over the same Area or part of the same Area :

Joint Local
Authorities
may be
constituted
for same
Area for
different
purposes.

Provided that the functions for which such several Joint Local Authorities are constituted must be different and not conflicting.

(2.) 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 and perform therein the function or functions of local government in respect of which the Joint Local Authority has been constituted, and shall not have or exercise any of the powers, duties, or authorities, or be subject to any of the obligations which the Joint Local Authority is authorised to exercise and perform, or to which it is liable :

Thereupon
Local
Authorities
to cease to
exercise
such powers.

Provided nevertheless that all by-laws of any such Local Authority which were in force in the Area or in any part of 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 Local Authority makes other by-laws repealing, suspending, or superseding them ; and the Joint Local Authority 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 super-session.

Constitution
of Joint
Local
Authority.

(3.) For the purpose of this Part of this Act, the Governor in Council may from time to time by Order in Council—

- (1) Constitute a Joint Local Authority by the union of two or more Local Authorities whose Areas or parts of whose Areas are conterminous by such name as may be assigned in the Order in Council ;
- (2) Constitute the Area of the Joint Local Authority ;
- (3) Determine the constitution and functions of the Joint Local Authority ;
- (4) Alter or vary the constitution or functions or Area of the Joint Local Authority ;
- (5) Dissolve the Joint Local Authority ;
- (6) 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 clerk of the Joint Local Authority shall be the returning officer for the election of members by any group or groups of component Local Authorities, and the directions for conducting the elections in such case shall be prescribed by the Order in Council constituting the Joint Local Authority :

Provided that the Governor in Council shall appoint the returning officer for the first election of members by any such group or groups.

How
governed.

(4.) The Joint Local Authority shall be governed by a Board composed of such number of members as the Governor in Council determines from time to time by Order in Council : Provided that such members may be assigned to each of the component Local Authorities or to a group or groups of the component Local Authorities as the Governor in Council determines from time to time by Order in Council, and the number of members assigned to each of the several component Local Authorities or such group or groups of the component Local Authorities need not be the same.

The members assigned to a component Local Authority or group of component Local Authorities shall be the representatives on the Board of such Local

1936.

*Local Government Act.*PART IX.—
JOINT LOCAL
AUTHORITY.

Authority or group of Local Authorities, and shall be elected by such Local Authority or group of Local Authorities.

(5.) (i.) If for any reason the whole number of members of the Board are not elected within one month after the day appointed for holding the first election of members or within one month after the conclusion of the triennial election of members of the Local Authority, or in the case of a group of component Local Authorities, the triennial election of such one of such Local Authorities as last concludes its triennial election, the Governor in Council may appoint some elector or electors of the Area of the Local Authority to be members of the Board, who shall hold office until the conclusion of the triennial election of members.

Failure to
elect.

(ii.) If a member fails to attend three or more consecutive duly convened meetings of the Board extending over a period of not less than three months, without leave of absence obtained from the Board, he shall cease to be such member.

(iii.) 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.

(iv.) If any person, elected or appointed as aforesaid, refuses or neglects to act, or to attend any duly convened meeting of the Board, all lawful acts and proceedings of the Board shall be as valid and effectual as if they had been done or authorised by the full Board.

(6.) The Board shall hold its first meeting at such time and place as the Governor in Council appoints, and shall thereafter meet on the third day after the conclusion of the triennial election or appointment of members of the Board or on such other day as may be appointed by by-law or by resolution.

Meetings.

The Board shall have power to fix by by-law or resolution the times and places at which meetings shall be held.

Every such meeting shall be open to the 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.

(7). At the first meeting of the Board appointed to be held by the Governor in Council and thereafter at every meeting of the Board first held after the triennial election or appointment of members of the Board, or at some adjournment thereof, the members present shall elect one of their number to be president.

The president shall hold office until the conclusion of the next triennial election or appointment of members of the Board.

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 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.

By-laws.

(8.) Until the Board makes by-laws for the conduct of its proceedings, the Board may, by resolution, temporarily adopt any such by-laws relating to procedure of any of the component Local Authorities.

Joint Boards
may
exercise
powers
specified in
Order in
Council.

(9.) For the purpose of enabling the Joint Local Authority to exercise and perform its functions, it shall have and may exercise and perform all the authorities, duties, powers, and privileges, and shall be subject to all the obligations, liabilities, and responsibilities conferred or imposed upon a Local Authority by this Act and any other Act except the power to make and levy rates on the rateable value of land.

Without in any wise limiting the provisions of the last preceding paragraph, such of the provisions of **"The Water Power Act of 1922"* which may be considered necessary and convenient to be applied in respect of the Joint Local Authority concerned, together with any amendments thereof or additions thereto, may (and

* 13 Geo. V. No. 20, *supra*, page 10258.

1936.

Local Government Act.

notwithstanding that such Joint Local Authority has not been constituted a Water Power Board under such lastmentioned Act) be applied in respect of such Joint Local Authority and as may be set forth in the Order in Council concerned.

Such lastmentioned Act is amended by repealing in section three the definition of "Local Authority" or "Joint Local Authority" and by inserting the following new definition in lieu thereof:—

" "Local Authority" or "Joint Local Authority"—
A Local Authority or Joint Local Authority, as the case may be, constituted under *"*The Local Government Act of 1936*" (and any Act amending the same.)

Local
Authority
or Joint
Local
Authority.

(10.) (i.) The expenses of the Joint Local Authority incurred in the exercise and performance of its functions shall be defrayed out of the general or undertaking fund, as the case may be.

General
fund ;
contribution
by
component
Local
Authority.

(ii.) Except in the case of an undertaking the expenses of which are met by a fee or charge, the general fund shall be contributed by the component Local Authorities in the proportions set forth in the Order in Council made under subsection three of this section.

(iii.) For the purpose of obtaining payment from the component Local Authorities of the sums to be contributed by them, the Board may issue a precept signed by the president sealed with the common seal 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 Board, or to such person as the Board directs—

Precept.

" THE LOCAL GOVERNMENT ACT OF 1936."

(*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 to pay on or before the day of , 19 , into the hands of A.B., the President of the Board of the [*name of Joint Local Authority*] the sum of , being the amount required for the expenses of such Board.

Dated this day of , 19 .

(L.S.) (Signed)

C.D., President.

* 1 Geo. VI. No. 1 (this Act).

Recovery of
amount.

If a Local Authority to which a precept has been addressed as aforesaid refuses or neglects within one month of the time fixed for the payment of the precept (or such further time as the Board may allow) to pay the sum therein mentioned to the Board, the Board may recover the amount of such precept together with the expenses of recovery by action in any court of competent jurisdiction.

Contribution
to be
defrayed out
of general
fund.

(iv.) Every such contribution shall be deemed expenses to be defrayed out of the general fund or other special or separate fund created by the proceeds of a special rate or separate rate made and levied for the purpose of defraying the contribution required to be made by such Local Authority, and shall be paid by the Local Authority accordingly.

Altering
constitution
of Bridge
Boards
under other
Acts.

(11.) 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 or representatives as appear to him to be necessary.

1936.

*Local Government Act.*PART IX.—
JOINT LOCAL
AUTHORITY.

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 in Council shall be construed accordingly.

(12.) A Board may delegate to any Local Authority represented in the Joint Local Authority 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 Board.

Power of
delegation
to Local
Authority.

(13.) 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.

Provision in
case of
dissolution
of Joint
Local
Authority.

PART X.—FINANCE.

PART X.—
FINANCE.*Rates and Charges.**Power to Make and Levy Rates and to Impose Fees, Charges, Fares, Rents, and Dues.*

21. The Local Authority shall have power to make and levy rates on the rateable value of land and rates on other bases, and to impose fees, charges, fares, rents, and dues in respect of any property, service, matter, and thing for the purpose of enabling it to exercise and perform the functions of local government under this Act or any other Act.

Power to
levy rates,
&c.

The Local Authority shall have power to make, levy, and impose the following rates and/or charges, and/or fees, namely:—

- (1) General rate ;
- (2) Special rates for particular functions ;
- (3) Special loan rates ;
- (4) Separate rates for particular functions ;
- (5) Separate loan rates ;

- (6) Sewerage and cleansing rate, sewerage rate, and/or charges ;
- (7) Cleansing charges ;
- (8) Water rates and/or charges ;
- (9) Charges and fees ;
- (10) Rural rate ;
- (11) Agricultural drainage separate rate.

*General Rate.*General
rate.

(1.) The Local Authority shall in each year make and levy a general rate equally upon the rateable value of land in the Area.

The general rate may be made and levied to defray the expenses to be incurred by the Local Authority in exercising and performing all or any of the functions of local government with the following exceptions, namely :—

- (i.) Undertakings ;
- (ii.) Agricultural drainage ; and
- (iii.) Functions the cost of which is met by charges (other than cleansing, sewerage, and water charges) dues, fees, fares, or rents.

Case of
divisions.

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 mineral field or gold field, be made and levied equally upon all rateable land in the division.

Further
provisions
as to
general rate.

No general rate made and levied in any one year shall exceed the amount of one shilling in the pound of the rateable value of land :

Provided that this limitation shall not apply to any Town which comprises a mineral field or gold field or part of a mineral field or gold field :

Provided further, that this limitation shall not apply to any Area where the Local Authority makes and levies a general rate to defray all the expenses to be incurred by the Local Authority which, as hereinbefore provided, may be defrayed by a general rate.

1936.

*Local Government Act.*PART X.—
FINANCE.*Special Rates for Particular Functions.*

(2.) The Local Authority may in each year make and levy special rates for particular functions of local government under this Act or any other Act.

The function in respect of which the special rate is made and levied shall be specified in the resolution making and levying such special rate.

Such special rates shall be made and levied equally upon the rateable value of land in the Area or division thereof, as the case may be.

Special Loan Rates.

(3.) The Local Authority may in each year make and levy a special loan rate for the purpose of defraying the interest and redemption of any loan liability incurred by the Local Authority in the exercise and performance of the functions of local government under this Act or any other Act.

Such special loan rate shall be made and levied equally on the rateable value of land in the Area or division, as the case may be, defined by the Minister as the benefited area as hereinafter provided.

Separate Rates for Particular Functions.

(4.) The Local Authority may in each year make and levy separate rates for particular functions of local government under this Act or any other Act for the special benefit of any particular part of the Area.

Such separate rate shall be made and levied equally on the rateable value of land in the benefited area defined by the Minister as herein provided.

Before such separate rate shall be levied the question whether the exercise and performance of a particular function of local government is or is not for the special benefit of any 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 specially benefited; and the Minister if he thinks fit and proper so to do may divide the part so defined into subdivisions according to the extent to which each is respectively benefited.

*Separate Loan Rates.*Separate
loan rates.

(5.) In any case where the exercise and performance by the Local Authority of any function of local government under this Act or any other Act was executed by way of loan, and in respect of which a benefited area was defined by the Minister and such benefited area is not conterminous with the Area or a division or divisions thereof, as the case may be, the Local Authority shall in each year make and levy a separate loan rate for the purpose of defraying the interest and redemption charges of such loan.

Such separate loan rate shall be made and levied equally on the rateable value of land in the benefited area defined by the Minister as hereinafter provided.

*Sewerage Rates and Charges.*Sewerage
rates and
charges.

(6.) In any case where a Local Authority has constructed and is maintaining sewerage, the Local Authority may in each year in its discretion—

(A)—

Make and levy a rate to be called a “Sewerage and Cleansing Rate” equally upon the rateable value of land within the Area, whether occupied or not, for the purpose of defraying—

- (a) The interest and redemption charges of any loan liability incurred by the Local Authority for sewerage, and
- (b) The cost of operating and maintaining sewerage, and
- (c) The cost of supplying a cleansing service for the removal of nightsoil and garbage;

or

(B)—

- (1) Make and levy a rate to be called a “Sewerage Loan Rate” equally upon the rateable value of land within the Area for the purpose of defraying the interest and redemption charges of any loan liability incurred by the Local Authority for sewerage;

and

1936.

*Local Government Act.*PART X.—
FINANCE.

- (2) Make and levy a rate to be called a "Sewerage Rate" equally upon the rateable value of land within the Area whether occupied or not, declared by the Local Authority to be served by, or to be capable of being served by, sewerage for the purpose of defraying—
- (a) The cost of operating and maintaining sewerage, and
 - (b) The cost of supplying a cleansing service for the removal of garbage from occupied rateable lands ;
- and also—
- (3) Make and levy a cleansing charge under subsection seven of this section for the purpose of defraying the cost of supplying a cleansing service for the removal of nightsoil and garbage in respect of lands in actual occupation not declared by the Local Authority to be served by, or to be capable of being served by sewerage ;

or

(C)—

Make and levy a rate and/or make a charge on such basis or on such several bases as the Local Authority in its discretion thinks just and reasonable in respect of lands in actual occupation and/or in respect of any other land or place or building for the purpose of defraying—

- (a) The interest and redemption charges of any loan liability incurred by the Local Authority for sewerage, and
- (b) The cost of operating and maintaining sewerage, and
- (c) The cost of supplying a cleansing service for the removal of nightsoil and garbage.

Any rate or rates and/or charge made and levied by the Local Authority under paragraphs (A), (B), or (C) of this subsection may be made, levied, and recovered in respect of any structure, building, or place on land which is not rateable under section twenty-four of this Act :

Provided that before the rate or rates and/or charge is made in respect of any such structure, building, or place the Local Authority shall by resolution define the

scale or principle of assessing the amount of such rate or rates and/or charge, and such scale or principle may be different in respect of different kinds of use or occupation of any such structure, building, or place.

No rate or charge payable under this subsection shall be of a less amount than one pound.

Where any such rate and/or charge is in connection with rateable land, the rate and/or charge shall be levied on the owner of the land, and shall be payable by him to the Local Authority.

Where any such rate and/or charge is in connection with any structure, building, or place on land which is not rateable under section twenty-four of this Act, the rate and/or charge shall be levied on the person or body or Commonwealth or State Department at whose request the structure, building, or place was provided with sewerage and/or cleansing service.

Cleansing Charges.

Cleansing
charges.

(7.) Where the Local Authority exercises and performs the function of cleansing by the removal of nightsoil and/or garbage such Local Authority may in each year make and levy a cleansing charge on land in actual occupation on such basis or on such several bases as the Local Authority may determine.

Such charge may be made, levied, and recovered in respect of any structure, building, or place on land which is not rateable under section twenty-four of this Act.

Where the charge is in connection with rateable land the charge shall be levied on the owner and shall be payable by him to the Local Authority.

Where the charge is in connection with any structure, building, or place on land which is not rateable under section twenty-four of this Act the charge shall be levied on the person or body or Commonwealth or State Department at whose request the Local Authority undertook to remove nightsoil and/or garbage.

Water Rates and/or Charges.

Water rates
and/or
charges.

(8.) (i.) Where the Local Authority exercises and performs the function of water supply the Local Authority

1936.

*Local Government Act.*PART X.—
FINANCE.

may, notwithstanding any Act to the contrary, in each year in its discretion make and levy—

(A)—

A water rate equally on the rateable value of land within the Area, or in any division or divisions of the Area, or in any benefited area as defined by the Minister for the purpose of defraying—

- (1) The interest and redemption charges of any loan liability incurred by the Local Authority for the water supply, and
- (2) The cost of operating, maintaining, and managing the water supply ;

or

(B)—

A water rate equally on the rateable value of land within three hundred feet of the middle of the roads in which water mains are laid down from which a supply of water may be given to such rateable lands for the purpose of defraying—

- (1) The interest and redemption charges of any loan liability incurred by the Local Authority for the water supply, and
- (2) The cost of operating, maintaining, and managing the water supply ;

or

(C)—

A water rate equally on the rateable value of land within the Area, or in any division or divisions of the Area, or in any benefited area as defined by the Minister for the purpose of defraying the interest and redemption charges of any loan liability incurred by the Local Authority for the water supply, and a charge on such basis or on such several bases as the Local Authority may by by-law determine for the

purpose of defraying the cost of operating, maintaining, and managing the water supply ;

OR

(D)—

A charge on such basis or on such several bases as the Local Authority may by by-law determine for the purpose of defraying—

- (1) The interest and redemption charges of any loan liability incurred by the Local Authority for the water supply, and
- (2) The cost of operating, maintaining, and managing the water supply.

(ii.) Any rate and/or charge made and levied by the Local Authority under paragraphs (A), (B), (C), or (D) of this subsection may be made, levied, and recovered in respect of land, or of any structure, building, or place on land which is not rateable under section twenty-four of this Act :

Provided that before the rate and/or charge is made in respect of any such land, or any such structure, building, or place on land which is not rateable under section twenty-four of this Act, the Local Authority shall by by-law define the scale or principle of assessing the amount of such rate and/or charge, and such scale or principle may be different in respect of different kinds of use or occupation of such land or any structure, building, or place on such land.

(iii.) Where any such rate and/or charge is in connection with rateable land, the rate and/or charge shall be levied on the owner of the land and shall be payable by him to the Local Authority.

Where any such rate and/or charge is in connection with any land, or any structure, building, or place on land which is not rateable under section twenty-four of this Act, the rate and/or charge shall be levied on the person or body or Commonwealth or State Department at whose request the land or structure, building, or place was provided with water supply.

1936.

*Local Government Act.*PART X.—
FINANCE.*Charges and Fees.*

(9.) The Local Authority may in the exercise and performance of the functions of local government (other than the functions of sewerage, water supply, and cleansing), authorised by this Act or any other Act fix by by-law and may make, levy, demand, and recover charges and fees when the Local Authority—

- (a) Supplies any service, product, or commodity ;
- (b) Makes any registration ; or
- (c) Grants any license ; or
- (d) Gives any permission ; or
- (e) Furnishes any information ; or
- (f) Admits to any building or enclosure ; or
- (g) Receives any application for its approval.

Rural Rate.

(10.) Notwithstanding the provisions hereinbefore contained in this section requiring rates to be made and levied equally upon rateable land, any rate on rural land in any Area or division or benefited area, as the case may be, which is not in demand for building sites or residential areas or for any purpose other than rural pursuits, and which in the opinion of the Local Authority is being reasonably used for primary production or cannot be put to any profitable use at the time any such rate is made and levied, may be less in amount than the amount of any such rate made and levied on other land in the same Area or division or benefited area.

Agricultural Drainage Separate Rate.

(11.) Where the Local Authority exercises and performs the function of agricultural drainage the Local Authority may in each year make and levy rates under and in pursuance of section forty-seven of this Act.

Borrowing.

22. Subject to this Act or any other Act, the Local Authority shall have power to borrow money for the purpose of enabling it to exercise and perform the functions of local government under this Act or any other Act.

The Local Authority may borrow money—

- (a) From the Treasurer ; and
- (b) By the sale of debentures.

Funds.

Funds.

23. (1.) (i.) In the exercise and performance of the functions of local government under this Act or any other Act, the Local Authority shall establish the following funds, that is to say :—

- (a) A general fund ;
- (b) A special fund in respect of each special rate levied ;
- (c) A separate fund in respect of each separate rate levied ;
- (d) A special loan rate fund in respect of each special loan rate levied ;
- (e) A separate loan rate fund in respect of each separate loan rate levied ;
- (f) A sewerage fund in respect of each sewerage undertaking ;
- (g) A cleansing fund in respect of each cleansing service ;
- (h) A loan fund in respect of each loan borrowed ;
- (i) An undertaking fund in respect of each undertaking ; and
- (j) A trust fund.

(ii.) The funds shall be separate and distinct.

(iii.)—

- (a) One banking account may be kept in respect of (a), (b), (c), (d), (e), (f), and (g) ;
- (b) Separate banking accounts shall be kept for each fund in respect of (h), (i), and (j).

General Fund.

General fund.

(2.) (i.) The general fund shall consist of the moneys following, that is to say :—

- (a) All moneys received in respect of the general rate ;

1936.

*Local Government Act.*PART X.—
FINANCE.

- (b) All moneys received in respect of ferry dues, market charges, and other charges and fees and rents in respect of any matter not appertaining to any other fund ;
- (c) All moneys received in respect of any grant or appropriation by any Act not containing any provision to the contrary, other than a grant by the Treasurer towards the cost of any work for which a loan has also been obtained ;
- (d) All penalties recovered by the Local Authority for any offences against this Act, and any costs awarded to the Local Authority in respect of such offences ;
- (e) All moneys received from any loan or other fund under this Act or any other Act in repayment of preliminary expenses necessarily incurred in connection with the establishment of any undertaking or the execution of any work ;
- (f) All other moneys received not appertaining to any other fund ;
- (g) All moneys transferred under this Act or any other Act to the general fund from any surplus in any undertaking fund ;
- (h) In the case of the Joint Local Authority, all contributions received from component Local Authorities by precept as hereinbefore provided.

(ii.) The general fund shall be applied to expenditure necessarily incurred in the exercise and performance of the functions of local government under this Act or any other Act unless this Act or such other Act contains express provision charging such expenditure to any particular fund.

The general fund may also be applied to—

- (a) The payment of the preliminary expenses necessarily incurred in connection with the establishment of any undertaking or the execution of any work under this Act or any other Act ;

(b) The payment of a deficiency in an undertaking fund in any year.

(iii.) The Local Authority may obtain advances from the bank for temporary accommodation in the general fund by way of overdraft of its current account.

Special Funds.

Special
funds.

(3.) (i.) A special fund shall consist of the moneys following, that is to say:—

- (a) All moneys received in respect of the special rate for which the fund was established;
- (b) All moneys received by the Local Authority in respect to the particular function for which the special rate is made and levied; and
- (c) All moneys directed by or under this Act or any other Act to be allocated to such special fund.

(ii.) A special fund shall be applied to—

- (a) Expenditure necessarily incurred in respect of the particular function for which the special rate for which the fund was established is made and levied; and
- (b) Any expenditure authorised by or under this Act or any other Act to be charged against the special fund.

(iii.) Where a special fund is closed any balance therein shall be transferred to the general fund.

Separate Funds.

Separate
funds.

(4.) (i.) A separate fund shall consist of the moneys following, that is to say:—

- (a) All moneys received in respect of the separate rate for which the separate fund was established;
- (b) All moneys received by the Local Authority in respect of the particular function for which the separate rate is made and levied.

1936.

Local Government Act.

(ii.) A separate fund shall be applied to expenditure necessarily incurred in respect of the particular function for which the separate rate for which the separate fund was established is made and levied.

(iii.) Where a separate fund is closed any balance therein shall be transferred to the general fund.

Special Loan Rate Fund.

(5.) (i.) A special loan rate fund shall consist of all moneys received in respect of the special loan rate for which it was established. ^{Special} loan rate fund.

(ii.) A special loan rate fund shall be applied to the payment of the interest and redemption charges of any loan liability incurred by the Local Authority in the exercise and performance of the particular function of local government for which the special loan rate is made and levied, and the expenses incurred in making such payments.

Where the Local Authority makes and levies a special loan rate for the purpose of defraying the interest and redemption charges of any loan liability incurred by the Local Authority for an undertaking, the moneys received in respect of such special loan rate shall be transferred to the particular undertaking fund.

(iii.) Where a special loan rate fund is closed any balance therein shall be transferred to the general fund, or the undertaking fund, as the case may be.

Separate Loan Rate Fund.

(6.) (i.) A separate loan rate fund shall consist of all moneys received in respect of the separate loan rate for which it was established. ^{Separate} loan rate fund.

(ii.) A separate loan rate fund shall be applied to the payment of interest and redemption in respect of loan moneys borrowed for the exercise and performance of a particular function of local government for which the separate loan rate is made and levied, and the expenses incurred in making such payments.

Where the Local Authority makes and levies a separate loan rate for the purpose of defraying the interest and redemption charges of any loan liability

incurred by the Local Authority for an undertaking, the moneys received in respect of such separate loan rate shall be transferred to the particular undertaking fund.

(iii.) Where a separate loan rate fund is closed any balance therein shall be transferred to the general fund, or the undertaking fund, as the case may be.

Sewerage Funds.

Sewerage
funds.

(7.) (i.) A sewerage fund shall consist of the moneys following, that is to say :—

- (a) All moneys received in respect of the sewerage rate and/or charges made and levied under subsection six of section twenty-one of this Act in respect of the particular sewerage undertaking ;
- (b) All moneys received by the Local Authority in respect of the particular sewerage undertaking ;
- (c) All moneys directed by or under this Act or any other Act to be allocated to the particular sewerage undertaking.

(ii.) Sewerage funds shall be applied as directed in each case respectively by subsection six of section twenty-one of this Act.

Cleansing Funds.

Cleansing
funds.

(8.) (i.) Where the Local Authority has not exercised and performed the function of sewerage, and the Local Authority has exercised the function of cleansing by the removal of nightsoil and/or garbage, and cleansing charges have been made and levied, the Local Authority shall establish cleansing funds, and each such fund shall consist of the moneys following, that is to say :—

- (a) All moneys received in respect of the cleansing charge for which the fund was established ;
- (b) All moneys received by the Local Authority in respect of the particular cleansing undertaking for which the fund was established.

1936.

*Local Government Act.*PART X.—
FINANCE.

(ii.) A cleansing fund shall be applied to expenditure necessarily incurred in respect of the particular cleansing undertaking.

Loan Funds.

(9.) (i.) Each loan fund shall consist of the moneys Loan funds. received by way of loan in respect of the particular work or undertaking for which the fund was established, and any grant or subsidy received from the Treasurer towards the cost of the work or undertaking in respect of which the particular loan liability was incurred by the Local Authority.

(ii.) A loan fund shall be applied to expenditure necessarily incurred in carrying out the work or undertaking in respect of which the particular loan liability was incurred by the Local Authority.

(iii.) Where any loan fund is closed any balance therein shall be paid to the appropriate special loan rate fund or the general fund or the undertaking fund, as the case may be.

Undertaking Funds.

(10.) (i.) An undertaking fund shall consist of the Undertaking funds. moneys following, that is to say :—

- (a) All moneys received from charges, dues, fees, or fares fixed by by-law under this Act or fixed under any other Act in respect of the undertaking for which the fund was established ;
- (b) All moneys received by the Local Authority in respect of the particular undertaking from any source appertaining to the fund other than the proceeds of any loan incurred by the Local Authority ;
- (c) All moneys transferred from the special loan rate fund, if any, or separate loan rate fund, if any ;
- (d) All moneys received from the general fund in payment of a deficiency in the undertaking fund.

(ii.) An undertaking fund shall be applied to—

- (a) Payment of interest and redemption charges of any loan liability incurred by the Local Authority in respect of the particular undertaking for which the fund was established ;

- (b) The cost of operating, maintaining, and managing the particular undertaking ;
- (c) The repayment to the general fund of preliminary expenses necessarily incurred and expended from such fund in connection with the establishment of the particular undertaking ;
- (d) In the discretion of the Local Authority, but subject to regulations the transfer of moneys to a "maintenance reserve fund" as hereinafter provided for the purpose of equalising maintenance charges against each year ;
- (e) The transfer to the general fund of any surplus or part of any surplus in the particular undertaking fund which the Local Authority by resolution determines that it shall be so transferred.

(iii.) The Local Authority may obtain advances from the bank for temporary accommodation in a particular undertaking fund by way of overdraft of its current account.

(iv.) When an undertaking fund is closed any surplus therein shall be transferred to the general fund.

Trust Fund.

Trust fund. (11.) (i.) The trust fund shall consist of all moneys paid to the Local Authority by way of deposit or in trust for any person under this Act or any other Act.

(ii.) The trust fund shall be applied to the payment to or on behalf of the person entitled thereto of moneys held by way of deposit or in trust for any person.

Valuation and Valuation Court.

Valuation.

Valuation. **24.** (1.) (i.) A fresh valuation of all rateable land shall be made in every Area in conformity with the rules prescribed by this Act within five years after the date of the adoption of the last fresh valuation before the commencement of this Act, but so that the fresh valuation shall be completed on or before the thirtieth day of June in the year in which it is so made, and thereafter

1936.

Local Government Act.

a fresh valuation shall be made and completed in every Area on or before the thirtieth day of June in every fifth year. Each fresh valuation shall be the basis of rating in each of the next succeeding five years. A valuation shall be deemed to have been completed when the valuation has been adopted by the Local Authority or in the event of any appeal against such valuation at the conclusion of the sittings of the Valuation Court.

(ii.) The valuation shall be made by a valuer or valuers appointed by the Local Authority as such :

Provided no Local Authority shall appoint as valuer its clerk.

(iii.) Every valuation shall specify in each case the particulars set forth in the following form, that is to say :—

TOWN [or City or Shire] of

Valuation by me, _____, a Valuer for the Town [or City or Shire] of _____ of the value of the undermentioned rateable land therein situated.

NO.	OWNER.			Nature of tenure—whether freehold, mining tenure (stating nature of tenure), or held under lease or license or otherwise from the Crown, giving particulars, or under restrictive conditions, or otherwise, and whether 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.	Value.
	Number.	Surname.	Christian name.		Residence and trade or occupation (if known).	County and parish or town.	Number of			Area.			
					Portion.	Section.	Allotment.	Subdivision.	Acres.	Roods.	Perches.		

Returned this _____ day of _____ A.D. 19

(Signed)

A.B.,
Valuer.

(iv.) Any valuer who makes a wilfully incorrect valuation of the value of any land shall be liable, for every wilfully incorrect valuation of land contained in the valuation, to a penalty not exceeding twenty pounds.

(v.) The valuer shall make and return his valuation in the form aforesaid.

(vi.) The valuation may be adopted or rejected by the Local Authority.

(vii.) If the valuation is rejected, another fresh valuation shall be made and returned by the valuer or valuers appointed by the Local Authority in the form aforesaid.

(viii.) Such lastmentioned valuation shall be adopted by the Local Authority.

(ix.) Upon the adoption of the valuation, notice of such valuation and of the amount thereof shall forthwith be given to the owner of each parcel of land returned in the valuation and such notice shall also state that the person upon whom the notice is served 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.

Where the valuation of any parcel of land is the minimum valuation or is made under the rule contained in paragraphs (ii.) or (iii.) of subsection four of this section of this Act, no notice of valuation shall be required to be given.

(x.) No alteration or amendment shall be made in the valuation of any parcel of land during the period of five years aforesaid—

- (a) Unless such land is subdivided during such period ; or
- (b) Unless where two or more parcels of unoccupied land adjoining each other and valued as one portion of land under the rule contained in paragraph (v.) of subsection four of this section and one or more parcels of such land is or are sold or occupied during such period ; or
- (c) Unless, where such valuation is made under the rule contained in paragraphs (ii.) or (iii.) of subsection four of this section, the annual rent is altered.

The Local Authority may at any time alter or amend the valuation of any land the valuation of which may be altered or amended pursuant to this paragraph.

1936.

*Local Government Act.*PART X.—
FINANCE.

Whenever an alteration or amendment is made in the valuation of any parcel of land as provided in subparagraph (a) or subparagraph (b) of this paragraph, notice of such valuation shall be given as provided in paragraph (ix.) of this subsection.

(xi.) Nothing in this subsection shall prevent or be deemed to prevent the Local Authority from valuing any land which becomes rateable at any time within the period of five years aforesaid, or from deducting from the rateable value of land the rateable value of any portion of such land which ceases to be rateable.

(xii.) The Local Authority shall appoint and notify by advertisement in some newspaper the place at which and the day on which the sittings of the Valuation Court will be held, and shall also cause to be served on every appellant a notice specifying the place and day appointed for such sitting.

On the day so appointed and notified the court shall hear and determine the appeals and shall have power to amend any valuation appealed against. The valuation adopted by the Local Authority may be upheld or it may be reduced or increased as the court may determine.

Valuation Court.

(2.) (i.) If any person thinks himself aggrieved by the valuation of any land adopted or altered or amended by the Local Authority, he may in the year of the making of a fresh valuation or of any alteration or amendment of the valuation of any parcel of land, as the case may be, 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 been served with notice of such valuation.

Appeal to
Valuation
Court.

(ii.) There shall be a Valuation Court or courts for every Area.

Constitution
of Valuation
Court.

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—

- (a) Constitute a Valuation Court or Valuation Courts for any Area ;
- (b) 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 ;
- (c) Appoint certain justices of the peace to be members of the Valuation Court ;
- (d) Fix the quorum of the court ;
- (e) Appoint one of the members to be the chairman of the court ;
- (f) Appoint a registrar of the court ; and
- (g) 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 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.

No appellant at any sittings of a Valuation Court shall be qualified to act as a member of such court at such sitting.

(iii.) The hearing and determination of matters arising under this section shall be deemed to be proceedings before justices within the meaning of section two hundred and twenty-six of **"The Justices Acts, 1886 to 1932,"* but no recognisance 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.

Appeals to be deemed proceedings before justices ; no security required.

1936.

*Local Government Act.*PART X.—
FINANCE.*Rules of Valuation.**Rateable Land.*

(3.) (i.) All land is rateable for the purposes of this Act, with the following exceptions only, that is to say :—

What is
rateable
land;
exceptions.

- (a) Crown land which is unoccupied or is used for public purposes ;
- (b) 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 ;
- (c) 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 :

Provided that notwithstanding anything hereinbefore contained in this subparagraph (c), in the case of any land in the occupation of any person or corporation which is used for public purposes, or in the case of any 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 and which in either case is used—

- (1) For the purposes of a show ground, and/or
- (2) For the purposes of horse-racing,

the Local Authority shall in its discretion have power and authority to declare by resolution that any such land which but for the provisions of this subparagraph is rateable shall be land exempted from rating, and in like manner to declare by resolution that any such land which but for the provisions of this subparagraph is not rateable shall be rateable.

Any such declaration shall take effect as from the making of any such resolution.

Any such declaration shall continue in full force and effect until the Local Authority shall in its discretion repeal the resolution making same.

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.

- (d) Land vested in, or in the occupation of, or held in trust for, a Local Authority: 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;

- (e) Commons;

- (f) Land not exceeding in area fifty acres belonging to a religious organisation community or association and used or substantially used for or in connection with any one or more of the following purposes:—

- (1) Public worship or for purposes incidental to such public worship, including the residence of a minister of religion in connection with such public worship, or
- (2) Schools and/or sanatoria and/or rest homes conducted by such religious organisation community or association, and for purposes incidental to the conduct of such schools and/or sanatoria and/or rest homes, including the residence of the members

1936.

*Local Government Act.*PART X.—
FINANCE.

and/or staff of the religious organisation community or association conducting such schools and/or sanatoria and/or rest homes, and/or the practice of the community life and/or religious exercises of such members, or

- (3) Public worship combined with educational purposes by such religious organisation community or association, or for purposes incidental to the conduct of such public worship, combined with educational purposes, including the residence of a minister of religion connected with such public worship, and/or the residence of the members and/or staff of the religious organisation community or association concerned, and/or the practice of the community life and/or religious exercises of such members, or
- (4) Public worship combined with schools and/or sanatoria and/or rest homes conducted by such religious organisation community or association or for purposes incidental to the conduct of such public worship combined with the conduct of such schools and/or sanatoria and/or rest homes, including the residence of a minister of religion connected with such public worship, and/or the residence of the members and/or staff of the religious organisation community or association conducting such schools and/or sanatoria and/or rest homes, and/or the practice of the community life and/or religious exercises of such members, or
- (5) Institutions conducted by such religious organisation community or association for the care of aged, infirm, invalid, destitute, or incorrigible persons, and/or for the care of children and/or for purposes incidental to the conduct of such institutions, including the residence of the members and/or staff of the religious organisation community or association conducting such institutions, and/or the practice of the community life or religious exercises of such members, or

(6) The residence of the official head and/or assistant official head in Queensland or in any diocese or district in Queensland of such religious organisation community or association, and/or the administration and/or government of such religious organisation community or association by any such official head and/or assistant official head, or

(7) A college and/or hostel for students of the University of Queensland :

Provided that land belonging to a religious organisation community or association which is not used or is not substantially used or has ceased to be used or has ceased to be substantially used for any of the purposes set out in this subparagraph (f) shall be deemed to be rateable land while such land is not used or is not substantially used for any of the said purposes ;

(g) Land not exceeding in area fifty acres exclusively used for—

(1) An institution approved and licensed under **“The State Children Acts, 1911 to 1929,”* or

(2) A mechanics' institute, school of arts, technical school or college, school of mines, public school, or library :

Provided that any land exempted pursuant to this subparagraph (g) shall be rateable land while the same is leased or occupied for any purpose other than the purposes set out in this subparagraph ;

(h) Land used exclusively for cemeteries.

(ii.) The provisions of subparagraphs (f) and (g) of paragraph (i.) of subsection three of this section shall notwithstanding any act or law to the contrary also apply and extend to such land as described in the said subparagraphs which is situate within the City of Brisbane within the meaning of †*“The City of Brisbane Acts, 1924 to 1936,”* and any ordinance thereunder, and whether made before, on, or after the passing of this Act shall be read and construed accordingly.

* 2 Geo. V. No. 11 and amending Acts, *supra*, pages 5076 *et seq.*

† 15 Geo. V. No. 32 and amending Acts, *supra*, pages 11140 *et seq.*

1936.

*Local Government Act.*PART X.—
FINANCE.

(iii.) Notwithstanding any other Act to the contrary, all land leased to any person or corporation by the Commissioner for Railways shall be deemed rateable land within the meaning of this Act.

Land leased from Commissioner for Railways to be rateable land.

Method of Valuation.

(4.) (i.) The value of any rateable land—

Method of valuation.

- (a) Held in fee-simple ;
- (b) Held from the Crown in respect of which an estate in fee-simple may be acquired by the holder or any other person immediately or at a future time with or without the fulfilment of any conditions ;
- (c) Held from the Crown under perpetual lease tenures ;
- (d) Held from the Crown under special lease ;
- (e) Held from the Crown under informal lease ;
- (f) 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 ;
- (g) Held from the Crown under miner's homestead lease or miner's homestead perpetual lease ; and
- (h) Being a business area or residence area within the meaning of the Mining Acts,

shall be estimated at the fair average value of unimproved land of the same quality held in fee-simple in the same neighbourhood

Each portion of a mining lease occupied for the purpose of the residence of an employee or employees of the holder of the mining lease, or for the purpose of the conduct of a business (other than the business of mining) or for the purpose of the residence of the person conducting such business shall be rateable land for the purposes of this Act, and the value of each such portion as rateable land shall be estimated at the fair average value of unimproved land of the same quality held in fee-simple in the same neighbourhood ; but the Local Authority shall deduct from the rateable value of such mining

lease such sum as will bear to the total rateable value of such lease the same proportion as the total area of the portions so occupied bears to the total area of the lease.

The quality of land shall not be deemed to be affected by reason of the fact that it is infested with noxious weeds or plants or that it is not cleared of its natural timber or of scrub or other vegetable growth existing thereon.

(ii.) The value of any rateable land—

(a) Held from the Crown under lease or license other than a lease or license mentioned in paragraph (i.) of this subsection; and

(b) Held from the Crown under mining lease other than a miner's homestead lease or miner's homestead perpetual lease and other than a business area or a residence area within the meaning of the Mining Acts,

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.

(iii.) The value of rateable land held from the Crown as a mining dredging claim shall be deemed to be a sum equal to five times the annual rent payable at the time when the valuation is made.

(iv.) No separate portion of rateable land shall be valued in the case of a Town at less than fifteen pounds or in the case of a Shire at less than ten pounds: Provided that the Governor in Council may at the request of the Local Authority by Order in Council direct that in the case of any Area which comprises a mineral field or gold field or part of a mineral field or gold field the minimum valuation shall be such sum as he may fix.

(v.) 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.

(vi.) In the case of lands situated on mineral fields or gold fields, each holding or tenement under and within the meaning of the Mining Acts 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.

1936.

*Local Government Act.*PART X.—
FINANCE.*Valuation of Tramways.*

(vii.) 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 provisions of this Act relating to the valuation of land and the making of rates in respect thereof.

Valuation
of
tramways.

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 work-people may, at the discretion of the Local Authority, be exempted from the provisions of this paragraph if the rate charged per passenger does not exceed one halfpenny per mile.

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.

All sums payable under this paragraph shall be recoverable in like manner as rates are recoverable under this Act.

In this paragraph the term “car route” means the road (being a road on which a tramway is constructed) traversed by a tramcar or tram wagon on its journey between the points of departure and destination.

* 46 Vic. No. 10 and 54 Vic. No. 16, *supra*, pages 2945 and 2964.

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.

Valuation of Gas Mains and Electric Lines.

Valuation of
gas mains
and electric
lines.

(viii.) 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; 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:—

(A.) 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.

1936.

*Local Government Act.*PART X.—
FINANCE.

(B.) In full satisfaction and discharge of all rates ^{Electric} due and payable in respect of all such electric lines so ^{lines.} 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.

All sums payable under this paragraph (viii.) shall be recoverable in like manner as rates are recoverable under this Act.

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.

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.

Valuation
may be
varied.

(ix.) Notwithstanding the provisions of the preceding paragraphs (vii.) and (viii.), 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 either of such paragraphs referred to upon a basis different from the basis in such paragraphs prescribed, or for the exemption of the tramway or undertaking or any part thereof from rating during a specified time :

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.

Map of gas
and other
mains and
cables to be
furnished on
demand.

(x.) For the purpose of rating main gas pipes and electric lines, 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, 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.

1936.

*Local Government Act.**Budget.*

25. (1.) On or before the first ordinary meeting in the month of August in each year the Local Authority shall cause to be framed the budget for the current year in the form and manner prescribed.

Annual
budget to
be prepared.

(2.) For every fund established and kept by the Local Authority in pursuance of section twenty-three of this Act, separate budgets shall be framed.

Separate
budget for
every fund.

(3.) Every budget shall be adopted by the Local Authority on or before the thirty-first day of August in the year for which same is framed, and the rates and/or charges to be made and levied by the Local Authority for such year shall be founded thereon.

Adoption of
budget.

Every budget adopted by the Local Authority shall be open to inspection.

(4.) (i.) In framing the budget for the general fund, the Local Authority shall estimate for the current year—

Framing of
budget.

(a) The amounts to be disbursed upon the several works, matters, and things to which the general fund is applied as hereinbefore directed; and

(b) The amounts expected to be received from the general rate and all other moneys hereinbefore directed to be paid into the general fund.

The estimates of receipts shall be set out as nearly as may be separately in accordance with the several sources of receipts and disbursements and as nearly as may be in accordance with each particular function, and where receipts and disbursements are for corresponding functions, such receipts and disbursements shall be set out opposite each other in the budget.

Where the Area is divided and such Area is not divided for electoral purposes only, the budget for each division shall be framed in accordance with the provisions of subsection two of section twenty-nine of this Act and the foregoing provisions of this subsection.

(ii.) Subject to this Act, the budget shall show the following information, that is to say:—

(a) Particulars of each item;

(b) Estimates adopted for the previous year;

- (c) Actual receipts and disbursements for the previous year; and
- (d) Estimates of receipts and disbursements for the current year.

(iii.) The Local Authority shall observe the budget and as nearly as may be balance such budget, and if at the end of any year there is a surplus or deficit, such surplus or deficit shall be carried forward and taken into account in framing the budget and in making and levying the rates and charges for the next ensuing year.

Unexpended
votes to
lapse.

(iv.) At the close of each year all authorisations of expenditure and votes of money therefor shall lapse. Any vote so lapsing may be revoted.

(v.) Any ordinary disbursement of the Local Authority in the months of July and August in any year is authorised and shall be included in the budget for that year.

(vi.) The foregoing provisions shall apply and be observed in framing the estimates of receipts and disbursement in all other funds established and kept by the Local Authority in pursuance of section twenty-three of this Act :

Provided that in respect of undertaking funds, nothing in this paragraph shall prevent or be deemed to prevent the transfer of any surplus or deficit as provided in subsection ten of section twenty-three of this Act.

(vii.) In framing the budget in respect of any undertaking fund, the Local Authority shall make provision for interest and redemption of any loan liability incurred by the Local Authority in respect of the particular undertaking, whether by a charge, due, fee, or fare, or by a special or separate loan rate, and the cost of operating, maintaining, and managing the particular undertaking, and shall not make any provision for reserve funds of any character other than a maintenance reserve fund.

(viii.) Where the Local Authority has at the commencement of this Act an existing overdraft in the local fund or other fund, the Local Authority shall extinguish the overdraft by one of the following methods, namely :—

- (a) By a fixed debenture loan having a currency of not more than fifteen years; or

1936.

Local Government Act.

(b) By making equal annual provision in the budget for a period not exceeding fifteen years for the general fund or for each particular undertaking fund, as the case may require.

No authority other than the issue of an Order in Council under the provisions of section twenty-eight of this Act shall be necessary where the Local Authority by resolution decides to extinguish the overdraft by way of a loan as hereinbefore provided, but the Local Authority shall not be required to observe the provisions of the said section.

(ix.) If the Local Authority makes any disbursement in any year from any fund which has not been provided for in the budget relating to such fund for such year, except in emergent or extraordinary circumstances, all the members of the Local Authority who have knowingly voted for such expenditure shall be jointly and severally liable to repay to the Local Authority the amount involved in such illegal disbursement, and any such amount may be recovered from such members or any of them in the manner provided in subsection fourteen of section twenty-eight of this Act.

Rate Books.

26. (1) 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 [and, if the case be so (name of other Rate for) state purposes] of pence in the pound, made this day of , 19 , by virtue of "The Local Government Act of 1936."

OWNER.			Description and situation of land.	Area (where divided).	Value.	Rate at pence in the pound.	When payable.	When and by whom paid (owner or mortgagee, &c.).
Surname.	Christian name.	Residence and trade or occupation (if known).						

Signed by me this day of A.D., 19
Chairman of the Council of the Town [or 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 the chairman.

The rate book shall be open for inspection.

Rate book
may be
amended.

(2.) The clerk may and shall from time to time amend any rate book by—

- (i.) Inserting therein the name of any person claiming and entitled or liable to have his name inserted therein as owner ;
- (ii.) Inserting the name of any person who ought to have been rated ;
- (iii.) Striking out the name of any person who ought not to have been rated ;
- (iv.) Raising or reducing the sum at which any person has been rated if such person has been under-rated or over-rated, or when any person named therein as owner of any land has ceased to be the owner of such land and has become the owner of other rateable land in the Area ;
- (v.) Amending the particulars of description and situation of the land accordingly ; or
- (vi.) Making such other amendments therein as will make any valuation or rate conformable to this Act.

Amendment
not to avoid
rate.

(3.) 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 clerk with the date of such alteration or amendment.

Appeal.

(4.) 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.

Notice of
alteration.

(5.) Every person with respect to whom rates are altered shall be entitled to receive thirty days' notice of such alteration before the rate shall be payable by him.

1936.

*Local Government Act.*PART X.—
FINANCE.*Notice of Sale of Land.*

(6.) Whenever any person or any agent sells or agrees to sell any rateable 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 date of sale, the description of the land, the full name and address of the purchaser, the amount of consideration paid or agreed to be paid, which shall include a statement showing separately the unimproved value of the land, and the value of the various improvements thereon.

Notice of
sale of land
to be given
to Local
Authority.

Whenever a person who is the owner of rateable land within an Area subdivides the same, he shall forthwith give notice in writing, accompanied by the plan of subdivision, to the Local Authority.

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.

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 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.

Whenever any person transfers or forfeits any land to the Crown, he shall give notice in writing of such transfer or forfeiture within thirty days after the execution of the instrument of transfer, or after such forfeiture, as the case may be, to the Local Authority specifying the description of the land.

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, proceedings for the recovery of which penalty may be commenced within six months after such failure comes to the knowledge of the Local Authority.

The Local Authority may fix and collect a fee not exceeding one shilling from any person who desires to inspect in the rate 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.

Levy and Recovery of Rates and Recovery of Charges.

Levy of Rates.

Levy of
rate on
owner.

27. (1.) (i.) Every rate shall—

- (a) Be made by resolution of the Local Authority at the same meeting in each year at which the budget is adopted;
- (b) Be levied by the service of a rate notice on the owner and may be so levied yearly or half-yearly; and
- (c) Be payable at the office of the Local Authority.

(ii.) The amount of every rate so levied shall be due and payable by the owner to the Local Authority within the period of thirty days after the service of the rate notice.

(iii.) The amount of every rate shall be recoverable by the Local Authority from the owner on the expiration of thirty days after the service of the rate notice.

(iv.) 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.

Question of
liability to
rating; how
determined.

(v.) 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

1936.

*Local Government Act.*PART X.—
FINANCE.

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.

(vi.) If, on the request of the Local Authority—

- (a) The occupier of any land refuses or wilfully omits to disclose, or wilfully misstates to the Local Authority the name of the owner of such land, or of the person receiving or authorised to receive the rents of the same ; or
- (b) 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,

Refusal to
give name
of person
liable.

he shall be liable to a penalty not exceeding five pounds.

(2.) (i.) 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.

Discount on
rates for
prompt
payment.

(ii.) Any Local Authority which has allowed a percentage by way of discount in accordance with paragraph (i.) of this subsection hereof may further allow to any person liable to pay any rates who pays the whole of such rates after thirty days but within sixty 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 half of the percentage by way of discount so allowed under paragraph (i.) of this subsection hereof.

(3.) When any rates are unpaid at the end of the year in which the same became due and payable, such rates shall thereafter bear interest at such rate of interest as the Local Authority may from time to time determine, but not exceeding 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

Rates to
carry
interest.

*Remission and Compounding of Rates.*Power to
remit rates.

(4.) (i.) 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 the widow of a person or a widowed mother of an unmarried son, whose death was the result of, or aggravated by, war service, or is a sufferer from an industrial disease as defined by **“The Workers’ Compensation Acts, 1916 to 1935”* (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.

Power to
compound
rates.

(ii.) Notwithstanding anything in this Act, the Local Authority may, in any case it thinks proper to do so, remit and wholly discharge any rates due and in arrears or enter into any agreement with any owner for the payment of a composition in respect of such rates or for the payment of such rates in instalments, or, where land is free from any obligation, may accept a transfer of the land in full satisfaction of all rates due and in arrear in respect of the said land; and the power of the Local Authority to so accept a transfer of land shall be in addition to any other right or remedy which it may have under this Act in respect of rates due and in arrears:

Provided that before any action is taken by the Local Authority under this paragraph (ii.), the owner concerned shall make application in writing to the clerk stating his name, address and occupation in full, the description of the land, the amount in full of all rates due and in arrears thereon, and the form of relief sought by him; and the clerk shall lay such application, together with his report thereon, before the Local Authority, which shall have no power to deal with such application until the expiration of not less than thirty days after such application and report has been so laid before it:

Provided further, that the Local Authority may, after the expiration of such period of thirty days, grant such relief to the applicant under and in accordance with this paragraph (ii.) as to it shall seem just.

* 6 Geo. V. No. 35 and amending Acts, *supra*, pages 9851 *et seq.*

1936.

*Local Government Act.*PART X.—
FINANCE.*Valueless Land.*

(5.) Notwithstanding anything in this Act, the Minister may, on the application of the Local Authority, authorise the removal from the rate book of all rateable land which is deemed to be valueless or is of such little value that if offered for sale it would not realise the amount of rates owing thereon, and the discharge of such rates. Upon the removal of such land from the rate book and the discharge of the rates owing thereon the Local Authority shall proceed to take possession of the land in the manner set out in paragraph (vii.) of subsection eleven of this section :

Removal
from rate
book of
valueless
land.

Provided that if the rates owing on such land are paid before the expiration of six months from the date of the notice set out in the said paragraph (vii.), such land shall be restored to the rate book.

Mortgagees, Apportionment, Selections, and Holdings.

(6.) 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.

(7.) When an owner ceases to be the 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 owner shall as between himself and the succeeding 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 owner, and any person who is the 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 owner.

Rates
apportioned
between
owners.

But the rate in respect of such land shall continue in force, and payment thereof may be enforced against the owner for the time being as if no change had taken place in the ownership.

When
selection,
&c., becomes
rateable.

(8.) (i.) 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.

Forfeiture
or surrender
of holding.

(ii.) 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 from 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 and interest thereon due and in arrear in respect of the land at the date of forfeiture or surrender, and the amount of such rates and interest thereon 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.

Distrainment for Rates.

Distrainment
for rates.

(9.) (i.) 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 of the owner 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	Ten shillings.
For inventory, sale, commission, and delivery of goods	Not exceeding one shilling in the £ 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	Six pence.

* 1 Geo. V. No. 15, *supra*, pages 8775 *et seq.*

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.

Complaint or Action for Rates.

Complaint
or action
for rates.

(10.) (i.) Instead of proceeding by distress and sale, the Local Authority may, notwithstanding any change of ownership, recover any rates in arrear from the owner of the land rated either by complaint of the chairman before any two justices, or by action in any court of competent jurisdiction :

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.

Persons
liable to
be resorted
to in
succession.

(ii.) 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.

Sale of Land for Arrears of Rates.

Power to
sell land
for arrears
of rates.

(11.) (i.) 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 remained unpaid for three years or longer, the Local Authority shall without further authority than this Act be empowered to sell such land.

Notice of
sale to be
served.

(ii.) The Local Authority, after resolving to sell any such land as aforesaid, shall forthwith cause to be served by registered post on the registered proprietor of such land, and also upon any mortgagee, encumbrancee, lessee, or trustee of such land who has previously registered himself as such in the office of the Local Authority by notice in writing sent by registered post (which registration the Local Authority shall recognise

1936.

Local Government Act.

and record) a notice of sale which shall be in the following form or to the like effect, together with a statement of the provisions of the law relating to the sale of land for arrears of rates :—

“THE LOCAL GOVERNMENT ACT OF 1936.”

Notice of Sale.

Whereas a sum of pounds shillings and pence being the amount of Rates as set out hereunder due and payable in respect of that piece of land whereof you are the registered proprietor, 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*] Number , Volume , Folio , containing acres roods and perches, more or less, remains unpaid :

And whereas the Council of the [Town, City, or Shire] of on the day of , one thousand nine hundred and , resolved in pursuance of Subsection 11 of Section 27 of “*The Local Government Act of 1936*,” to sell such land: This is to give notice that, after the expiration of three months from the date hereof and before the expiration of six months from the date hereof, unless all the moneys herein mentioned are sooner paid, the land will be sold accordingly.

Dated at this day of one thousand nine hundred and

Signature of Clerk :

Seal of the Council :

Details of Rates owing :

(iii.) (a) After the expiration of three months and before the expiration of six months from the date of the notice of sale, unless the rates due and in arrear in respect of the said land are sooner paid, the Local Authority shall proceed with the sale of the land. ^{Powers of sale.}

(b) The land shall be sold by public auction.

(c) Not more than fourteen days nor less than seven days before the date of the sale the notification of time and place of the sale and a full description of the land to be sold shall be advertised in some newspaper, and a notice containing particulars of the sale and a full description of the land to be sold shall be affixed on some conspicuous part of the said land and be served upon the registered proprietor by registered post as in the case of the notice of sale.

A copy of the notice served upon the registered proprietor shall be kept posted up at the office of the Local Authority for a period of not less than fourteen days immediately preceding the date of the sale.

(d) A reserve may be placed by the Local Authority upon the said land, and such land shall not be sold unless the reserve price is realised.

Application
of moneys
arising from
sale.

(iv.) The moneys arising from the sale of any land shall except as is hereinafter provided in subsection thirteen be applied by the Local Authority 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 any disability of any person or any statute of limitations—

Firstly, in payment of all expenses incurred in connection with the sale of such land ;

Secondly, in payment of all rates and interest due to the Local Authority ; and

Thirdly, 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 notice of sale is rated ;

Fourthly, in payment of all rates, charges, interest, and other moneys due to the Local Authority under this Act or any other Act or to a water authority under the Water Authorities Acts.

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 :

Provided that if such moneys are unclaimed for a period of two years, the same shall be paid to the Public Curator of Queensland as unclaimed moneys and shall be dealt with accordingly.

Issue of Title upon Sale.

Issue of title
on
certificate of
sale of
land for
rates.

(v.) Upon the sale of any land as aforesaid, the Local Authority shall furnish to the registrar of titles under the seal of the council a certificate which shall be in the following form set out hereunder, or to the like effect certifying that the land has been sold in pursuance of this section and specifying the description of the land, the name, occupation, and

fee-simple in the said land free of any obligation hereinbefore referred to in paragraph (iv.) of this subsection or for the entire estate or interest of the owner in default free of any such obligation as aforesaid, as the case may be :—

“ THE LOCAL GOVERNMENT ACT OF 1936.”

Form of Application of Local Authority for Registration for an Estate in Fee-simple [or as the case may be].

Whereas the Council of the [Town, City, or Shire] of _____ on the _____ day of _____ one thousand nine hundred and _____, acting in pursuance of Section 27 of “ *The Local Government Act of 1936,*” resolved to sell certain land whereof _____ is the registered proprietor, 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], Number _____, Volume _____, Folio _____, containing _____ acres _____ roods and _____ perches more or less :

And whereas the said land was offered for sale at public auction on the _____ day of _____ one thousand nine hundred and _____ :

And whereas the reserve price placed upon the said land was not realised at the said sale :

Now therefore the Council of the [Town, City, or Shire] of _____ acting in pursuance of the powers conferred upon it by Section 27 of the said recited *Act hereby applies to be registered as an estate in fee-simple in the said land, free of any obligation [or for the entire estate or interest of the owner in default, free of any obligation].

Dated at _____ this _____ day of _____ one thousand nine hundred and _____ .

Clerk of the Council :

Mayor or Chairman.

Seal of the Council :

(b) The registrar of titles shall thereupon and without any further authority than this Act, and notwithstanding any other Act to the contrary, and notwithstanding the non-production of the instrument of title, register the said Local Authority for an estate in fee-simple in the said land free of any obligation, or in the case of any 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 in default, free of any obligation, and shall without any fee in respect of such registration issue to the said Local Authority a clear title to the said land.

* Verbally corrected : “ Acts” in *Gazette*.

1936.

*Local Government Act.*PART X.—
FINANCE.*Worthless Rateable Land.*

(vii.) (a) In the case of worthless rateable lands which have been removed from the rate book under and in pursuance of subsection five of this section, and the rates owing on which have been discharged as hereinbefore provided, the Local Authority may proceed to acquire the said land without complying with the procedure contained in paragraphs (i.), (ii.), (iii.), (iv.), and (v.) of this subsection.

Worthless
rateable
land; notice
of intention
to possess.

(b) In such case, the Local Authority shall serve on the registered proprietor by registered post a notice in the following form or to the like effect :—

“THE LOCAL GOVERNMENT ACT OF 1936.”

Notice of Intention to take Possession without Submitting to Sale.

Whereas a sum of _____ pounds _____ shillings and _____ pence being the amount of Rates as set out hereunder due and payable in respect of that piece of land whereof you are the registered proprietor, 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], Number _____, Volume _____, Folio _____, containing _____ acres _____ roods and _____ perches, more or less, remains unpaid :

And whereas the said land is deemed to be valueless or is of such little value that if offered for sale it would not realise the amount of Rates owing thereon :

And whereas upon the application of the Council of the [Town, City, or Shire] of _____, the Secretary for Health and Home Affairs has, in pursuance of the powers vested in him by Section 27 of “*The Local Government Act of 1936*” authorised the removal of the said land from the Rate book and the discharge of the Rates owing thereon :

Now therefore, this is to give notice that, after the expiration of six months from the date hereof unless the moneys herein mentioned are sooner paid, application will be made to the Registrar of Titles to register the said Local Authority for an estate in fee-simple in the said land, free of any obligation whatsoever [or for the entire estate or interest of the owner in default, free of any obligation whatsoever].

Dated at _____ this _____ day of _____
one thousand nine hundred and _____

Seal of the Council :

Clerk of the Council.

Details of Rates owing :

(c) A copy of such notice shall also be served by registered post upon any mortgagee, encumbrancee, lessee, or trustee who has previously registered himself as such in the office of the Local Authority as provided in paragraph (ii.) of subsection eleven of this section.

1936.

*Local Government Act.*PART X.—
FINANCE.

(e) The registrar of titles shall thereupon without further authority than this Act, and notwithstanding any other Act to the contrary and notwithstanding the non-production of the instrument of title, register the said Local Authority for an estate in fee-simple in the said land free of any obligation, or in the case of any land held under any less tenure or under any tenure peculiar to gold and mineral fields for the entire estate or interest of the owner in default, free of any obligation, and shall without any fee in respect of such registration issue to the said Local Authority a clear title to the said land.

Conterminous Land.

(f) The registrar of titles, instead of issuing a separate title for each parcel of land acquired by the Local Authority in pursuance of this section may issue one title for two or more parcels of land when the same are conterminous. Conter-
minous land

When Sales of Land Valid notwithstanding any Irregularity.

(12.) No sale of land or of any estate or interest therein made or purporting to have been made under the provisions of this section, and no action of the Local Authority in taking possession of any land under the provisions of this section 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 made shall be valid and effectual for all purposes whatsoever, notwithstanding any such failure, omission, irregularity, insufficiency, or inaccuracy. When sales
of land valid
notwith-
standing any
irregularity.

No registrar of titles and 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 registrar of titles or against any such purchaser as aforesaid, or against the Crown or any Minister of the Crown, or State officer acting for the Crown, or against the assurance fund established under **“The Real Property Acts, 1861 to 1877,”* or any fund

* 25 Vic. No. 14 and amending Acts, *supra*, pages 2984 *et seq.*

administered or controlled by the State, or any such State officer in respect of any sale of land or of any estate or interest therein made or purporting to have been made under the provisions of this section, or any action of the Local Authority in taking possession or purporting to take possession of any land under the provisions of this section, or 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, on the part of any such purchaser, or any such Local Authority or officer thereof, or any registrar of titles or any Minister of the Crown, or any such State officer :

Provided always, that this subsection shall not be construed so as to afford any protection to any officer or person who has been guilty of fraud or wilful default in connection with any such sale or any such taking possession, or to any Local Authority which has not complied with the provisions of this section in connection with any such sale or any such taking possession.

Crown Dues, Qualifications of Purchaser, &c.

Secured
Crown debts
preserved.

(13.) (i.) No power conferred upon a Local Authority under and in pursuance of this Act to recover the arrears of rates due and owing in respect of any land and whether such power is—

- (a) The power of the chairman to issue his warrant for levying the amount thereof with costs by distress and sale of the goods and chattels found on the rated land ; or
- (b) The power to distrain and sell timber standing or lying on the rated land where such land is vacant ; or
- (c) The power to sell the rated land ; or
- (d) The power to acquire the rated land (and either without offering the same for sale or after the same has been offered for sale and not sold),

shall in any way prejudice or affect any 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, timber, goods, or chattels concerned in favour of the Crown, or any Crown instrumentality, or any Minister or person representing the Crown.

1936.

*Local Government Act.*PART X.—
FINANCE.

For the purposes of this subsection, where the tenure of any land is held subject to the payment of rent to the Crown, such rent shall be and be deemed a charge affecting the land :

Provided that nothing in this subsection contained shall prevent or be deemed to prevent a Local Authority from selling land subject to any such obligation as aforesaid for arrears of rates where the sale is made subject to the obligation :

Provided further, that land subject to any such obligation as aforesaid may be sold by the Local Authority for arrears of rates free or partly free from such obligation with the consent of and upon the terms and conditions agreed to by the obligee :

Provided also, that where a Local Authority has knowledge that any such obligation as aforesaid in favour of the Crown has been registered against or in any way affects land, timber, goods, or chattels it shall be the duty of the Local Authority to notify the Crown or the Crown instrumentality, or the Minister or person representing the Crown before commencing to exercise any right or remedy which it may have against such land, timber, goods, or chattels under this section.

(ii.) Where any other Act requires the person for the time being holding the tenure of land to which such other Act applies to have certain qualifications or to hold subject to the consent of a prescribed authority, no such land shall be sold by the Local Authority for arrears of rates except to a person having the required qualifications and obtaining the prescribed consent. Qualifications of purchaser.

(iii.) Nothing in this section shall entitle or be deemed to entitle a Local Authority to acquire any land the tenure of which is prohibited by any Act or law from being held by a corporate body. Restrictions re tenure.

Recovery of Charges.

(14.) If any person having contracted with the Local Authority uses any product or service of any undertaking 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 Remedy for recovery of charges.

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, or the Local Authority may proceed to recover the sum of money due by action in any court of competent jurisdiction.

The Local Authority may also cut off and take away the supply of any product or service of any undertaking from the premises of every person so refusing or neglecting, and thenceforth discontinue the supply.

Raising Loans.

Obligations
of Local
Authority
with regard
to borrowing
powers.

28. (1.) The Governor in Council may authorise the Local Authority to borrow money—

(a) From the Treasurer; and

(b) By the sale of debentures, in which case the authority shall be given by Order in Council.

The 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 loan, the amount of interest payable thereon, the terms and conditions for the redemption of the loan whether by yearly or half-yearly payments or payments into a sinking fund, and such other conditions as the Governor in Council thinks proper to impose.

Sanction of
Treasurer
as to
negotiation.

(2.) Before entering upon negotiations to borrow money under and in pursuance of this section the Local Authority shall first obtain the sanction of the Treasurer authorising it to enter upon such negotiations.

Procedure
by Local
Authority.

(3.) Before proceeding to borrow money under and in pursuance of this section the Local Authority shall—

(i.) Pass a resolution authorising it to borrow money at a special meeting called for that purpose;

(ii.) Cause to be prepared—

(a) Plans and specifications of the work or undertaking;

(b) An estimate of the cost thereof;

(c) A statement showing the proposed expenditure of the money to be borrowed;

(d) An estimate of the anticipated receipts and disbursements where the loan is to be borrowed for an undertaking.

1936.

*Local Government Act.*PART X.—
FINANCE.

(iii.) Make application to the Minister for his decision on the question whether the work or undertaking will be for the benefit of the whole Area or for a particular part thereof in regard to which it is proposed to borrow the money; and the Minister shall have power to decide that question and to define the part of the Area specially benefited; and the Minister, if he thinks fit and proper so to do, may divide the part so defined into subdivisions according to the extent to which each is specially benefited.

(iv.) Publish a notice twice in some newspaper, not less than one month nor more than three months after the passing of the aforesaid resolution to borrow, stating—

- (a) The amount of the money proposed to be borrowed;
- (b) The purpose to which the money proposed to be borrowed is to be applied;
- (c) That plans, specifications, statements, and estimates aforesaid are open to inspection at the office of the Local Authority; and
- (d) The benefited area defined by the Minister as herein provided.

(4.) (i.) Any electors, being not less than ten per cent. of the whole of the electors in the Area, or in the benefited area defined by the Minister as herein provided, as the case may be, may, at any time within one month after the last publication of the notice aforesaid, in writing under their hands delivered to the returning officer, require that the question whether the money should be borrowed or not shall be submitted to the vote of the electors in the benefited area. Request for poll.

(ii.) On the receipt of the request containing the requisite number of names of electors aforesaid, the returning officer shall proceed to take a poll in accordance with the provisions for taking polls in Part XII. of this Act.

(5.) If at the poll aforesaid the number of votes given against the proposal to borrow money is greater than the number of votes given in favour of the loan, the Local Authority shall be forbidden to proceed further with the proposal to borrow money unless fresh proceedings are commenced *de novo*. Where poll against proposal.

Where poll
in favour of
proposal.

(6.) If at the poll aforesaid the number of votes given in favour of the proposal to borrow money is greater than the number given against the proposal to borrow money, or no poll is demanded, the Local Authority may apply to the Minister for the issue of the authority for the Local Authority to borrow the money. Such application shall be accompanied by a statement showing that the foregoing provisions have been complied with by the Local Authority.

When
Governor in
Council may
dispense
with poll.

(7.) Notwithstanding anything hereinbefore contained, the Governor in Council, in any case where he is satisfied that the work for which a loan is proposed to be borrowed will be in the best interests of the electors of the Area, and of such urgency that it is expedient that the Local Authority should proceed with such work without advertising its intention to borrow or taking a poll of the electors on the question of the loan may by Order in Council dispense with the procedure provided in this section:

Provided always that—

- (a) The provisions of this section as to the sanction of the Treasurer authorising the Local Authority to enter upon negotiations to borrow money shall apply;
- (b) The provisions of this section as to the passing of the resolution for borrowing money at a special meeting of the Local Authority called for that purpose shall apply;
- (c) The provisions of this section regarding the submission by the Local Authority to the Minister in relation to work in part of an area to be specially benefited, and the power of the Minister to decide the question and to define the area to be specially benefited, shall apply and extend accordingly.

Where
moneys
borrowed
inadequate.

(8.) In the event of any money borrowed pursuant to the provisions of this section proving to be 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

1936.

Local Government Act.

without complying with the procedure prescribed by this section as preliminary to such borrowing or without taking any poll of electors in that behalf.

(9.) The money borrowed from the Treasurer or raised by the sale of debentures shall be expended for the purposes for which the Local Authority was authorised to borrow same and not otherwise. Application of borrowed money.

(10.) Every loan advanced by the Treasurer 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. Treasury loan.

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. Adjustment.

Debentures.

(11.) (i.) Subject to this Act, all 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. Debentures.

Such debentures shall bear interest at the rate and shall be repayable on the date respectively prescribed in the order.

(ii.) Every debenture shall specify the time when and the place where the principal and interest are payable, and shall have annexed thereto for every payment (whether of principal, or interest, or principal and interest) 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.

(iii.) 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.

Debentures
may be sold
in
Queensland
or elsewhere.

(iv.) 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.

Payment of
debentures
and interest.

(v.) 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 sum mentioned in such coupon upon presentation of the same at the place where, and on or after the date when, such sum is payable.

Defaults in Repayment.

Half-yearly
statement
of arrears to
be
published.

(12.) (i.) 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 to which a loan has been advanced by the Treasurer under **"The Local Works Loans Acts, 1880 to 1899,"* or under this Act or 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.

Default
in the
repayment
of Treasury
loans.

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 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 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.

* 44 Vic. No. 9 and amending Acts, *supra*, pages 2023 *et seq.*

1936.

*Local Government Act.*PART X.—
FINANCE.

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, 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).

(ii.) 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 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.

Default on
payment of
debenture
loans.

(iii.) 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; and for such purposes such receiver shall be deemed to be the Local Authority, and may exercise all the powers thereof.

In the case of the Joint Local Authority, subject to this Act the receiver shall have power to make and collect all charges authorised to be made and collected by the Joint Local Authority and be entitled to receive all charges and revenues whatsoever payable to the Joint Local Authority for or in respect of which he has been appointed receiver, and for such purpose such receiver shall be deemed to be the Joint Local Authority and may exercise all the powers thereof.

In addition the receiver shall have power to make, levy, and collect all rates authorised by this Act to be made, levied, and collected by the Local Authority upon rateable lands within the Area of the Joint Local Authority and shall be entitled to receive all such rates, and for such purposes such receiver shall have and may exercise all the powers and authorities conferred upon the Local Authority by this Act.

* 38 Vic. No. 12, *supra*, page 74.

The receiver shall be entitled to such commission payable out of the rates as remuneration for his services as the Treasurer or court may appoint.

The receiver, if appointed by the Treasurer, shall pay over all moneys received by him to the Treasurer, and the receiver, if appointed by the court, shall subject to any order of the 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.

Brokerage.

Brokerage.

(13.) (i.) Subject as is hereinafter provided, the Local Authority may pay moneys by way of brokerage for or in respect of the making, procuring, negotiating, or obtaining the loan of any money which the Governor in Council has by Order in Council permitted the Local Authority to borrow :

Provided that no moneys shall be paid by the Local Authority by way of brokerage for or in respect of the loan of any moneys borrowed by it unless the Treasurer has approved of the payment of brokerage, which approval may be given by the Treasurer subject to such terms and conditions as to him shall seem fit :

Provided further, that section fourteen of **"The Money Lenders Acts, 1916 to 1934,"* shall not apply or extend to brokerage which the Local Authority is authorised to pay under and in accordance with this subsection, and which brokerage has been approved by the Treasurer and is agreed to be paid by the Local Authority subject to the terms and conditions, if any, imposed by the Treasurer.

(ii.) Any moneys paid or agreed to be paid by a Local Authority by way of brokerage for or in respect of the making, procuring, negotiating, or obtaining the loan of moneys borrowed by the Local Authority on or after the twelfth day of December, one thousand nine

* 7 Geo. V. No. 13 and 24 Geo. V. No. 5, as amended by section 27 of 25 Geo. V. No. 33, *supra*, pages 7646, 14698, and 15053.

1936.

*Local Government Act.*PART X.—
FINANCE.

hundred and thirty-four, and prior to the commencement of this Act, shall be deemed to be brokerage lawfully paid or agreed to be paid, and any such payment or agreement to pay is hereby ratified accordingly.

Illegally Borrowing.

(14.) (i.) No person lending money to a Local Authority otherwise than in accordance with this Act or some other Act shall have any remedy or right whatsoever to recover such money from the Local Authority:

Person lending unlawfully not to recover back.

Provided that nothing in this paragraph shall prejudice or affect subsection eleven of this section.

(ii.) If a Local Authority borrows any money which it is not legally authorised to borrow, all the members who have consented to the borrowing of such money shall be jointly and severally liable to repay the same and pay 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 power.

If any moneys are appropriated from the general fund or any other fund for the purpose of repaying any money so borrowed or paying interest thereon, 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 elector of the Area or creditor of the Local Authority who, on recovery of the same, shall pay the amount recovered into the general fund or other such fund, but shall be personally entitled to full costs of suit, including costs as between solicitor and client.

(iii.) If a Local Authority borrows any money which it is not legally authorised to borrow, or if a Local Authority purports or attempts to bind itself or its successors to repay any money borrowed or interest thereon which the Local Authority is not legally authorised to borrow, every member who consents to such borrowing or to such purporting or attempting to bind shall, in addition to any liability to repay such

Members borrowing illegally.

money and interest thereon, 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 general fund.

Accounts and Audit.

Books of
account and
inspection
by persons
interested.

29. (1.) Every Local Authority shall cause such books to be provided and kept, and true and regular accounts to be entered therein in respect of each fund as hereinbefore provided, as shall be prescribed by regulations.

The clerk shall at the first ordinary meeting after the close of each month submit to the Local Authority statements of the accounts in relation to the budget for the period of the year ending at the termination of such month.

Such statements shall show the estimated receipts and disbursements in and from each fund, and the actual receipts and disbursements in and from such fund for such period, with such explanations as will give a true indication of the progressive state of the votes provided in the budget, and at the six-monthly and nine-monthly periods a statement of the anticipated position at the end of the year.

The books and such statements shall be open to inspection.

If the clerk does not permit such inspection he shall be liable to a penalty not exceeding ten pounds.

Separate
accounts for
divisions.

(2.) When an Area is divided, and such Area is not divided for electoral purposes only, the Local Authority shall in the accounts of the general fund provide and keep a separate and distinct account in respect of each division, and the following provisions shall be applicable:—

- (i.) All receipts from general rates levied upon the rateable value of land in the several divisions shall be credited to the respective accounts of the several divisions in respect of which they were received;
- (ii.) Other receipts shall be credited to the account of each division in proportion to the rateable value of each division;

1936.

*Local Government Act.*PART X.—
FINANCE.

- (iii.) Save as hereinafter provided, all moneys disbursed 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 direct, and such proportion shall, as nearly as practicable, be in proportion to the benefit derived in the several divisions ;
- (vi.) Surpluses or deficits in the accounts of the respective divisions in any year shall be carried forward to the succeeding year ;
- (vii.) 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 rates and revenues of the Local Authority howsoever arising ;
- (viii.) Any twenty electors of an Area may, by petition to the Minister, appeal against any resolution of the Local Authority under this subsection, and the Minister shall immediately cause such inquiry to be made as he thinks necessary, and shall either confirm such resolution 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.

Financial Statement.

Financial
statement.

(3.) (i.) The clerk shall prepare and lay before the Local Authority at the same meeting in each year at which the budget is adopted the following statements as at the close of the preceding financial year on the thirtieth day of June, that is to say :—

- (a) Annual statement of receipts and disbursements in respect of the general fund ;
- (b) Annual statements of receipts and disbursements in respect of each other fund ;
- (c) Where the Area is divided, annual statements of receipts and disbursements in respect of each division ;
- (d) Statements of all rates and charges made and levied showing in respect of each rate or charge the arrears of rates or charges as at the commencement of the year, the amount of the rate in the pound, the amount of any charges, the total amount of the levy of rates or charges in each case, the amount received during the year, and the amount of arrears of rates or charges outstanding at the end of the year ;
- (e) Statement of loan liabilities, giving the amount of each loan, date when money was borrowed, purposes for which it was borrowed, currency of each loan, annual charge for interest and redemption in respect of each loan, amount of arrears in payments for interest and redemption at the end of the year in respect of each loan, and the amount of each loan outstanding at the end of the year ;
- (f) Statement of contracts entered into by the Local Authority during the year ;
- (g) Statement of available assets ;

1936.

Local Government Act.

- (h) Statement showing amount of debts due by the Local Authority, if any, which should have been paid during the year, but remained unpaid at the end of the year; and
- (i) Statement of debts due to the Local Authority and unpaid at the end of the year.

(ii.) Statements (a), (b), (c), and (d) shall be prepared as is provided in this Act for the annual budget, and the budget information and the actual financial results of the year shall be shown side by side in such statements so that the true relationship between the budget and the financial results shall be disclosed.

(iii.) 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.

(iv.) The clerk shall on demand give to any person a copy of the statements on payment of the sum of one shilling therefor. Right to a copy.

(v.) 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.

(vi.) The Local Authority shall in every year cause a notice to be published in some newspaper that every such statement is open to inspection at the office of the Local Authority and that a copy thereof may be purchased as hereinbefore provided. Statements of accounts to be published.

Auditors and Audit.

(4.) The Minister on the recommendation of the Auditor-General may from time to time appoint some person or persons holding a certificate as auditor under this Act, or some officer or officers of the Department of the Auditor-General, to be the auditor or auditors for the Local Authority. Appointment of auditors.

The auditor or auditors for the Local Authority shall be paid out of the general fund thereof such remuneration as the Minister on the like recommendation may fix:

Provided that when an officer of the Department of the Auditor-General is appointed to be the auditor for the Local Authority the amount fixed as his remuneration shall be paid by the Local Authority to the Treasurer.

Annual
audit.

(5.) (i.) The auditor appointed for the Local Authority under this Act shall from time to time examine the books and the accounts of such Local Authority.

Water
authority.

Where the Local Authority is also the water authority under **"The Water Authorities Act of 1891,"* the aforesaid books and accounts shall also extend to and include the books and accounts of the Local Authority in its jurisdiction as such water authority.

Electric
authority.

Where the Local Authority is also the electric authority under †*"The Electric Light and Power Acts, 1896 to 1934,"* the aforesaid books and accounts shall also extend to and include the books and accounts of the Local Authority in its jurisdiction as such electric authority.

Duty of
clerk.

(ii.) The clerk shall produce and lay before the auditor the budget and the books and accounts, with all vouchers in support of the same, and all books, papers, and writings in his custody relating thereto.

Duty of
auditor.

(iii.) The auditor shall make an investigation into the funds and accounts of the Local Authority and the financial results of the year in relation to the budget.

If he is satisfied that all moneys received have been duly accounted for and that all disbursements have been duly made, and that no disbursement has been made from any fund which had not been provided in the budget relating to such fund, he shall sign the accounts in token of his allowance thereof; but if he disapproves of any part of the accounts or finds that disbursements have been made which have not been provided for in the budget, he shall not sign the accounts.

Person
interested
may be
present.

(iv.) 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.

Power of
auditor to
compel
discovery.

(v.) For the purpose of any examination the auditor may take evidence upon oath (which oath the auditor is hereby empowered to administer), and may

* 55 Vic. No. 11, *supra*, page 3536.† 60 Vic. No. 24 and amending Acts, *supra*, pages 702 *et seq.*

1936.

*Local Government Act.*PART X.—
FINANCE.

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.

(6.) Any person so required who—

Punishment
for default.

- (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.

(7.) The accounts audited as aforesaid and either allowed or disallowed by the auditor, together with any written objections made by creditors or electors, shall be produced by the clerk at the first ordinary meeting of the Local Authority after such audit or at some adjournment thereof.

Audited
accounts
to be
produced
at first
meeting
after comple-
tion of audit.

(8.) The auditor shall forthwith, after the investigation 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 general fund or any other fund 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, or that disbursements have been made which were not provided for in the budget, he shall certify accordingly to the Treasurer.

Report of
auditor.

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

Auditor-
General to
hear
explana-
tions.

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.

* [Power of Governor in Council as to Certificate.]

(9.) (i.) 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.

Effect of confirmation of certificate.

(ii.) Every such Order in Council confirming a certificate shall be conclusive evidence for all purposes whatsoever of the fact of the misapplication of the moneys therein mentioned, and of the amount so misapplied, and of the disbursement of the moneys not provided for in the budget therein mentioned, and of the amount so disbursed, and of the liability of the member or members named in such Order in Council as having so misapplied or illegally disbursed the same or connived at or concurred in the misapplication or illegal disbursement thereof, to pay the same.

Proceedings on order.

(iii.) Any sum of money mentioned in any such Order in Council confirming a certificate as having been so misapplied or illegally disbursed 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 elector of the Area, or at the suit of any of the creditors of the Local Authority, or at the suit of the Minister.

Subsection twelve of section fifty-two of this Act shall not apply to any proceedings under this paragraph.

Destination of moneys recovered.

(iv.) Any sum of money so recovered shall be paid into the general fund or other fund from which the amount sued for was improperly taken or illegally disbursed.

Special audit.

(10.) The Minister may, at any time, appoint a special auditor or special auditors to investigate the accounts of a Local Authority for any period fixed by the Minister. In every such case the provisions of this section shall be observed. 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.

1936.

*Local Government Act.*PART XI.—
FUNCTIONS
AND POWERS
OF LOCAL
GOVERNMENT.PART XI.—FUNCTIONS AND POWERS OF LOCAL
GOVERNMENT.

GENERAL.

Functions of Local Government.

30. The Local Authority shall have delegated to it the functions of local government.

Local
Authority
charged
with
exercise and
performance
of functions
of local
government.

The Local Authority shall be charged with the good rule and government of the whole or any part of the Area and shall have the control of the working and business of such good rule and government.

The Local Authority shall have full power to make by-laws for promoting and maintaining the peace, comfort, culture, education, health, morals, welfare, safety, convenience, food supply, housing, trade, commerce, and manufactures of the Area and its inhabitants, and for the planning, development, and embellishment of the Area, and for the general good rule and government of the Area and its inhabitants, and for the direction, administration, and control of the working and business of the government of the Area, and shall cause all such by-laws to be duly carried into effect.

And generally all such by-laws may be made and carried into effect by the Local Authority as may be determined by it to be necessary for the proper exercise and performance of the functions of local government and the powers and duties of the Local Authority, whether the subject-matter be within the express powers conferred by this Act upon the Local Authority or not.

And without limiting the generality of its powers and authorities the Local Authority shall have and possess and may exercise and perform express powers and authorities (including the power to make by-laws) in relation to the following matters:—The undertaking, provision, construction, maintenance, management, execution, control, regulation, and/or regulation of the use of—

Roads, bridges, tunnels, ferries, subways, viaducts, culverts, and other means of public communication; land (other than roads) vested in or under the control of the Local Authority; public parks, gardens, playing

grounds, recreation grounds, scenic resorts and other public places; aviation grounds and aerodromes; reserves and lands vested in it or placed under its control either permanently or temporarily; markets; baths and bathing places; tramways, motor omnibuses, omnibuses and other means of public transportation; traffic; health, sanitation, cleansing and scavenging, prevention and suppression of infectious and other diseases, sewerage, drainage, removal, suppression and abatement of nuisances, noxious and offensive trades, public conveniences; abattoirs; milk supply, supply of water, light and power; water conservation, flood gates and flood prevention; disposal of the dead; town planning; subdivision of land and use and occupation of land; buildings and use and occupation of buildings; protection from fire; boundaries and fences; opening, closing, aligning, widening, altering, and grading of roads; eradication and destruction of noxious weeds and pests; pounds and impounding; agricultural drainage, reclamation of land; wharves, quays, jetties, landing places;

Advertising the Area; public halls, art galleries, libraries, museums, places of public amusement or public resort, public fountains, public clocks, memorials and monuments; cemeteries and crematories; gravel-pits, sand-pits, and quarries; saleyards; shops, offices, kiosks, pavilions, and shelter sheds; residences for employees; road signs, toll gates, and toll bars on roads; weighing machines;

Advertising on roads and on land adjacent to roads; sky signs or other similar signs; animals; brothels; grids on roads; itinerant vending on roads and land under the control of the Local Authority; petrol pumps and air pumps; places of public amusement and public resort; pleasure resorts; public decency; public meetings; boarding houses and lodging houses, tenement houses and flats; stalls and stands

1936.

*Local Government Act.*PART XI.—
FUNCTIONS
AND POWERS
OF LOCAL
GOVERNMENT.

on roads or land under the control of the Local Authority or on land adjacent to roads; storage and transport of dangerous goods; veranda fences; encroachments and projections on roads; spouts and gutters of premises abutting on roads,

and generally all works, matters and things in its opinion necessary or conducive to the good rule and government of the Area and the wellbeing of its inhabitants.

Generally the power and authority conferred upon the Local Authority by this Act to make by-laws for or in respect of any function of local government shall include and be deemed to include all such by-laws as the Local Authority shall deem necessary or expedient to enable it to exercise and perform with respect to any such function its duty of good rule and government of the whole or any part of the Area and its control of the working and business of such good rule and government:

Provided that in the making of by-laws for or in respect of any function in relation to which specific powers and duties of the Local Authority are provided in this Act, all such by-laws may be made as the Local Authority shall deem necessary or expedient to give effect to such specific provision; but no such by-law shall contravene any prohibition or limitation imposed upon the Local Authority by any such specific provision.

The Local Authority may take any land and provide, acquire, construct, maintain, manage, control, and carry on any work, service, or undertaking with all associated or ancillary works or services.

Where an undertaking or work includes the doing and executing by the Local Authority of any act, matter, or thing on any land or premises, the Local Authority shall have full power and authority to do and execute such act, matter, or thing on such land or premises as part of such undertaking or work, and to the intent that the cost of doing and executing such act, matter, or thing shall be part of and included in the cost of such undertaking or work.

The Local Authority may do any acts not otherwise unlawful which may be necessary to the proper exercise

and performance of its powers and duties under this Act or any other Act conferring powers or imposing duties on the Local Authority.

General Powers as to By-laws.

Provisions
as to
by-laws.

31. The following provisions shall, but without limit to the power and authority to make by-laws, be applicable to the making of by-laws:—

(1.) A by-law may provide for the payment of fees to members for attending meetings and committee meetings of the Local Authority and making inspections, and the payment of expenses necessarily incurred by attending such meetings and making inspections.

No such payments by way of fees for attending meetings and making inspections made to any one member shall in any year exceed in the aggregate one hundred pounds.

These provisions shall not be construed so as to affect any allowance to the chairman or president granted under this Act.

(2.) Without limiting the generality of the powers conferred upon the Local Authority by this Act, the powers to control and regulate shall be deemed to include powers to license, or refuse to license, or to prevent and prohibit, and either generally for or in respect of the matter thereof or for or in respect of any class or classes of such matter as defined by by-law.

(3.) A by-law may provide for the issue or making of licenses, registrations, or permits to or with respect to persons and property, including the mode of application therefor, the manner of their grant or transfer, and the duration, renewal, and cancellation thereof, and for the payment of reasonable license, registration, and permit fees.

(4.) A by-law may provide for the payment of reasonable fees for inspections and other services by officers of the Local Authority.

(5.) A by-law may impose charges, dues, fares, fees, and rents in respect of any property, undertaking, service, or matter or thing whatever.

(6.) A by-law may provide for imposing tolls on roads and bridges.

1936.

*Local Government Act.*PART XI.—
FUNCTIONS
AND POWERS
OF LOCAL
GOVERNMENT.

(7.) A by-law may provide for the collection and recovery of charges, dues, fares, fees, rents, and tolls.

(8.) A by-law may provide for the prevention of injury to or misuse of works, appliances, or things the property of or under the control of the Local Authority.

(9.) 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; 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.

(10.) A by-law may authorise 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 or any by-law made thereunder.

(11.) 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.

(12.) 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.

(13.) A by-law may limit the amount of liability to any specified amount in respect of injury, loss, or damage occasioned to vehicles, animals, goods, or things using or being conveyed by any ferry, or using or being conveyed over any bridge, by reason of negligent

acts of the Local Authority, including its contractors, lessees, officers, and servants; and may prohibit or authorise at personal, or owner's risk only, the using or conveyance by any ferry or the using or conveyance over any bridge. A copy of any such by-law shall be kept publicly exhibited at every landing place of any ferry or at the approaches to bridges, as the case may be, otherwise it shall not be binding upon any person.

(14.) 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 class or classes of cases or in any particular case.

(15.) A by-law may prescribe as to matters that shall be receivable in evidence and as to the burden of proof, and may confer and impose jurisdiction on any court.

(16.) A by-law may provide reasonable rates of damage to be payable to the Local Authority or any person in respect of damage incurred by any contravention thereof.

(17.) A by-law may prescribe forms of and in connection with matters and proceedings.

(18.) A by-law may grant or delegate to the chairman or 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, 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 and duties of the Local Authority.

(19.) A by-law may prohibit unlicensed persons doing, executing, or interfering with any work, act, matter, or thing required or enabled to be done or executed in relation to any person and/or land and/or premises in respect of any function of local government.

(20.) In the case of any work, service, or undertaking, or in the case of any work, service, or undertaking associated with or ancillary to any such work, service, or undertaking, the Local Authority may

1936.

*Local Government Act.*PART XI.—
FUNCTIONS
AND POWERS
OF LOCAL
GOVERNMENT.

make and carry into effect all such by-laws as it shall deem necessary to require or enable any person to do and execute all such works, acts, matters, and things as are necessary or convenient to do or execute the function concerned in relation to him and/or his land and/or his premises.

Any such by-law may prescribe the conditions under which the work, act, matter, or thing may be done or executed by the person concerned, or may authorise the Local Authority to do or execute the work, act, matter, or thing for and on behalf of the person concerned and to accept payment or deferred payment bearing interest therefor, and, in addition, may, where the work, matter, or thing is done or executed by the Local Authority, prescribe the conditions under which such work, matter, or thing shall be done and renewed and maintained.

(21.) Notwithstanding any Act or judgment to the contrary, the power and authority to make by-laws shall in respect of places of public amusement or places of public resort extend and apply where the premises concerned are embraced within a reserve vested in trustees under **“The Land Acts, 1910 to 1936”* (or any Act amending or in substitution for the same), or under the provisions of any Land Act repealed by such lastmentioned Acts, and where the reserve concerned was placed under the control and management of the trustees concerned and who are or were empowered to make by-laws for the carrying-out of the objects of the trust, subject to the approval of the Governor in Council, and notwithstanding the power under this Act which provides that a Local Authority may make by-laws in respect of the management, regulation, and control of lands (other than roads) vested in or under the control of the Local Authority.

(22.) A by-law may be made to apply to the whole or separately to a part or parts of the Area and described by the boundaries in such by-law, and may provide with respect to any prescribed matters of prohibition, restraint, and/or regulation, either absolutely or with relation to classes, rates, situations, distances, or other acts, matters, or things to be laid down or referred to in

* 1 Geo. V. No. 15 and amending Acts, *supra*, pages 8775 *et seq.*

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.

(23.) A by-law may be amended or repealed at any time by the Local Authority.

(24.) Notwithstanding any Act or judgment to the contrary, any person who keeps a house, room, set of rooms, or place of any kind whatever for purposes of prostitution, whether of one woman or more, shall for the purposes of any by-law be deemed to keep a brothel.

Saving
of past
operation of
amended or
repealed
by-law.

(25.) Notwithstanding the amendment or repeal of any by-law, every offence committed against the by-law before the amendment or repeal thereof may 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.

Interpre-
tation.

(26.) 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.

Passing
of by-laws.

(27.) Every resolution making a 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.

Publication
of notice of
proposed
by-law.

After the passing of a resolution making a by-law 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.

1936.

Local Government Act.

PART XI.—
FUNCTIONS
AND POWERS
OF LOCAL
GOVERNMENT.

After a by-law made or purporting to have been made under this Act 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 same force and effect in the Area as if it were enacted in this Act and shall not be questioned in any proceedings whatsoever.

To be approved by the Governor in Council.

(28.) The provisions of this section shall apply to all by-laws which Local Authorities are authorised or empowered to make under any Act conferring jurisdiction upon Local Authorities.

By-laws under other Acts.

(29.) By-laws may be made, and notwithstanding anything to the contrary contained in **The Traffic Acts, 1905 to 1933*—

By-laws as to extra-ordinary traffic.

(i.) Defining what traffic shall be deemed to be extraordinary traffic, having regard to the average expense of repairing roads within the Area, or any division or part of an Area or division specially affected.

Defining extra-ordinary traffic.

(ii.) Regulating and, if necessary, restricting extraordinary traffic on roads or any specified roads.

Regulation, &c.

(iii.) Compelling any person, corporation, or other body by whom or by 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.

Expenses.

(iv.) Authorising the Local Authority to enter into any agreement with 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.

Agreements.

(v.) Regulating and, if necessary, restricting the carrying on vehicles upon any road of long, large, heavy, or projecting goods, whether the same constitute extraordinary traffic as defined or not.

Timber, &c.

(30.) 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.

Printed copies to be kept.

* 5 Edw. VII. No. 18 and amending Acts, *supra*, pages 3487 *et seq.*

Miscellaneous General Powers and Duties.

Joint
action by
agreement.

32. (1.) (i.) The Local Authority may from time to time enter into agreements with any other Local Authority for the exercise and performance of the functions of local government for the joint use or benefit of the Local Authorities concerned.

(ii.) Every road, bridge, or other work at the boundary of two or more Local Authorities shall be under the joint control, care, and management of the Local Authorities concerned, and any one or more of them may request the other or others to enter into an agreement with such requesting Local Authority or Local Authorities for the construction, carrying-out, control, care, and management of any such road, bridge, or work; and if the Local Authority or Local Authorities so requested shall refuse or neglect to enter into an agreement, the requesting Local Authority or Local Authorities may apply to the Minister for an order.

The Minister may make such order as in the public interest and in the circumstances of the case may seem to him just and equitable, and by such order may direct the payment of and apportion any costs and expenses incurred by the Minister in making or causing to be made any inquiry or investigation deemed by him to be necessary.

If at any time after the expiration of two months from the publication of any order made under this paragraph 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 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 rateable value of land in the Area concerned as will be sufficient to raise the amount stated in the precept together with the

1936.

*Local Government Act.*PART XI.—
FUNCTIONS
AND POWERS
OF LOCAL
GOVERNMENT.

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.

(2.) (i.) The Local Authority may with the approval of the Minister and the agreement of an adjoining Local Authority extend any work, service, or undertaking into the Area of such adjoining Local Authority.

Extension
of service
beyond
Area.

(ii.) The Local Authority which has undertaken or is undertaking the provision of an undertaking within the meaning of this Act may enter into contracts with any Local Authority for the extension of the undertaking to the Area or part of the Area of such lastmentioned Local Authority, or for the supply and sale in bulk or otherwise to any such Local Authority the product or service of any undertaking on such terms and conditions as may be agreed upon.

Contracts
with other
Local
Authorities.

(iii.) Notwithstanding the provisions of section twenty-one of this Act, the Local Authority which has undertaken or is undertaking the provision of an undertaking within the meaning of this Act may enter into contracts with any person and bodies either within or beyond the Area for the supply and sale of the product or service of any such undertaking to him or them in such manner and under such stipulations as the Local Authority thinks proper, and in so doing may make such arrangement as it may deem expedient with such person or bodies either individually or collectively for the erection, construction, and maintenance of works, matters, and things necessary for the sale and supply of such product or service of such undertaking.

Contracts
with persons
and bodies.

(3.) The Local Authority may from time to time with the approval of the Minister contribute towards the exercise and performance of the functions of local government outside the Area.

Contri-
butions for
works, &c.,
outside
Area.

(4.) 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, the Local

Power to
grant
building
leases.

Authority may, with the approval of the Governor in Council, grant to any person a lease of the land 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.

Telephone
lines.

(5.) The Local Authority may, with the approval of the Minister make agreements with the Postmaster-General for the construction and maintenance of any telephone line and appliances for the use of the inhabitants of the Area or any part of the Area.

Subsidise
private
services, &c.

(6.) The Local Authority may, with the approval of the Minister subsidise from the general fund private works, services, and undertakings.

Assistance
to hospitals,
&c.

(7.) The Local Authority may aid hospitals, public societies, associations, institutes, schools of arts, technical schools, mechanics or youths' institutes, museums, and public libraries.

Expenditure
on public
demon-
strations,
&c.

(8.) The Local Authority may in any year out of the general fund expend for the purpose of any public demonstration, celebration, or entertainment any sum not amounting in the whole to more than three pounds per centum of the general rate made and levied for that year.

Power to
subsidise
employees'
benefit fund.

(9.) The Local Authority may out of the general 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.

Place from
which
materials
are taken
to be
fenced, &c

(10.) If any officer of the Local Authority or any other authorised person in the exercise of the powers conferred by this Act or any other Act makes, or causes to be made, any pit or hole in any land, the Local Authority shall forthwith—

(a) 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 ;

(b) 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 ;

1936.

*Local Government Act.*PART XI.—
FUNCTIONS
AND POWERS
OF LOCAL
GOVERNMENT.

- (c) 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 subsection 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 subsection required to be done by the Local Authority.

Precautions where Works in Progress.

(11.) 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.

Precautions
where works
in progress.

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.

Penalty.

Ownership of Materials.

(12.) The materials of all roads, bridges, ferries, wharves and jetties, and other public works under the control of the Local Authority, and all things appurtenant thereto, shall belong to the Local Authority.

Materials of
roads, &c.,
belong
to Local
Authority.

Right to Procure Materials.

(13.) The Local Authority may authorise any officer or any other person to enter and search for, dig, raise, gather, take, and carry away on and from any land within or with the approval of the Minister outside of the Area, not being improved land, and on and from any

Right to
procure
materials.

river, creek, or watercourse any materials necessary for constructing, making, or maintaining any matter or thing which the Local Authority is by this Act or any other Act authorised to construct, make, or maintain, but so, nevertheless, as not to damage any structure or any road, bridge, or other work, 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 or other work.

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 subsection, including, in the case of owners, the full value of any materials so taken.

Powers as to Water.

Powers as
to water.

(14.) Notwithstanding anything contained in **“ The Water Act of 1926 ”* or in any other Act, when it is necessary for a Local Authority to obtain water from any river, stream, or creek, whether or not such river, stream, or creek is subject to tidal influence or not, for the purpose of any undertaking within the meaning of this Act, it is hereby declared that the Local Authority shall have full power and authority to obtain such necessary water from any river, stream, or creek, whether within or outside its Area, and for that purpose may construct, maintain, and manage all works, pipes, appliances, and apparatus, and all other matters and things (herein referred to as “the works”), in connection therewith or appurtenant thereto, which such Local Authority deems necessary for such purpose.

No action, indictment, information, or other proceeding shall be commenced, presented, prosecuted or maintained against the Local Authority or any officer thereof or any other person for or in respect of the construction, maintenance, management, or working of the works or any part thereof, or for or in respect of any alleged obstruction by the works or any part thereof of the river, stream, or creek concerned, or for or in respect of any deprivation of access to or diminution of the quantity of water in the river, stream, or creek

* 17 Geo. V. No. 12, *supra*, page 11733.

1936.

Local Government Act.

concerned, by reason of the construction, maintenance, management, or working of the works or any part thereof, or for or in respect of any damages, loss, or expenses occasioned or alleged to be occasioned or in any wise whatsoever arising from the construction, maintenance, management, or working of the works or any part thereof :

Provided that where such Local Authority is required for the purpose of the construction, maintenance, management, or working of the works to purchase and take any lands, whether within or outside its Area, the provisions of **“The Public Works Land Resumption Acts, 1906 to 1926”* (or any Act amending the same), shall apply and extend accordingly.

SPECIFIC POWERS AND DUTIES.

Town Planning.

33. (1.) (i.) A town planning scheme may be made by a Local Authority for any defined part or all of the land within the Area under its jurisdiction ; moreover any such scheme proposed by all or any of the owners of any land within the jurisdiction of a Local Authority may be adopted by such Local Authority with or without modifications.

(ii.) When a Local Authority has decided to prepare or adopt a town planning scheme, it shall pass a resolution to that effect defining the area it is proposed to include within the scheme.

A copy of this resolution shall be forwarded together with a plan showing the area defined in the resolution to the Minister.

(iii.) When the Minister has approved of such resolution his approval shall be published in the *Gazette*, and the Local Authority may then proceed with the preparation of the scheme.

(iv.) If no action is taken by the Local Authority to proceed with the preparation of the scheme within a period of one year the approval of the resolution by the Minister shall lapse, and a fresh resolution shall be passed by the Local Authority and approved by the Minister before the scheme may be proceeded with.

* 6 Edw. VII. No. 14 and amending Acts, *supra*, pages 8211 *et seq.*

Civic
survey.

(2.) Before any town planning scheme is made such scheme shall be preceded by a survey of the existing conditions in relation to the present and potential uses and values of all lands therein in relation to the local public utilities, services, amenities, and such other matters or things as may be directed by the Minister or as may be prescribed.

Objections,

(3.) (i.) When a town planning scheme has been prepared by a Local Authority, and before it has been forwarded to the Minister for the approval of the Governor in Council, the scheme and all plans connected therewith shall be open for inspection at the office of the Local Authority for three months. The Local Authority shall by advertisement in some newspaper give due notice that the scheme is open to inspection.

(ii.) During the time that a scheme is open to inspection any person affected by the scheme may forward objections to the scheme or to any part thereof in writing to the Local Authority together with reasons for such objections.

(iii.) After the period of inspection all objections so lodged shall be considered by the Local Authority, and the Local Authority shall then forward to the Minister the scheme together with the objections received, its representations thereon, and a statement regarding the action it proposes to take in the case of each objection.

(iv.) The Governor in Council may require such amendments, alterations, additions to, or modifications of the scheme as he may deem fit.

Scheme to be
approved
by Governor
in Council.

(4.) A town planning scheme shall not have effect until it has been finally approved by the Governor in Council by Order in Council and notification thereof published in the *Gazette*.

Alterations,
&c., of
scheme.

(5.) A town planning scheme may be altered, amplified, or revoked by a subsequent scheme made or adopted by the Local Authority and approved by the Governor in Council in the same manner as the original scheme.

Operation
of town
planning
scheme.

(6.) (i.) When a scheme has been finally approved by the Governor in Council as aforesaid it shall be the duty of the Local Authority to observe and enforce the observance of the requirements of the scheme in respect

1936.

*Local Government Act.*PART XI.—
FUNCTIONS
AND POWERS
OF LOCAL
GOVERNMENT.

of all new works of any description thereafter undertaken within the Area, whether by the Local Authority or by any other person, and save with the consent of the Governor in Council the Local Authority shall not thereafter undertake or permit any alteration or modification of any existing works if such alteration or modification would tend to prevent or delay their being brought into conformity with the tenour of the approved scheme.

(ii.) In addition to any powers conferred on it by this Act, or by any other Act, a Local Authority shall, subject to the provisions of subsection five hereof, have all such powers and authorities as may be considered necessary to enable it to give full effect to an approved scheme.

(iii.) Moreover when any such scheme has been finally approved by the Governor in Council as aforesaid and such approval has been published in the *Gazette*, such scheme is and shall be deemed to be approved, authorised, and ratified, and shall have the force of law and be obeyed by the Local Authority and all persons concerned, and its legality shall not be questioned in any proceedings in any court whatever.

(7.) (i.) Any person who is dissatisfied with the requirements or decisions of a Local Authority acting under the powers conferred by a scheme may within thirty days of being notified thereof by the Local Authority appeal to the Minister in accordance with the provisions hereunder set forth.

(ii.) Where any power to make any decision or to settle any matter in dispute or to hear and determine any appeal is conferred by this Act, the Minister may appoint any person or persons to act on his behalf.

For the purposes of such appeal the Minister or such person or persons appointed by him shall have all the powers, authorities, and protection of a commission under **The Official Inquiries Evidence Acts, 1910 to 1929,*” and shall determine the matter having regard to this Act, 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 have the force of law and shall be final, and shall be binding

* 1 Geo. V. No. 26 and 20 Geo. V. No. 2, *supra*, pages 748 and 12474.

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.

Power to
resume.

(8.) A Local Authority may for any purpose in a town planning scheme purchase or resume any land comprised in the scheme whether such land is required for the purpose of the scheme immediately or not, and for that purpose shall have all the powers and authorities conferred on a Local Authority by **"The Public Works Land Resumption Acts, 1906 to 1926"* (or any Act amending or in substitution for the same).

Compensation.

(9.) (i.) Any person whose property is injuriously affected by the making of a town planning scheme shall be entitled to obtain compensation in respect thereof from the Local Authority, and for that purpose the Local Authority and such persons shall be subject to the provisions of **"The Public Works Land Resumption Acts, 1906 to 1926"* (or any Act amending or in substitution for the same).

When not
entitled to
compensation.

(ii.) A person shall not be entitled to obtain compensation under this section on account of any building erected on, or contract made or other thing done with respect to, land included in a scheme after the date of approval by the Minister of the resolution of the Local Authority to prepare the scheme :

Saving.

Provided that this subsection shall not apply to—

- (a) Any building erected, contract made, or other thing done in accordance with a permission granted by the Local Authority ;
- (b) Any work done for the purpose of finishing a building completely planned or of carrying out a contract entered into before the date of approval of the resolution.

When
property not
deemed
injuriously
affected.

(iii.) Property shall not be deemed to be injuriously affected by reason of the making of any provisions in a town planning scheme which prescribe the space about buildings, or limit the number of buildings to be erected, or prescribe the height or character of buildings, or the

* 6 Edw. VII. No. 14 and amending Acts, *supra*, pages 8211 *et seq.*

1936.

*Local Government Act.*PART XI.—
FUNCTIONS
AND POWERS
OF LOCAL
GOVERNMENT.

use of land, or limit the erection of buildings or the construction of works upon land which is shown by the scheme to be required for road purposes :

Provided that such provisions shall not restrict the character of such buildings to a less profitable use than that to which they were legitimately put on the date of approval of the scheme.

(10.) (i.) The Local Authority may at any time within one month after the date of an award of compensation in respect of property injuriously affected give notice to the owner of that property of their intention to withdraw or modify all or any of the provisions of the scheme which gave rise to the claim for compensation.

Notice to
withdraw
or modify
provisions
of schemes.

(ii.) Where such notice has been given, the Local Authority shall within three months from the date of such notice submit for the approval of the Governor in Council a varying scheme carrying into effect such withdrawal or modification as aforesaid, and upon approval of the varying scheme, whether with or without modification, and payment by the Local Authority of the owner's costs of and in connection with the fixing of the compensation, the award shall be discharged without prejudice, however, to the right of the owner to make a further claim for compensation in respect of the said scheme as varied.

(iii.) No award of compensation in respect of property injuriously affected by the making of a town planning scheme shall be enforceable within one month from the date thereof, or, if notice has been given by the Local Authority under this subsection, pending the decision of the Governor in Council on the varying scheme.

(11.) Except where otherwise provided, this section and the scheme approved thereunder shall bind the Crown and all statutory authorities, provided that the Minister shall receive and consider all objections and recommendations made thereby before any scheme has been submitted by him for the approval of the Governor in Council.

Government
Depart-
ments.

(12.) This section shall apply and extend to the City of Brisbane constituted under **"The City of Brisbane Acts, 1924 to 1936,"* and the said Acts are hereby amended accordingly.

City of
Brisbane.

* 15 Geo. V. No. 32 and amending Acts, *supra*, pages 11140 *et seq.*

Saving.

(13.) (a) All acts, matters, and things commenced by any Local Authority under and in pursuance of **“The City of Mackay and Other Town Planning Schemes Approval Act of 1934”* shall be and be deemed to have been commenced under this Act, and shall continue and enure and have effect accordingly under this Act.

(b) Notwithstanding the repeal of Part IV. of †*“The Local Authorities Acts and Other Acts Amendment Act of 1934,”* all Orders in Council issued under sections 186A and 186B of ‡*“The Local Authorities Acts, 1902 to 1934,”* and continued in operation by section thirteen of the firstmentioned Act, and which are in operation at the commencement of this Act, shall continue in operation and have full force and effect until the Local Authorities concerned have made town planning schemes under this Act.

Subdivision of Land.

New roads
and
subdivisions
by private
persons.

34. (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.

Blind road.

(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.

Opening
blind roads.

(3.) A road other than a pathway shall not be opened as a blind road—

(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

(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.

* 25 Geo. V. No. 19, *supra*, page 15180.

† 25 Geo. V. No. 32, *supra*, page 15073.

‡ 2 Edw. VII. No. 19 and amending Acts, *supra*, pages 1860 *et seq.*

1936.

Local Government Act.

(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 residential locality or is not within a locality which probably will become a residential locality.

(5.) The Local Authority may, with respect to any part of the Area, fix the number of houses per acre which shall be the maximum standard number permitted in any future subdivision of land within that part of the Area :

Number of
houses in
residential
district.

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.

Until a town planning scheme has been approved by the Governor in Council, as hereinbefore provided, and until a maximum standard number of houses per acre has been fixed within any part of the Area as aforesaid, 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 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.

Preliminaries
to opening
road, &c.

(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—

- (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 section ; and
- (b) The roads have been constructed and drained in accordance with the requirements of the Local Authority or as may be prescribed by by-law ; 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) A plan of the road or of any subdivision containing the road bearing the signatures of all necessary parties, and a statement containing such particulars as may be necessary to identify the title to the land comprised in such plan has been approved by a notation of approval under the seal of the Local Authority, including a certificate that all the requirements of the Local Authority and of this Act and of any by-law have been complied with ;
- (e) The plan so noted under the seal of the Local Authority, and endorsed with the approval of the Local Authority, has been registered in the office of the registrar of titles :

Provided that such plan shall be lodged for registration within six months after the date of the notation of approval of the Local Authority on such plan.

Alternative
conditions.

(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

1936.

*Local Government Act.*PART XI.—
FUNCTIONS
AND POWERS
OF LOCAL
GOVERNMENT.

(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.

(8.) In a case where a subdivision does not provide for the opening of a road, land shall not be subdivided until— Preliminaries to sub-division.

(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) A plan of the subdivision bearing the signatures of all necessary parties, and a statement containing such particulars as may be necessary to identify the title to the land comprised in such plan, has been approved by a notation of approval under the seal of the Local Authority, including a certificate that all the requirements of the Local Authority and of this Act and of any by-law have been complied with;

(c) The plan so noted under the seal of the Local Authority, and endorsed with the approval of the Local Authority, has been registered in the office of the registrar of titles;

Provided that such plan shall be lodged for registration within six months after the date of the notation of approval of the Local Authority on such plan.

(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 in the office of the registrar of titles the applicant shall be liable to a penalty not exceeding twenty pounds. Registered plans to be deposited.

Every sale lithograph or print relating to such subdivided land shall show the contours of the land and all 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. Sale lithographs.

(10.) Applications under this section shall be submitted to the Local Authority. Applications, &c.

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.

Matters
to be
considered
in approving
opening
of road.

(11.) In respect of any application for approval of the opening of a road, the Local Authority shall take into consideration—

- (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 as hereinafter provided ; and
- (h) Whether the locality is a residential locality ; and
- (i) 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

1936.

*Local Government Act.*PART XI.—
FUNCTIONS
AND POWERS
OF LOCAL
GOVERNMENT.

- (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 locality is or probably will become a residential locality ; 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 ;
- (j) The truncating of land abutting on road junctions or intersections of roads :

Provided that nothing in this subsection except paragraph (d) hereof shall apply where the land is not within a residential locality or is not within a locality which is or probably will become a residential locality.

(13.) (a) 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 :

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.

(b) 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.

(c) 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.

Dedication
of road.

(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.

Appeals.

(15.) 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.

1936.

*Local Government Act.*PART XI.—
FUNCTIONS
AND POWERS
OF LOCAL
GOVERNMENT.

The costs of such appeal shall be in the discretion of the Minister or such person appointed by him as aforesaid.

(16.) If any person fails to execute any work Default. 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.

(17.) It shall not be lawful for the registrar of Restriction on registration of instruments. titles to register any instrument dealing with land in a subdivision unless the plan of subdivision (with all roads, if any), bearing the approval of the Local Authority, has been registered, 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.

(18.) It shall be lawful for the registrar of titles Surrender in certain cases. 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 lastmentioned parcel of land and take out a new certificate of title, including such lastmentioned parcel of land and the portion of land purchased by him.

* 25 Vic. No. 14 and amending Acts, *supra*, pages 2984 *et seq.*

(19.) 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
 - (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;
- (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.

Classification of Roads.

Classification
of roads.

35. (1.) Roads shall be classified by the Local Authority in relation to the use which they are required to serve.

1936.

*Local Government Act.*PART XI.—
FUNCTIONS
AND POWERS
OF LOCAL
GOVERNMENT.

(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.

Further Provisions.

(4.) (i.) There shall be a minimum standard width for each class of roads, that is to say—

Minimum
standard
width of
roads.

- (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.

(ii.) 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.

(5.) 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 :

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.

Road map
and
register.

(6.) (i.) The Local Authority shall cause to be prepared a road map and road register of the Area.

(ii.) 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.

(iii.) 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.

(iv.) The said map and register may contain such other particulars as may be prescribed or as the Local Authority may determine.

(v.) 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.

(vi.) The said map and register shall be open to inspection.

(vii.) 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 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.

(viii.) This subsection 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 part specified of this subsection to any Shire or specified part of a Shire.

1936.

Local Government Act.

PART XI.—
FUNCTIONS
AND POWERS
OF LOCAL
GOVERNMENT.
Powers as
to roads.

(7.) 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 general fund ;
- (g) For such purposes and for such time as may be necessary, temporarily close any road.

Alignments.

(8.) (i.) Whenever it may become necessary, the Minister may cause an alignment to be made of the roads in any Area or part thereof, or of any road in any Area or part thereof, 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.

(ii.) Every such map or plan or a copy thereof shall be transmitted to the Local Authority, and a notice published in some newspaper stating that such map or plan or copy thereof is open to inspection for a period of three months from the last publication thereof.

(iii.) 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.

(iv.) 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.

(v.) 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 plan showing the extent of such encroachment.

(vi.) 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.

(vii.) 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.

Cost of
alignment.

(viii.) The entire cost of making the alignment shall be borne by the Local Authority concerned, and shall constitute a debt due by the Local Authority to

1936.

*Local Government Act.*PART XI.—
FUNCTIONS
AND POWERS
OF LOCAL
GOVERNMENT.

the Crown, which may be recovered by action in the name of the Minister in any court of competent jurisdiction.

(ix.) After the alignment of any road or part thereof is fixed and declared as aforesaid, no new building or structure shall 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.

No
encroach-
ment
allowed.

(x.) 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 the Minister shall be entitled to receive from the Minister a certificate of alignment of the road.

As to
building
before
alignment.

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.

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.

Colonnading.

(9.) (i.) 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 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.

Widening of
roads by
colonnading.

(ii.) 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 subparagraph (a) or subparagraph (b) of this paragraph.

Realignment.

Re-
alignment.

(10.) (i.) The Local Authority may cause any 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 paragraph of this subsection hereof.

(ii.) 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 :

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.

1936.

*Local Government Act.*PART XI.—
FUNCTIONS
AND POWERS
OF LOCAL
GOVERNMENT.

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 at 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.

(iii.) 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.

(iv.) The Local Authority shall register a notice of realignment under this subsection with the registrar of titles.

Further Provisions as to Roads.

(11.) (i.) 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—

Diversion of
road, new
road,
reservation,
&c.

(a) 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

(b) 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.

Temporary
road during
repairs, &c.

(ii.) 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.

Fixing
levels in
Towns.

(12.) (i.) Any person interested in any land abutting upon any road in a Town may give notice in writing to the Local Authority requiring it to fix the permanent level of such road.

If the Local Authority 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 Local Authority for any damage sustained in consequence of such alteration.

If after the level of any such road has been so fixed the Local Authority alters the level of the ground in such road except in conformity with the level so fixed, the Local Authority shall make compensation to all persons injuriously affected by such alteration.

1936.

*Local Government Act.*PART XI.—
FUNCTIONS
AND POWERS
OF LOCAL
GOVERNMENT.Fixing
levels in
Shires.

(ii.) The Local Authority may if it thinks fit and shall if required by the Minister fix the permanent level of any road in the Area.

If after the level of a road has been so fixed the level of the ground in such road is altered by such Local Authority except in conformity with the level so fixed, the Local Authority shall make compensation to all persons injuriously affected by such alteration.

(iii.) 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.

(13.) 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 :—

Opening or
closing road
in Local
Authority.

- (i.) At least two months' notice in writing shall be given to the Local Authority by the Minister of the Crown charged with the administration of such laws and by the persons desiring such road to be opened or closed ;
- ii.) Such notice shall specify a time within which the Local Authority may lodge objections against the opening or closing of such road ;
- (iii.) Every objection made by the Local Authority against such opening or closing of a road shall be in writing under the seal of the Local Authority, 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.

Planting
trees in
roads.

(14.) (i.) 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.

(ii.) 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.

Refuges, &c.,
in roads.

(15.) 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.

Local
Authority
may fence
footways for
safety of
passengers.

(16.) 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.

Owners of
railways to
maintain
road
crossings.

(17.) 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.

1936.

*Local Government Act.*PART XI.—
FUNCTIONS
AND POWERS
OF LOCAL
GOVERNMENT.

(18.) (i.) 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 refenced by the owner thereof with a substantial fence of such description and material as the Local Authority directs.

Fencing
land for
public
safety.

(ii.) 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.

Dangerous
holes, &c.

(iii.) 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.

(19.) (i.) 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.

- (a) 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;
- b) 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.

(ii.) 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.

(iii.) The decision of the police magistrate upon any such summons shall be final and conclusive.

(iv.) 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.

(v.) The liability of the occupier or owner under this subsection 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.

(vi.) For the purposes of this subsection, 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.

Local Authority may paint or affix names of roads on any structure.

(20.) (i.) The Local Authority may from time to time paint or affix upon the walls of any structure the name of any road or place.

(ii.) 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.

(iii.) Any person who fails to comply with the provisions of this subsection, or who wilfully pulls down, injures, or defaces any such name or number shall be liable to a penalty not exceeding ten pounds.

Road signs.

(21.) (i.) The council of every Shire shall at or near to every intersection of a main road with another road, establish and thereafter maintain legible road signs: Provided that where such main road passes through a township or other centre of population it shall be

1936.

*Local Government Act.*PART XI.—
FUNCTIONS
AND POWERS
OF LOCAL
GOVERNMENT.

sufficient to establish and maintain road signs on such main road within such township or centre at such points as will indicate the nearest important town or district.

(ii.) A road sign shall state—

- (a) With respect to the main road, the name of the road and the name and distance of the nearest important town or district in each direction ; and
- (b) With respect to the intersecting road, the name of the place to which such road leads.

(iii.) The council of every Shire shall at the traffic centre of each Town or township within the Shire, and also at each point where a main road intersects the Town or township boundary, erect a road sign bearing the name of the Town or township.

(iv.) The Governor in Council may from time to time by Order in Council apply this subsection to the whole or any specified part of any Town ; and thereupon the council of the Town shall, with respect to that Town or part thereof, be charged with duties similar, *mutatis mutandis*, to those herein imposed upon the council of a Shire.

Licensed Gates.

(22.) (i.) 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 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).

Persons
intending to
apply for
licenses to
advertise
same.

The last publication of such notice shall be not less than one month nor more than two months before making the application.

(ii.) 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, having regard to public convenience, 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 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.

The council may require the erection of a grid in addition to a gate, and may impose in any license so issued such special conditions with regard to the description of grid so required, if any, as the convenience of the public requires.

Application
for license
in certain
special
circum-
stances.

In case where a person has made application to the Local Authority to erect a fence or fences across a road which separates the land of the applicant from the land held by other owners or occupiers and the land of such other owners or occupiers along the frontage of such road is already fenced, the applicant shall forward with his application a written agreement of such other owners or occupiers with respect to the use of any such fence or fences of such other owners or occupiers as part of the enclosure of the applicant's land.

- (a) If such other owners or occupiers make default in making such agreement with such applicant ; or
- (b) In case where such other owners or occupiers have refused to apply to the court under the provisions of section one hundred and seventy-one of **"The Land Acts, 1910 to 1934,"* for a determination by the court of a judgment in a sum of money in respect of the benefit to such applicant of the fence or fences concerned ; or
- (c) In case where such other owners or occupiers shall acquiesce in the making of an agreement

* 1 Geo. V. No. 15 and amending Acts, *supra*, pages 8775 *et seq.* See Alphabetical Table.

1936.

*Local Government Act.*PART XI.—
FUNCTIONS
AND POWERS
OF LOCAL
GOVERNMENT.

with the applicant only on such terms as shall appear to the Local Authority unreasonable and inequitable,

the Local Authority may in its discretion grant to the applicant a license to erect such fence or fences across the road concerned in accordance with his application subject to any special terms, conditions, stipulations, and provisions as the Local Authority may deem fit and proper to impose.

When any such license has been granted, such licensee is hereby empowered to erect such fence or fences across the road concerned, notwithstanding that such fence or fences may encroach upon the land of such other owners or occupiers, and neither the licensee nor the Local Authority shall incur any liability for trespass in respect of the entry on and remaining on the land by such licensee or his servants or agents for the purpose of carrying out the work necessary for the erection or maintenance of such fence or fences concerned at the suit of the owners or occupiers whose land is so encroached upon.

(iii.) 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.

(iv.) All such licenses shall continue in force after the issue thereof and upon payment of the annual fee prescribed by by-law, but may be cancelled by the Local Authority on the application of the licensee or at any time after giving three months' notice to the licensee : Duration of license and renewal.

Provided that in any case where a grid has not been erected by the licensee, the Local Authority may at any time require the licensee to erect a grid in addition to the gate in respect of which he holds a license, and may impose such special conditions with regard to the description of grid so required, if any, as the convenience of the public requires.

If the licensee neglects or refuses to erect the grid and observe any such conditions required by the Local Authority, the Local Authority may cancel the license.

(v.) Any person may, not less than one month or more than two months before the expiration of the license, lodge with the clerk a written statement of Objections to renewals.

his objections to the continuance of the license and of the grounds thereof, and shall send a copy of such statement to the holder of the license; and the Local Authority shall consider the objections and hear such evidence on the subject as appears necessary, and may at its discretion, having regard to public convenience, cancel the license.

Powers of
Governor in
Council.

(vi.) The Governor in Council may at any time cancel any license or may impose any special conditions which he thinks expedient with respect to any such licensed public gate, or may wholly exclude a road from the operation of this subsection.

Approaches
to be kept in
repair by
licensee.

(vii.) The holder of a license to erect a fence across a road shall keep the gate and grid, if any, 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 and grid, if any, so that the public traffic may not be impeded or obstructed.

If the licensee neglects to keep the gate and grid, if any, 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.

Damage,
&c., to
gates.

(viii.) Any person who wilfully or negligently damages or leaves open a licensed public gate or wilfully or negligently damages a grid shall be liable to a penalty not exceeding fifty pounds, which may be recovered and retained by the licensee.

Travelling
stock:
freehold.

(ix.) 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.

Leasehold.

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.

1936.

*Local Government Act.*PART XI.—
FUNCTIONS
AND POWERS
OF LOCAL
GOVERNMENT.*Temporary Diversion of Traffic.*

(23.) 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 :

Temporary
diversion
of traffic.

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.

Light Tramways.

(24.) The Local Authority may, with the consent of the Governor in Council, 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.

Permit to
construct
and work
light
tramways
on roads.

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.

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 the tramway owners and all other persons concerned:

Provided that this subsection shall not apply to Local Authorities within mineral fields.

Sewerage.

Local Authority shall require owner to provide for carrying-off of sewage.

36. (1.) (i.) As soon as may be after the completion of any sewerage, the Local Authority shall by written notice require the owner of premises within three hundred feet of such sewerage to provide for the carrying-off of sewage from such premises to the sewerage as the Local Authority shall direct.

1936.

*Local Government Act.*PART XI.—
FUNCTIONS
AND POWERS
OF LOCAL
GOVERNMENT.

(ii.) The owner of any premises in the Area shall be entitled to carry off sewage from such premises to the sewerage of the Local Authority on condition of his giving such notice of his intention so to do as the Local Authority requires, and of complying with the by-laws of the Local Authority.

Right of
owner to
carry off
sewage into
sewerage of
Local
Authority.

(iii.) Any person failing to comply with the provisions of this subsection shall be liable to a penalty not exceeding fifty pounds and to a daily penalty not exceeding forty shillings.

(2.) The Local Authority may undertake the work of carrying-off of sewage from premises and the installation of sewerage apparatus on premises as part of the installation of the sewerage of the Local Authority.

Carrying-off
and
installation
of apparatus
by Local
Authority.

(3.) Where the Local Authority has not undertaken the work of carrying-off of sewage from premises and the installation of sewerage apparatus therein as part of the installation of sewerage of the Local Authority, the owner shall be liable to undertake such work and to instal such sewerage apparatus.

Where owner
liable to
undertake
carrying-off
and
installation
of apparatus.

(4.) The Local Authority may at the request of the owner execute the work of installing sewerage apparatus on the premises of such owner at his expense, and may enter into such arrangement with such owner for the repayment of the cost of executing such work as the Local Authority may determine.

Local
Authority
may instal
sewerage
apparatus
at request
of owner.

The Local Authority may also at any time at the request of the owner make, alter, enlarge, or repair sewerage apparatus on the premises of such owner which he has been required or desires to make, alter, enlarge, or repair, and may enter into such arrangement with such owner for the repayment of the cost of executing such work as the Local Authority may determine.

(5.) If it appears to the Local Authority that a group or block of premises, whether contiguous, adjacent, detached, or semi-detached, should be sewered in combination, the Local Authority may order that the sewage from such group or block of premises shall be carried off by a combined operation.

Sewage from
groups of
premises.

(6.) It shall not be lawful upon any premises to erect any building or to rebuild any building which has been pulled down to or below the ground floor or to occupy any building so newly built or rebuilt unless the sewerage apparatus on such premises is provided as the Local Authority shall direct.

When
unlawful to
build.

Sewerage
apparatus.

(7.) All sewerage apparatus on premises shall from time to time be repaired and cleansed under the inspection and direction of an authorised officer at the expense of the owner of the premises sewered.

When in the opinion of such officer such sewerage installation or any part of it requires repairing or cleansing he may give notice in writing to the owner requiring him to do what may be necessary to effect such repair or cleansing within such time as is specified in such notice, or to request the Local Authority in writing within such time as is specified in such notice to do such work at his expense.

Unlawful
connecting.

(8.) No person shall connect or permit to be connected to any sewerage apparatus on premises any rain or surface water drain or pipe.

Chemical
refuse steam,
&c., not to
be turned
into sewers.

(9.) (a) Any person who turns or permits to enter into any sewerage apparatus or sewerage apparatus and sewerage of a Local Authority—

(i.) Any chemical refuse; or

(ii.) Any waste steam, condensing water, heated water or other liquid (such water or other liquid being of a higher temperature than one hundred and ten degrees of Fahrenheit),

which either alone or in combination with the sewage causes a nuisance or is injurious to health, shall be liable to a penalty not exceeding ten pounds and to a daily penalty not exceeding five pounds.

(b) A person shall not be liable to a penalty for an offence against this subsection until the Local Authority has given him notice of the provisions of this subsection nor for an offence committed before the expiration of seven days from the service of such notice. But the Local Authority shall not be required to give the same person such notice more than once.

Sewerage ;
discon-
tinuance of
sewerage ;
rights of
owner.

(10.) The Local Authority may discontinue, close up, or destroy any sewerage that has in its opinion become unnecessary on condition of providing sewerage as effectual for the use of any person who may thereby be deprived of the lawful use of such sewerage.

Cleansing
sewerage.

(11.) The Local Authority shall cause its sewerage to be constructed, ventilated, repaired, and kept so as not to be a nuisance or injurious to health, and to be properly cleansed and emptied.

1936.

*Local Government Act.*PART XI.—
FUNCTIONS
AND POWERS
OF LOCAL
GOVERNMENT.

(12.) The Local Authority shall provide a map exhibiting the system of sewerage and shall whenever any covered sewer is made by it in the Area provide a map indicating the position of every such sewer.

Map of
system of
sewerage.

All such maps shall be kept at the office of the Local Authority, and shall be open to inspection by any elector of the Area.

(13.) Where the Local Authority has not provided sewerage or where premises are more than three hundred feet from sewerage the Local Authority may by written notice require the owner to carry off the sewage on such premises into a covered place not being under any building as the Local Authority directs.

Covered
places for
sewerage.

If such notice is not complied with the Local Authority may after the expiration of the time specified in the notice do the work required and recover the expenses incurred by it in so doing from the owner.

The Local Authority may at the request of the owner execute the work of installing the covered place on the premises of such owner at his expense, and may enter into such arrangement with such owner for the repayment of the cost of executing such work as the Local Authority may determine.

(14.) In any Area or part of any Area where sewerage has not been provided or where no provision has been made for emptying covered places on premises, the Local Authority may by written notice require the owner of any premises to dispose of the sewage or such part of the sewage from such premises by suitable works of subsurface irrigation designed and executed by the Local Authority or its authorised officer, or if the conditions of the land in such premises are not suitable for the disposal of sewage by subsurface irrigation, the sewage from such premises shall be disposed of in such manner as directed by the Local Authority.

Subsurface
irrigation.*Drainage.*

37. (1.) (i.) As soon as may be after the completion of any drainage in the Area, the Local Authority shall by written notice require the owner or occupier of the premises within three hundred feet of such drainage to provide for the carrying-off of waters other than sewage from such premises to such drainage as the Local Authority shall direct.

Drainage.
Local
Authority
shall require
owner to
provide for
drainage.

PART XI.—
FUNCTIONS
AND POWERS
OF LOCAL
GOVERNMENT.

Local Government Act.

Right of
owner to
carry off
drainage.

(ii.) The owner of any premises in the Area shall be entitled to carry off waters other than sewage from such premises to the drainage of the Local Authority on condition of his giving such notice of his intention so to do as the Local Authority requires and of complying with the by-laws of the Local Authority.

(iii.) Any person failing to comply with the provisions of this subsection shall be liable to a penalty not exceeding fifty pounds and to a daily penalty not exceeding forty shillings.

Installation
of drainage
by Local
Authority.

(2.) The Local Authority may undertake the work of carrying-off of waters other than sewage from premises as part of the installation of drainage of the Local Authority.

Where owner
liable to
undertake
drainage.

(3.) Where the Local Authority has not undertaken the work of carrying off waters other than sewerage from premises and the installation of drainage apparatus therein as part of the installation of drainage of the Local Authority; the owner shall be liable to undertake such work and to instal such drainage apparatus.

Local
Authority
may instal
drainage
at request
of
owner.

(4.) Where the Local Authority has not undertaken the work of carrying off waters other than sewage from premises as part of the installation of the drainage of the Local Authority, the Local Authority may at the request of the owner execute the work of installing the necessary drains for carrying-off of waters other than sewage from the premises of such owner at his expense, and may enter into such arrangement with such owner for the repayment of the cost of executing such work as the Local Authority may determine.

The Local Authority may also at any time at the request of the owner make, alter, enlarge, or repair drains on the premises of such owner which he has been required or desires to make, alter, enlarge, or repair, and may enter into such arrangement with such owner for the repayment of the cost of executing such work as the Local Authority may determine.

When
unlawful
to build.

(5.) It shall not be lawful upon any premises aforesaid to erect any building or to rebuild any building which has been pulled down to or below the ground floor or to occupy any building so newly built or rebuilt unless drains on such premises are provided to carry off waters other than sewage as the Local Authority shall direct.

1936.

*Local Government Act.*PART XI.—
FUNCTIONS
AND POWERS
OF LOCAL
GOVERNMENT.Drainage
of groups of
premises.

(6.) If it appears to the Local Authority that a group or block of premises, whether contiguous, adjacent, detached, or semi-detached, should be drained in combination, the Local Authority may order that the waters other than sewage from such group or block of premises shall be carried off by a combined operation.

(7.) All drains on premises shall from time to time be altered, enlarged, or repaired and cleansed under the inspection and direction of an authorised officer at the expense of the owner of the premises drained.

Drains to be
altered,
cleansed, &c.

When in the opinion of such officer any drains require altering, enlarging, repairing, or cleansing, he may give notice in writing to the owner requiring him to do what may be necessary to effect such alteration, enlargement, repair, or cleansing within such time as is specified in such notice, or to request the Local Authority in writing within such time as is specified in such notice to do such work at his expense.

(8.) No person shall connect or permit to be connected to any drains on premises any sewerage apparatus.

Unlawful
connecting.

(9.) Where any land situated within three hundred feet of any drainage is so low-lying as not to admit of water other than sewage being carried off by gravitation into such drainage, the Local Authority may give notice to the owner to fill up such land within a time limited by the notice so that the water other than sewage may be carried off into such drainage.

Filling up
low-lying
land.

Any owner who neglects or refuses to comply with any such notice within the time therein specified shall be liable to a daily penalty not exceeding forty shillings, and the Local Authority may do the work required to be done and recover from the owner in default the expenses incurred by it in so doing.

Moreover such expenses until paid shall be and remain a charge upon the land, notwithstanding any change that may take place in the ownership thereof.

(10.) 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 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.

Dwelling
houses on
low-lying
land.

Storm
water to be
allowed its
natural
getaway.

(11.) It shall not be lawful for a Local Authority to deal with any highway or any land under its control, or for any owner or occupier of any land to deal with the same in such manner that the free flow of storm water along any natural channel through or across such highway or land is so impeded or interfered with as to cause or be likely to cause any collection or pool of stagnant or offensive water or liquid.

Penalty.

(12.) Any Local Authority or person offending against the provisions of this section shall where no other penalty is provided be liable to a penalty not exceeding ten pounds and to a daily penalty not exceeding forty shillings.

Nothing in this section shall apply to dams constructed for mining or other industrial purposes provided that no offensive matter is allowed to accumulate in such dams.

Sanitation.

Sanitation.

38. (1.) Where the Local Authority does not exercise and perform the function of sewerage in respect of any land in actual occupation, the Local Authority shall by written notice require the owner of premises thereon to provide such sanitary conveniences as the Local Authority shall direct.

If any premises are without sufficient sanitary conveniences, the Local Authority shall by written notice require the owner to provide sufficient additional sanitary conveniences for such premises as the Local Authority shall direct.

Any person who neglects or refuses to comply with any such notice within the time therein specified shall be liable to a daily penalty not exceeding forty shillings, and the Local Authority may do the work required to be done and recover from the owner the expenses incurred by it in so doing.

When
unlawful to
build, &c.

(2.) It shall not be lawful upon any premises to erect any building, or to rebuild any building which has been pulled down to or below the ground floor, or to occupy any building so newly built or rebuilt unless such sanitary conveniences on such premises are provided as the Local Authority shall direct.

1936.

*Local Government Act.*PART XI.—
FUNCTIONS
AND POWERS
OF LOCAL
GOVERNMENT.*Buildings.*

39. (1.) (i.) A building shall not be erected or used in contravention of this Act.

Building
not to be
erected or
used in
contraven-
tion of 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.

(ii.) 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.

(2.) The Local Authority may disapprove of the erection of any building in a manner not in accordance with this Act upon any land—

Restrictions
on erection
of
buildings.

(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.

(3.) (i.) The Local Authority may by by-law fix building lines.

Building
lines, &c.

(ii.) 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.

(iii.) 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.

(iv.) 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.

(v.) It shall not be lawful to erect or re-erect or substantially erect or re-erect a dwelling house fronting a pathway.

(4.) (i.) 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—

- (a) Before beginning the same, unless the Local Authority otherwise consents in writing, erect a close-boarded hoarding or fence, to the satisfaction of the Local Authority, in order to separate the building from the road ;
- (b) If the Local Authority so requires, make a convenient covered platform and handrail to serve as a footway for passengers outside of such hoarding or fence ;
- (c) Continue such hoarding or fence with such platform and handrail standing and in good condition to the satisfaction of the Local Authority during such time as the Local Authority requires ;
- (d) If required by the Local Authority, cause the same to be sufficiently lighted during the night ;
- (e) Remove the same when required by the Local Authority.

(ii.) Any person who fails to comply with any of the provisions of this subsection shall be liable to a penalty not exceeding twenty pounds.

First-class
sections.

(5.) (i.) The Governor in Council may, at the request of any Local Authority by Proclamation declare any portion of its Area to be a first-class section for the purposes of this Act, and upon the like request rescind any such Proclamation.

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.

Mode of
enforcing
provisions.

(ii.) 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

1936.

*Local Government Act.*PART XI.—
FUNCTIONS
AND POWERS
OF LOCAL
GOVERNMENT.

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.

If the builder or owner makes default in complying with any of the requisitions of such notice within the time specified, such builder or owner, subject as is hereinafter provided, shall be liable to a penalty not exceeding twenty shillings for every day during which his default continues.

Moreover, subject as is hereinafter provided, the Local Authority may enter the premises and remove the building and execute the works and things specified in the notice, and may recover the expenses incurred by it from the person upon whom the notice was served in the same manner as by this Act rates due and in arrear are recoverable.

(6.) (i.) The Local Authority shall by written notice require the owner of any structure or part thereof which is in its opinion dangerous to shore up or otherwise secure such structure and to put up a proper hoarding or fence for the protection of persons using the road or roads upon which the structure abuts, or forthwith to take down, secure, or repair such structure or part thereof as the Local Authority directs, within the time specified in the notice :

Dangerous
and
neglected
structures.

Provided that the Local Authority may, if it deems necessary in the circumstances for the protection of public traffic, itself shore up or otherwise secure any such structure as aforesaid, and put up a proper hoarding or fence.

If the owner fails to comply with such notice within the time specified therein, whether such notice was to shore up or otherwise secure the premises, or to put up a proper hoarding or fence for the protection of persons using the road or roads upon which the dangerous structure abuts, or to take down, secure, or repair such structure or part thereof, the Local Authority may cause the structure to be taken down.

(ii.) The Local Authority shall by written notice require the owner of any structure which is in the opinion of the Local Authority ruinous or so far dilapidated as 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, to

Neglected
structures.

repair or take down the structure, or to fence the land on which the structure stands, or to repair the fence enclosing such land within the time specified in the notice.

If the owner fails to comply with the notice within the time specified in such notice, whether such notice was to repair or take down such structure, or to fence the land or to repair the fence enclosing the land, the Local Authority may cause the structure to be taken down.

Buildings
unfit for
occupation.

(iii.) The Local Authority shall by written notice require the owner of any building which is in a filthy or dilapidated condition or is improperly constructed, or infected or suspected to be infected with disease or otherwise is unfit to be used or occupied, to cleanse, purify, or repair or alter such building so as to render it fit for use and occupation, or to cause the building to be taken down within the time specified in such notice.

Appeals in
respect of
notices under
subsections
(5) and (6).

(7.) If any person thinks himself aggrieved by the requirements of any notice served upon him in accordance with the provisions of subsections five or six of this section, he may at any time prior to the expiration of thirty days after the service of the notice, or if the notice specifies a longer time, then at any time prior to the expiry of the time specified in such notice, appeal against such notice to any court of petty sessions.

Such appeal shall be instituted by him by complaint under **"The Justices Acts, 1886 to 1932,"* and on the hearing thereof the court may make such order as in the circumstances it thinks just, and such order when made shall be and be deemed to be the notice of the Local Authority and shall have full force and effect accordingly.

Expenses.

(8.) All costs and expenses incurred by the Local Authority in doing or executing any act, matter, or thing which it is required or allowed to do or execute under the provisions of subsections five or six of this section, 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.

* 50 Vic. No. 17 and amending Acts, *supra*, pages 1132 *et seq.*

1936.

Local Government Act.

PART XI.—
FUNCTIONS
AND POWERS
OF LOCAL
GOVERNMENT.
Recovery of
costs, &c.

(9.) (i.) The Local Authority may sell the materials in any structure or building taken down pursuant to subsections five or six of this section, and if the materials are not sold, or if the proceeds of the sale are insufficient to defray the costs and expenses incurred in taking down the structure or building, the Local Authority may recover such costs and expenses or the balance thereof from the owner by action in any court of competent jurisdiction.

(ii.) If the proceeds from the sale of any structure or building taken down by the Local Authority pursuant to subsections five or six of this section are greater than the costs and expenses incurred by the Local Authority in taking down such structure or building, the surplus, after deducting therefrom all rates then due by the owner together with interest thereon, if any, and all moneys due to the Crown or to any Crown instrumentality in respect of any dues or obligations shall be paid to the owner of such structure or building.

(iii.) If the expenses incurred by the Local Authority in taking down any dangerous or neglected structure or any building unfit for occupation remain unpaid by the owner of such structure or building for a period of three years from the date of the making of the claim for such expenses by the Local Authority upon the owner, the Local Authority may sell the land in the same manner as provided in this Act for the sale of land for arrears of rates.

(10.) The Local Authority may by order direct that any person residing on any dangerous or neglected structure or in any building unfit for occupation shall be removed therefrom by an officer of police.

Power of
removal.

Cellars.

(11.) (i.) No person shall let or occupy or suffer to be occupied any cellar as a dwelling.

Cellars not
to be used
as dwellings.

(ii.) Any person who lets, occupies, or knowingly suffers any cellar to be occupied as a dwelling after notice in writing from the Local Authority to discontinue such letting or occupation shall be liable to a daily penalty not exceeding twenty shillings.

(iii.) When two convictions against the provisions of this subsection have taken place within three months (whether the persons so convicted were or were not the same), the court upon making the second conviction may direct the closing of the cellar so occupied for such time as it thinks necessary, or may empower the Local Authority permanently to close the same.

(iv.) Any of the following places in which any person passes the night is deemed to be a cellar occupied as a dwelling, namely—Any cellar, vault, or underground room, or any room so situated that, by reason of being wholly or partly below the general level of the ground adjacent thereto light and ventilation are not or cannot be provided directly from the external air by means of windows or other suitable openings through the walls on at least two sides, each of such windows or openings having an area of not less than one-twentieth of the floor area.

Cellars
under roads
to be kept
in repair.

(12.) 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 coalholes 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 of the buildings to which the same respectively belong.

If default is made in complying with the provisions of this subsection the Local Authority 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 Local Authority by such owner.

Impregnated Land.

Building
cannot be
erected on
impregnated
land.

(13.) No person shall erect or re-erect any building upon land which has been filled up with any matter impregnated with fæcal, animal, or vegetable matter, or upon which any such matter has been deposited unless or until such impregnated matter has been properly removed by excavations or otherwise or has been rendered or has become innocuous.

1936.

*Local Government Act.*PART XI.—
FUNCTIONS
AND POWERS
OF LOCAL
GOVERNMENT

Every person who does or causes or wilfully permits to be done any act in contravention of this subsection shall be liable to a penalty not exceeding twenty pounds and to a daily penalty not exceeding forty shillings.

Storing of Wood and Timber.

(14.) (i.) 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.

(ii.) 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 :—

(a) When the furnace is enclosed in a building or chamber constructed of fire-resisting materials ; or

(b) 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.

(iii.) No pile, stack, or store of timber, lathwood, firewood, casks, or barrels shall exceed fifty feet in height from the level of the ground.

(iv.) 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.

(v.) The provisions of this subsection do not extend to Shires.

Places of Public Amusement or Public Resort.

40. (1.) Every building which is used as a place of public amusement or 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.

(2.) The means of ingress and egress shall during the whole time that such building is used as a place of public amusement or public resort be kept free and unobstructed to such extent as the Local Authority requires.

(3.) An officer authorised in writing by the chairman 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.

Safety of
platforms,
&c., erected
or used on
public
occasions.

(6.) 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.

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.

Noxious Weeds and Plants and Pests.

Weeds on
roads, &c.

41. (1.) It shall be the duty of the Local Authority to extirpate and destroy any noxious weed or plant found existing upon any road or land under its control.

Weeds to be
declared
noxious.

(2.) Before the Local Authority exercises the powers in this section conferred with respect to any weed or plant, such weed or plant shall be declared by the

1936.

*Local Government Act.*PART XI.—
FUNCTIONS
AND POWERS
OF LOCAL
GOVERNMENT.

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 :

Provided that the plants commonly known as water hyacinth and as prickly-pear are hereby declared to be noxious plants.

(3.) 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, or in any case at the option of the Local Authority upon both the owner and the occupier or person in charge a notice requiring him to extirpate and destroy the weed or plant upon the reserve or land, or any specified part thereof, within ten days from the service of the notice, or 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.

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 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.

(4.) If at the expiration of such period of ten days, 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; and in addition all persons upon whom a notice under subsection three 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. Local Authority may enter land and extirpate and destroy noxious weeds or plants.

Expense
recoverable
from
parties.

(5.) 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 ;
- (b) In all other cases from the occupier thereof, or, at the option of the Local Authority, from the owner,

in the same manner as by this Act rates due and in arrear may be recovered from the owner of rateable land :

Provided always, that the Local Authority shall have no right of recovery as aforesaid against the owner of the land, unless he is also the occupier thereof, if notice under subsection three of this section has not been served upon him.

Local
Authority
neglecting
to abate
nuisance.

(6.) 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 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.

Destruction
of noxious
weeds in
creeks, &c.

(7.) For the purposes of any of the provisions of this section relating to the extirpation and destruction of noxious weeds and plants, where any person is the occupier or in charge of 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

1936.

Local Government Act.

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 does not rise and fall in unison with ordinary spring tides.

And notwithstanding that the level of the water of such watercourse may occasionally alter in sympathy with the tides, or that the waters of such watercourse may be rendered brackish by extraordinary tides, such watercourse shall be deemed to be non-tidal if the average level of the water of such watercourse is higher than the level of ordinary spring tides at the nearest locality on the same stream where the water rises and falls with all tides. "Ordinary spring tides" shall mean tides which rise to a height equal to the mean height of the superior tides at spring throughout the year:

Provided that in any of the cases mentioned in this subsection 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 subsection. Moreover, any expense incurred by any occupier or person in charge of land under this subsection 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.

Power to declare pest. (8.) (i.) The Minister may from time to time, by notification published in the *Gazette*—

- (a) Declare any animal, bird, insect, fungus, matter, or thing to be a pest within the meaning of this Act ;
- (b) Define the locality affected by the pest ;
- (c) Alter the boundaries of such locality ;
- (d) Declare the locality free from pest.

Destruction of pests.

(ii.) 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.

Default of Local Authority in dealing with pests.

(iii.) If the Minister is satisfied that a Local Authority has failed to take proper steps to destroy or prevent any pest, 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.

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.

Local Authority exonerated from liability for injuries to stock poisoned by destruction of noxious plants or pest.

(9.) 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 or pest 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

1936.

Local Government Act.

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.

(10.) Where any owner or occupier of land has made default in compliance with any provision of this section or any by-law made under this Act, or with any notice or order given or made under any of such provisions or by-laws, and the Local Authority or the Minister has entered upon the land for the purpose of complying with such provision, by-law, notice, or order, the 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 and occupier of the land could exercise for that purpose, and in particular may do any of the following things :—

Powers of
Local
Authority,
&c., on
default of
owner, &c.

- (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 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.

Impounding.

42. (1.) 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.

Impounding;
extended
meaning of
"owner" and
"occupier."

Repair of
pound, &c.

(2.) The Local Authority shall keep the pound under its control in good repair.

The pound-keeper 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.

Prevention
of disease.

(3.) 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.

Local
Authority
to erect
board with
fees painted
thereon.

(4.) 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.

Use of
pounds.

(5.) 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 pound-keeper thereof.

Such pound may nevertheless be appointed by any one or more of the Local Authorities of any other conterminous Area or Areas, or 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.

1936.

*Local Government Act.*PART XI.—
FUNCTIONS
AND POWERS
OF LOCAL
GOVERNMENT.

(6.) (i.) 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.

(ii.) 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.

(iii.) 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 paragraph shall not be construed to limit the powers of the Local Authority as to impounding.

(7.) Any owner or occupier of land upon which any animal is found trespassing may—

Animal
trespassing
to be
impounded
in nearest
pound.

- (i.) Take the same to the pound most convenient by a practicable road to such land, and on any business day between sunrise and sunset deliver it to the pound-keeper to be impounded. He shall at the same time deliver to the pound-keeper a written memorandum specifying—

The brands, if any, and description of the animal impounded,

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 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;

- (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 pound-keeper in the case of animals not immediately claimed (except a statement of the time and place of intended sale), and shall feed and maintain the animal while so impounded.

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 pound-keeper 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 paragraph (iii.) of this subsection for the recovery of damages.

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 pound-keeper.

But he shall not be entitled to any compensation for damage, except for such as was done before the temporary impounding ;

- (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.

1936.

Local Government Act.

PART XI.—
FUNCTIONS
AND POWERS
OF LOCAL
GOVERNMENT.
Penalty for
unlawful
impounding.

(8.) 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.

(9.) 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.

Exemptions.

(10.) 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.

Lodging
animals
for safe
custody.

(11.) (i.) The pound-keeper 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 :—

Pound-
keeper
to keep
book for
entry of all
impounded
cattle, which
book may be
inspected.

Pound-keeper'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.

(ii.) He shall enter in the pound book—

- (a) 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 ;
- (b) The name of the persons on whose authority they were impounded ;
- (c) The time and mode of giving notice of the impounding as required by this Act ;

- (d) The time when and the manner in which they were released, and by whose order and to whom they were delivered ; and
- (e) 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.

Indistinct
brands to
be clipped.

(12.) When any horses or cattle are impounded the brands of which are illegible or indistinct, the pound-keeper shall cause all such brands to be clipped or otherwise denuded of hair, and a correct diagram or *facsimile* of them to be entered in the pound book.

Book for
particulars
of stray
animals.

(13.) The pound-keeper 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.

Pound-
keeper
to keep
register of
brands.

(14.) The pound-keeper shall also keep a book for registering the brands or other marks of animals in the form prescribed by the Local Authority.

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.

Pound-
keeper
to post on
gate notice
of animals
in pound.

(15.) Within twenty-four hours after the impounding of any animal the pound-keeper 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.

Notice of
impounding
to be sent
to
proprietor.

(16.) When any animals impounded are not immediately claimed by the proprietor or someone on his behalf, the pound-keeper 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 pound-keeper and he resides within three 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.

1936.

*Local Government Act.*PART XI.—
FUNCTIONS
AND POWERS
OF LOCAL
GOVERNMENT.

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 three miles of a pound may instruct the pound-keeper in writing by which of such modes such notice shall be sent, and the pound-keeper shall act accordingly ;
- (c) If the name of the proprietor is not known to the pound-keeper, the pound-keeper 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 some newspaper.

(17.) The pound-keeper 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.

(18.) The pound-keeper 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 :

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 the 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 pound-keeper 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 pound-keeper shall pay to the clerk all moneys received by him in respect of fees, rates, and charges under this Act :

Provided that the 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.

Days to be
fixed for
sales.

(19.) 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.

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 pound-keeper or other person appointed by the Local Authority in that behalf. The pound-keeper or other person so appointed shall have power and authority to sell by public auction without taking out a license as an auctioneer.

Sales to be
made upon
certificate.

(20.) 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

1936.

*Local Government Act.*PART XI.—
FUNCTIONS
AND POWERS
OF LOCAL
GOVERNMENT.

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.

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.

(21.) The pound-keeper may under the written authority of any proprietor of an impounded animal cause the same to be sold at the next then appointed day of sale. Animal may be sold on authority of proprietor.

(22.) The pound-keeper 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. Unbranded cattle or horses.

(23.) The person holding the sale shall receive the proceeds thereof, and, if such person is not the pound-keeper, shall pay over the same to the pound-keeper. Proceeds of sales; how disposed of.

The pound-keeper 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.

(24.) 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. Increasing charge for repeated trespasses.

1936.

Local Government Act.

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.

(27.) 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.

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.

(28.) 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 pound-keeper that he intends to appeal, and stating the grounds thereof.

If damages or impounding disputed, animals to be released but pound-keeper to keep damages until appeal decided.

Upon receipt of any such notice the pound-keeper shall not pay over any money received by him to any person, but shall retain the same until such appeal has been decided.

Justices to hear and decide upon legality of damages or impounding.

(29.) 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 pound-keeper 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.

(30.) A copy of this Act and of every book kept by the pound-keeper 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 pound-keeper shall grant extracts signed by himself from the said pound book upon payment of the prescribed fee.

Offences by pound-keeper.

(31.) (i.) Any pound-keeper who—

(a) Wilfully suffers any animals affected with any contagious or infectious disease to be in the same enclosure with animals not so affected; or

(b) Neglects to keep his pound clean and free from nuisance; or

1936.

Local Government Act.

- (c) 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
- (d) 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
- (e) Neglects to provide an impounded animal with proper food and water ; or
- (f) Works or uses an impounded animal ; or
- (g) 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.

(ii.) Any pound-keeper 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 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.

(32.) 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.

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.

Penalty for
rescue.

(33.) 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.

Wilful
trespass.

(34.) 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.

A conviction under this subsection shall not be a bar to any civil remedy which the person aggrieved may have.

Wrongful
possession
of
impounded
animals.

(35.) 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 forthwith upon the demand of the pound-keeper 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 pound-keeper 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 pound-keeper and all other persons.

Illegal entry
on lands.

(36.) 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.

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.

1936.

*Local Government Act.*PART XI.—
FUNCTIONS
AND POWERS
OF LOCAL
GOVERNMENT.

(37.) 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.*Ferries.*

43. (1.) 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 provide a ferry across such river, creek, or watercourse at such place, and to maintain and manage the same and all proper approaches thereto.

Ferry
within Area.

(2.) When a river, creek, or watercourse is the boundary between two or more Local Authorities the Governor in Council may order and declare that any ferry across such river, creek, or watercourse 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 ferry, and all proper approaches thereto, shall be under the exclusive control of one Local Authority.

Ferry at
boundary
of Area.

(3.) The Local Authority may let any 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:

Local
Authority
may let
ferry for
fourteen
years.

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.

(4.) The Local Authority shall publicly exhibit by-laws relating to ferries at every landing place of any ferry concerned, otherwise such by-laws shall not be binding upon any person.

Wharves, Quays, Jetties, and Landing Places.

44. (1.) Before any wharf, jetty, landing place, or quay is constructed by the Local Authority, a plan and specification thereof shall be submitted to and approved of by the Minister.

Plan to be
submitted to
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, 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.

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, or such longer term as the Governor in 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.

(3.) For the purpose of providing wharfage accommodation, the Local Authority may from time to time take or purchase or otherwise provide land, and may let and demise such land to any person, company, or corporation. Such letting and demise may be for such time, upon such terms, and subject to such conditions, stipulations, and agreements as the Local Authority may consider advisable, including an agreement that such person, company, or corporation shall erect, build, and construct on such land or for use in connection therewith a wharf or wharves, together with all necessary or incidental appurtenances and things :

Provided that the powers conferred by this subsection may be exercised only with the approval of the Governor in Council.

Wharf at
end of road.

(4.) 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.

1936.

*Local Government Act.*PART XI.—
FUNCTIONS
AND POWERS
OF LOCAL
GOVERNMENT.

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.

Public Reserves.

45. (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.

(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.

(3.) Upon any Proclamation under this section, the management and control of any reserve or work or other thing the subject-matter of such Proclamation shall be deemed to be a function of local government, and 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.

(4.) For the purposes of this section a reserve includes any miners' common or any land which under Part XI. of **"The Mining Act of 1898"* may be proclaimed as a miners' 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.

(5.) 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 Power to improve public reserves.

Authority or 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.

Reclamation of Land.

Re-
clamation,
&c., of land.

46. (1.) In exercising the function of reclaiming land, the Local Authority may, subject to the provisions of **"The Navigation Acts, 1876 to 1930"* (and any Act amending the same), contract for or itself undertake—

- (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.

Removal
of weeds,
driftwood,
&c., from
river-beds.

(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 driftwood, 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.

(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:

Restriction.

(4.) Provided that nothing herein shall authorise a Local Authority—

- (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.

* 41 Vic. No. 3 and amending Acts, *supra*, pages 3090 *et seq.*

1936.

*Local Government Act.*PART XI.—
FUNCTIONS
AND POWERS
OF LOCAL
GOVERNMENT.*Agricultural Drainage.*

47. (1.) The powers conferred by this section shall be exercised by the Local Authority upon petition signed as hereinafter provided.

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 owners of the land situated within the watershed as represents a majority of all such owners, and must be addressed to the Local Authority praying them to exercise the powers by this section conferred in respect of draining the watershed.

(2.) If the Local Authority is satisfied that the petition is duly signed by owners representing a majority of owners 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.

(3.) 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.

(4.) 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.

(5.) 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.

(6.) 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.

Plans to be forwarded to Minister, who may return plans, &c., and call on neighbouring Local Authority to continue scheme.

(7.) 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.

(8.) If the Minister so requires any Local Authority or Local Authorities to afford such facilities as in the last preceding subsection 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 "separate drainage loan."

(9.) 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 and the payment of any compensation as hereinafter provided.

Such loan shall be called a "separate drainage loan," and shall be repayable in thirty years in accordance with **"The Local Works Loan Acts, 1880 to 1918"* (and any Act amending or in substitution for those Acts or any of them).

(10.) Provided that nothing contained in this section shall prevent the Local Authority from undertaking agricultural drainage without petition aforesaid.

Right to enter on lands.

(11.) 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.

* 44 Vic. No. 9 and amending Acts, *supra*, pages 2023 *et seq.*

1936.

*Local Government Act.*PART XI.—
FUNCTIONS
AND POWERS
OF LOCAL
GOVERNMENT.

(12.) 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.

Claims for
compensation.

(13.) For the purpose of repaying the amount of the loan the Local Authority shall from time to time make and levy a separate 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 interest and redemption of the loan liability incurred by the Local Authority in respect of the scheme.

A separate
rate on all
properties
benefited.

(14.) Every rate whether a separate rate or separate loan rate levied under this section of this Act shall be apportioned upon the several rateable lands in proportion to the amount of improvement which it appears by the valuation will be effected upon them respectively.

Principle
of rating.

(15.) 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 and levied under this Act.

Recovery of
rates.*Undertaking Provisions.*

48. (1.) 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.

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 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 Acts, 1896 to 1934.”*

Power to
enter and
inspect.

(2.) Any officer of the Local Authority may at all reasonable times and as often as is necessary—

- (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 the product or service of any undertaking;
- (ii.) Repair, renew, and alter the same;
- (iii.) Take account of the amount of the consumption or use of the product or service of any undertaking 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.

* 6 Edw. VII. No. 14 and amending Acts, *supra*, pages 8211 *et seq.*

† 60 Vic. No. 24 and amending Acts, *supra*, pages 702 *et seq.*

1936.

*Local Government Act.*PART XI.—
FUNCTIONS
AND POWERS
OF LOCAL
GOVERNMENT.

(3.) 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.

(4.) Any person who, without the permission in writing of the Local Authority so to do— Offences.

- (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 of the supply of the product or service of any undertaking; or
- (ii.) Uses burners or lamps of larger dimensions or in any other manner than such contract as aforesaid permits; or
- (iii.) Supplies any other person with any part of the product or service of any undertaking 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.

Tramways.

49. All tramways constructed under and in pursuance of Part XIV. of **The Local Authorities Acts, 1902 to 1935,* shall be and be deemed to be undertakings of a Local Authority within the meaning of this Act, and this Act shall apply and extend to each such tramway accordingly, and without limiting the generality of this section to the intent that each tramway area defined for each such tramway shall (and notwithstanding that the tramway has, and whether before, on, or after the passing of this Act ceased to exist) be and be deemed to be, in relation to the tramway for or in respect of which it was defined, a benefited area defined by the Minister; and all of the provisions of this Act shall apply and extend accordingly. Tramways.

* 2 Edw. VII. No. 19 and amending Acts, *supra*, pages 1860 *et seq.*

All rates made and levied or purporting to have been made and levied by a Local Authority in respect of any tramway area prior to the commencement of this Act are hereby ratified, validated, and confirmed.

Powers for Execution of this Act.

Duty of Police Officers.

Duty of
police
officers.

50. (1.) 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.

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.

Further Powers.

Works, &c.,
may be
carried out
on roads and
lands.

(2.) (i.) For the purpose of exercising and performing any of the functions of local government under this Act or any other Act, the Local Authority may provide any works, matters, or things as are necessary on, through, across, or under any road, and may also on making compensation therefor carry any such works, matters, or things into, through, across, or under any other land.

Entry.

(ii.) In the exercise and performance of the functions of local government under this Act or any other Act, the Local Authority, its officers, servants, agents, contractors, and any person authorised by it may at all reasonable times enter upon any land, structure, or premises to carry any works, matters, or things into, through, across, or under any land and to execute any work, matter, or thing in any structure or premises and for the purpose of examining whether any of the provisions of this Act are being contravened, the making of any valuation and inspection under this Act or any other Act, and generally for the purpose of enforcing the provisions of this Act or any other Act.

1936.

*Local Government Act.*PART XI.—
FUNCTIONS
AND POWERS
OF LOCAL
GOVERNMENT.

Any person who refuses to permit the Local Authority or its officers or any person authorised by it to enter any land, structure, or premises shall be liable to a penalty not exceeding five pounds and to a penalty not exceeding twenty shillings for every day during which the Local Authority or its officers or any person authorised by it is refused admission to any land, structure, or premises.

(iii.) 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. Valuer may make inquiries.

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.

(iv.) 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. Entry by owner, &c., to execute work.

(3.) When any building has been erected or work done without due notice having been given to the Local Authority in accordance with this Act, the Local Authority may, at any time within one month after it 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. Limitation of time for proceedings where notice not given.

The time during which the Local Authority may take any proceedings, or do anything authorised or required by this Act to be done by it 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.

Local Authority may act in certain cases on default of owner or occupier.

(4.) (i.) Whenever default is made by the owner or occupier of any land, structure, or premises in the execution of any work required by or pursuant to this Act or any other Act to be executed by such owner or occupier, or both of them, as the case may be, the Local Authority shall have power to cause such work to be executed, and for that purpose shall by its officers, servants, agents, and contractors be entitled to enter upon such land, structure, or premises and carry out the necessary operations.

The provisions of paragraph (ii.) of subsection two of this section shall apply accordingly.

Expenses incurred by Local Authority to be a charge on land.

(ii.) In addition to any remedy which the Local Authority may have against any owner or occupier of land, all charges, costs, and expenses incurred by the Local Authority in the execution of any work upon any land, structure, or premises which under this Act or any other Act it is the duty of the owner or occupier to execute (whether or not the owner or occupier has made any default under the last preceding paragraph hereof or otherwise howsoever), with interest thereon at current bank rates, shall until payment be and remain a first charge upon the land upon which the works have been executed in priority to all mortgages, charges, liens, and encumbrances whatsoever other than a mortgage, charge, lien, or encumbrance in favour of the Crown or a Crown instrumentality and except rates due to the Local Authority, and notwithstanding any change that may take place in the ownership thereof. The said charge shall be deemed to be a charge within the meaning and subject to the provisions of subsection seven of this section.

Occupier may act in certain cases on default of owner.

(5.) Whenever default is made by the owner of any land, structure, or premises in the execution of any work by this Act required to be executed by him, the occupier of such land, structure, or premises 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 to be done or paid by the owner, the expense of such work or the money so paid shall be

1936.

*Local Government Act.*PART XI.—
FUNCTIONS
AND POWERS
OF LOCAL
GOVERNMENT.

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.

(6.) (i.) When any person has failed or refused to carry out or observe any requirement of the Local Authority with regard to any structure under this Act, or has constructed, erected, adapted, extended, raised, altered, united, or separated any structure in contravention of any provisions of this Act, the Local Authority or any authorised officer or person may, after fourteen days' notice to such person, enter upon such structure and demolish or alter such structure or any part thereof so far as the same is in contravention of the 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.

Powers of
Local
Authority on
failure to
carry out
requirements
as to
structures.

(ii.) 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 thereon, if any, and the amount due to the Crown or any Crown instrumentality in respect of any dues or obligations on the land to such owner on demand.

(iii.) 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.

(7.) (i.) 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 other than a mortgage, charge, lien, or encumbrance in favour of the Crown or a Crown instrumentality and except rates due to the Local Authority, and notwithstanding any change that may take place in the ownership thereof.

(ii.) Whenever any such moneys have become a charge as aforesaid upon any land, 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.

(iii.) 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

1936.

*Local Government Act.*PART XI.—
FUNCTIONS
AND POWERS
OF LOCAL
GOVERNMENT.

- (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 :

Provided that in the case of land whereof the tenure expires before the expiration of seven years, no such lease shall in any event be of longer duration than such tenure, and moreover where any other Act requires the person for the time being holding the tenure of any land to which such other Act applies to have certain qualifications or to hold subject to the consent of a prescribed authority, no such land shall be let or sold except to a person having the required qualifications and obtaining the prescribed consent.

(iv.) 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.

(v.) 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 any obligation other than an obligation in favour of the Crown or a Crown instrumentality ; or in the case of any land held under any less tenure or under any tenure peculiar to gold and mineral fields, for the entire estate or interest of the owner in default free of any obligation ;

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.

(vi.) If any owner is entitled to a less estate than an estate in fee-simple in the land, such owner or any person 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 other than the Crown, or any Crown instrumentality or person representing the Crown, 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 persons 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 other than a mortgage, charge, lien, or encumbrance in favour of the Crown or a Crown instrumentality and except rates and expenses as aforesaid.

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 copies of orders, and receipts lodged with him.

1936.

*Local Government Act.*PART XI.—
FUNCTIONS
AND POWERS
OF LOCAL
GOVERNMENT.

In any application under this paragraph, 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.

Obstructing Execution of Act.

(8.) (i.) 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.

(ii.) 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.

(iii.) 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.

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.

(iv.) 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.

Restriction on Certain Works of Electric Authorities.

Restriction
on certain
works of
electric
authorities.

(9.) 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 any road 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 :

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.

Compensation.

Compensa-
tion in case
of damage.

51. (1.) Except as by this Act is otherwise provided, if any person sustains any damage by reason of the exercise and performance of any of the functions of local government by a Local Authority under this Act or any other 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 and performing any such function.

Compensa-
tion payable;
how to be
fixed.

(2.) 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 and performance of any of the functions of local government under this Act shall be such sum as

1936.

*Local Government Act.*PART XI.—
FUNCTIONS
AND POWERS
OF LOCAL
GOVERNMENT.

may be agreed upon by and between the parties or, as in the case of dispute, may be fixed by any court of competent jurisdiction.

Every such court shall have jurisdiction to hear and determine the matter of such dispute, and to grant such costs as in its opinion are just and reasonable.

Where such court is the Magistrates Court any party may appeal to a Supreme Court from the whole or any part of an order of such court under this subsection.

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 Supreme Court in the first instance.

(3.) 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 :

No
compensa-
tion for
interim
works.

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.

Legal Proceedings.

Notices, &c.
to be signed.

52. (1.) 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.

Service of
notice.

(2.) (i.) Any notice, order, process, summons, or other document under or for any of the purposes of this Act required or authorised to be given or served to or upon any person may be served—

- (a) By delivering the same to such person ; or
- (b) By leaving the same at his usual or last known place of abode ; or
- (c) By forwarding the same by post in a prepaid letter addressed to such person at his usual or last known place of abode ;
- (d) 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.

(ii.) 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.

(iii.) Except as is hereinafter provided, when a notice is required to be given to a person whose name or 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.

1936.

*Local Government Act.*PART XI.—
FUNCTIONS
AND POWERS
OF LOCAL
GOVERNMENT.

(iv.) 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.

(v.) Any document may be served on a Local Authority—

- (a) By delivering the same to the clerk; or
- (b) By forwarding the same by post addressed to the clerk.

(vi.) 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.

(3.) (i.) If any registered proprietor or 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.

Absent and
unknown
owners.

(ii.) If the name or address of an owner or registered proprietor and the name and address of the agent in Queensland of such owner or registered proprietor 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.

(iii.) 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.

(4.) 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.

Sundays and
public
holidays.

PART XI.—
FUNCTIONS
AND POWERS
OF LOCAL
GOVERNMENT.
Free search
at Real
Property
Office.

Local Government Act.

1 GEO. VI. No. 1,

(5.) 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.

Plans and
documents
to be
property
of Local
Authority.

(6.) 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.

Appearance
of Local
Authorities.

(7.) (i.) 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.

(ii.) 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.

(iii.) The chairman or clerk may, in all proceedings under or for the purpose of procuring any adjudication of insolvency or bankruptcy 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.

When Local
Authority
may appear
without
Attorney-
General.

(8.) In any case in which the Attorney-General might take proceedings on the relation or on behalf of or for the benefit of a Local Authority for or with respect to enforcing or securing the observance of any provisions made by or under this Act or any other Act conferring powers or imposing duties upon a Local Authority, the Local Authority shall be deemed to represent sufficiently the interests of the public and may take proceedings in its own name.

For the purposes of this provision the Brisbane City Council shall be included in the expression "Local Authority" so far as relates to its powers and duties under **"The City of Brisbane Acts, 1924 to 1936"* (or any other Act conferring or imposing powers or duties upon it.)

* 15 Geo. V. No. 32 and amending Acts, *supra*, pages 11140 *et seq.*

1936.

*Local Government Act.*PART XI.—
FUNCTIONS
AND POWERS
OF LOCAL
GOVERNMENT.

(9.) (i.) No claim, remedy, or cause of action shall lie or be brought against any 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 (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 (including its contractors, officers, and servants) in or about the construction or maintenance of the same.

Limited
liability in
respect of
bridges and
culverts.

(ii.) The liability of a Local Authority having the control of a ferry and its appurtenances or of a lessee thereof under this Act shall not be deemed to be that of a common carrier, nor shall such 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.

Further
provisions as
to ferries.

The 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.

(10.) (i.) 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 :—

Action for
negligence.

- (a) 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 ;
- (b) 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 ;

- (c) 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 justice who tries the action is of opinion that there was reasonable excuse for such non-compliance.

(ii.) No person who caused or contributed to the injury by his own negligence shall be entitled to recover any damages against the Local Authority.

(iii.) A notice under this subsection 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 justice 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.

Limit of
liability of
Local
Authority.

(11.) In any action brought against a Local Authority to recover damages in respect of personal injury under the last preceding subsection, 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—

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.

1936.

*Local Government Act.*PART XI.—
FUNCTIONS
AND POWERS
OF LOCAL
GOVERNMENT.Notice of
action.

(12.) An action other than action for damages under subsection ten hereof 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.

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 court shall find for the defendant.

Except in the case of a registered proprietor 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 by the Local Authority under this Act, every such action shall be commenced within six months next after the accruing of the cause of action, and not afterwards.

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.

(13.) 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 *bona fide* for the purpose of executing this Act, or any function of local government under this Act or any other 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.

Protection of Local
Authority
and their
officers from
personal
liability.

Nothing in this subsection shall be construed to relieve any member of a Local Authority from any personal liability incurred by him under subsection two

of section nineteen, or subsection fourteen of section twenty-eight, or subsection nine of section twenty-nine of this Act.

Punishment
of offences.

(14.) (i.) 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 under **“The Justices Acts, 1886 to 1932.”*

Any such proceedings may be instituted within six months after the offence is committed or within six months after the discovery of the offence by the complainant whichever is the later period.

Provided that no such proceedings shall be instituted in respect of an offence which may form the subject-matter of an inquiry by a judge of the Supreme Court under and in pursuance of this Act at any time after the Local Authority has by plaint instituted such inquiry.

(ii.) 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.

(iii.) 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 general fund.

(iv.) 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.

(15.) (i.) 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.

Damage
done by
vehicle.

(ii.) 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.

* 50 Vic. No. 17 and amending Acts, *supra*, pages 1132 *et seq.*

1936.

*Local Government Act.*PART XI.—
FUNCTIONS
AND POWERS
OF LOCAL
GOVERNMENT.

(16.) 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.

No
abatement.

(17.) 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 rate-payer or a person liable to be rated in respect of land within the Area of such Local Authority.

Judiciary
not
disqualified
from
adjudicating.

(18.) 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 :

Powers of
and appeal
from police
magistrate
or justices.

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 Acts, 1886 to 1932"* (or any Act amending or in substitution for those Acts).

(19.) (i.) 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 made under **"The Justices Acts, 1886 to 1932."*

Recovery of
expenses.

(ii.) 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.

May in
certain cases
be recovered
from
occupier.

* 50 Vic. No. 17 and amending Acts, *supra*, pages 1132 *et seq.*

(iii.) The foregoing provisions shall be in addition to any other remedies which the Local Authority may have for the recovery of such expenses.

Removal of
roof not to
affect
proceedings.

(20.) 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.

Name, &c.,
of Local
Authority
need not be
proved.

(21.) 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 subsection shall not prejudice the right of any defendant to prove such constitution or limits.

Appoint-
ments and
authority
of officers
presumed.

(22.) 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.

(23.) The production of a copy of the *Gazette* containing a notification of the approval or adoption of any by-law shall be sufficient evidence of the due making or adoption of such by-law and of the contents thereof and of the power and authority to make or adopt same.

Copy of roll
to be
evidence.

(24.) In any proceeding any printed, or written, or partly printed and partly 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 *primâ facie* evidence of such roll and of the contents thereof.

Evidence
of entries.

(25.) 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

1936.

*Local Government Act.*PART XI.—
FUNCTIONS
AND POWERS
OF LOCAL
GOVERNMENT.

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.

(26.) A minute made and authenticated in the prescribed manner of the appointment of any person as deputy chairman or acting chairman, as the case may be, 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 or acting chairman, as the case may be, 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.

Evidence of
appointment
of deputy
chairman
or acting
chairman.

(27.) 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 list or book and of the due making of such valuation or 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.

Rate books
to be
evidence.

(28.) 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.

Map.

(29.) 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, engineer, or overseer of works, shall be received in evidence in all courts, and shall be deemed to be issued or written by or under the direction of the

Documents
signed by
chairman,
&c., to be
admitted in
evidence.

Local Authority until the contrary is proved. The expression "document" includes all orders, directions, and notices.

Presumption
against
registered
proprietor.

(30.) 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.

Notice to be
evidence of
intended
works.

(31.) 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.

Reference to
"owner" and
"occupier."

(32.) 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.

Classification
of roads.

(33.) 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.

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.

Proceedings
not to be
quashed for
want of
form

(34.) 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 subsection 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.

1936.

*Local Government Act.*PART XI.—
FUNCTIONS
AND POWERS
OF LOCAL
GOVERNMENT.

(35.) 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.

Defective
election, &c.,
not to
invalidate
proceedings.

PART XII.—POLLS.

PART XII.—
POLLS.

53. (1.) (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:—

Poll of
electors on
certain
questions.

- (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.

(ii.) When the Minister directs such poll to be taken he shall also direct the date thereof, and give such other directions as in his 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 :

(iii.) 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 the Governor in Council which it or he is empowered to take under this Act with respect to any matter:

(iv.) 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 in Council 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.

(2.) (i.) The returning officer shall fix a day for taking the poll on a proposed loan, being not less than twenty-eight nor more than forty-two days after the delivery of the request for the poll, notice of which shall be published at least twice in some newspaper.

Loan poll.

(ii.) The question to be stated on the ballot-papers to be used at the taking of a poll on a proposed loan as provided by section twenty-eight shall be in the form following or to the like effect, that is to say—

- For the Loan.
- Against the Loan.

(3.) Where the voting is by ballot, one scrutineer to be present in every polling-booth shall be appointed by the Local Authority, 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.

Where the voting is by postal ballot, one scrutineer to be present at the place appointed by the returning officer at which the votes shall be examined shall be appointed by the Local Authority, 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 at such place.

(4.) For the purpose of any poll held on any day other than the day of the triennial elections, the 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 not later than thirty clear days before the day on which the poll is to be taken.

1936.

*Local Government Act.*PART XII.—
POLLS.

(5.) At any poll under or for the purposes of this Act each elector shall have one vote only.

The poll shall be by ballot.

The poll shall be held on a Saturday.

(6.) 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 polls held in pursuance of this Part of this Act.

(7.) 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 in some newspaper of the number of votes recorded.

PART XIII.—LOCAL AUTHORITIES ASSOCIATION OF
QUEENSLAND.

PART XIII.—
LOCAL
AUTHORITIES
ASSOCIATION
OF
QUEENSLAND.
Incorporation of
Local
Authorities
Association.

54. (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.

(2.) (i.) 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 as amended from time to time 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.

(ii.) 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 ;

Existing
rules.

Now rules.

- (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.

Litigation
for common
interest.

(3.) The association 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.

The Local Authority may contribute to the association 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.

Power to
establish
fidelity
guarantee
fund.

(4.) It shall be lawful for the association to establish an officers' fidelity guarantee fund.

Contribu-
tions 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 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.

1936.

Local Government Act.

PART XIII.—
LOCAL
AUTHORITIES
ASSOCIATION
OF
QUEENSLAND.

(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 rata* to the sums contributed by each of them respectively during the five years last preceding such discontinuance.

Division of funds if discontinued.

(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.

Payment of contributions, &c.

(9.) A guarantee obtained under this section shall, to the extent of the sum thereby guaranteed, be deemed to be a compliance with subsection three of section seventeen of this Act.

Effect of guarantee.

(10.) 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.

(11.) 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.

Audit.

PART XIV.—TRANSITION PROVISIONS.

PART XIV.—
TRANSITION
PROVISIONS.

55. Notwithstanding anything to the contrary contained in this Act—

Transition provisions.

(a) Every rate and/or charge which may be made, levied, and recovered under and in pursuance of this Act may be so made, levied, and recovered for the period of six months from and including the first day of January, one thousand nine hundred and thirty-seven, to and including the thirtieth day of June, one thousand nine

Rates and/or charges.

hundred and thirty-seven, and thereafter every such rate and/or charge may be so made, levied, and recovered for each succeeding year thereafter :

Provided that no Local Authority shall be required to frame and/or adopt a budget for the abovementioned period of six months before making and levying any rate and/or charge for such period.

Budget.

(b) No Local Authority shall be required to frame and/or adopt a budget under and in pursuance of this Act for the period of six months from and including the first day of January, one thousand nine hundred and thirty-seven, to and including the thirtieth day of June, one thousand nine hundred and thirty-seven ; but every Local Authority shall be required to frame and adopt a budget for the year commencing on the first day of July, one thousand nine hundred and thirty-seven, and for each succeeding year thereafter.

Funds and
accounts.

(c) No Local Authority shall be required to establish funds under and in accordance with the provisions of section twenty-three of this Act, or to provide and keep the prescribed books or enter therein accounts as prescribed under and in pursuance of section twenty-nine of this Act, until the first day of July, one thousand nine hundred and thirty-seven :

Provided that in respect of the period of six months from and including the first day of January, one thousand nine hundred and thirty-seven, to and including the thirtieth day of June, one thousand nine hundred and thirty-seven, the funds, books, and accounts shall be kept in the manner prescribed under **“ The Local Authorities Acts, 1902 to 1935 ”* (notwithstanding the repeal of such Acts), and/or the rules of the Auditor-General made thereunder and in force at the passing of this Act :

Provided further, that every Local Authority shall on or before the first day of July, one thousand nine hundred and thirty-seven, do and execute all such acts, matters, and things and observe all such regulations as may be made under this Act as will enable it to establish funds under and in accordance with the provisions of section twenty-three of this Act, and to provide and keep the prescribed books and enter therein accounts as prescribed under and in accordance with section twenty-nine of this Act on and from the first day of July, one thousand nine hundred and thirty-seven.

* 2 Edw. VII. No. 19 and amending Acts, *supra*, pages 1860 *et seq.*

1936.

*Local Government Act.*PART XIV.—
TRANSITION
PROVISIONS.

(d) The clerk shall prepare and lay before the Local Authority at its first ordinary meeting after the twenty-first day of January, one thousand nine hundred and thirty-seven, a statement under and in pursuance of **“The Local Authorities Acts, 1902 to 1935”* (notwithstanding the repeal of such Acts) showing the financial position of the Local Authority as at the end of December in the calendar year one thousand nine hundred and thirty-six.

Financial
statements.

The clerk shall prepare and lay before the Local Authority at its meeting in July or August, one thousand nine hundred and thirty-seven, at which the budget for the year commencing on the first day of the said month of July is adopted a statement showing the financial position of the Local Authority as at the end of June, one thousand nine hundred and thirty-seven, for the period of six months from and including the first day of January, one thousand nine hundred and thirty-seven, to and including the thirtieth day of June, one thousand nine hundred and thirty-seven, and the provisions of **“The Local Authorities Acts, 1902 to 1935,”* in relation to the annual statement to be furnished by the clerk shall, notwithstanding the repeal of such last-mentioned Acts *mutatis mutandis* apply and extend accordingly.

(e) The Auditor-General may give such directions as to the examination of the books and accounts of the Local Authority for the calendar year one thousand nine hundred and thirty-six and for the period of six months from and including the first day of January, one thousand nine hundred and thirty-seven, to and including the thirtieth day of June, one thousand nine hundred and thirty-seven, as to him shall seem necessary or expedient.

Audit.

(f) The valuation of the rateable land in force in any Area at the commencement of this Act shall be the valuation for the purpose of making every rate which may be made by the Local Authority for such Area for the period of six months from and including the first day of January, one thousand nine hundred and thirty-seven, to and including the thirtieth day of June, one thousand nine hundred and thirty-seven; and where the making of a fresh valuation in any Area has been commenced prior to the commencement of this Act, such fresh valuation may be completed and adopted by the Local Authority and thereupon shall become and be a valuation under and for the purposes of this Act.

Valuation.

* 2 Edw. VII. No. 19 and amending Acts. *supra*, pages 1860 *et seq.*

FIRST SCHEDULE.

Date of Act.	Title of Act.	Extent of Repeal.
*2 Edw. VII. No. 19	<i>"The Local Authorities Act of 1902"</i>	The whole Act: Provided that the repeal of the said Act shall not revive any Act or section of an Act so far as repealed by the First Schedule thereof.
†3 Edw. VII. No. 7	<i>"The Local Authorities Act Amendment Act of 1903"</i>	The whole Act.
‡5 Edw. VII. No. 31	<i>"The Local Authorities Act Amendment Act of 1905"</i>	The whole Act, except s. 3.
§1 Geo. V. No. 22	<i>"The Local Authorities Act Amendment Act of 1910"</i>	The whole Act, except s. 27.
3 Geo. V. No. 16	<i>"The Local Authorities Act Amendment Act of 1912"</i>	The whole Act, except s. 27 (2) (being an amendment of <i>"The Granville and Burnett Bridges Act of 1889"</i>) and s. 33 (being the repeal of <i>"The Stage Carriages Act of 1835,"</i> and amendments to <i>"The Carriers Act of 1886,"</i> and the repeal of <i>"The Carriers Act of 1866 Amendment Act"</i>) and s. 34 (being amendments to <i>"The Steam Rollers Regulation Act of 1892."</i>)
¶4 Geo. V. No. 24	<i>"The Local Authorities Acts Amendment Act of 1913"</i>	The whole Act.
**5 Geo. V. No. 17	<i>"The Local Authorities Patriotic Contributions Act of 1914"</i>	The whole Act.
††8 Geo. V. No. 19	<i>"The Local Authorities Acts Amendment Act of 1917"</i>	The whole Act.
‡‡11 Geo. V. No. 11	<i>"The Local Authorities Acts Amendment Act of 1920"</i>	The whole Act.
§§13 Geo. V. No. 36	<i>"The Local Authorities Acts Amendment Act of 1922"</i>	The whole Act, excepting s. 13 (being amendments of <i>"The Victoria Bridge Act of 1897"</i>) and s. 14 (being amendments of <i>"The Fire Brigades Act of 1920"</i>)
14 Geo. V. No. 25	<i>"The Local Authorities Acts Amendment Act of 1923"</i>	The whole Act, excepting s. 44 providing that after the 1st day of January, 1924, no further loans shall be granted to a Local Authority under the provisions of <i>"The Local Works Loans Acts, 1880 to 1918,"</i> and excepting s. 56 repealing <i>"The Undue Subdivision of Land Prevention Act of 1885."</i>

* *Supra*, page 1860.† *Supra*, page 2021.‡ *Supra*, page 2021.§ *Supra*, page 2021.|| *Supra*, page 5653.¶ *Supra*, page 5918.** *Supra*, page 6259.†† *Supra*, page 8304.‡‡ *Supra*, page 9571.§§ *Supra*, page 10126.||| *Supra*, page 10661.

1936.

Local Government Act.

Date of Act.	Title of Act.	Extent of Repeal.
*15 Geo. V. No. 20	" <i>The Local Authorities Acts Amendment Act of 1924</i> "	The whole Act.
†16 Geo. V. No. 29	" <i>The Local Authorities Acts Amendment Act of 1925</i> "	The whole Act.
‡17 Geo. V. No. 24	" <i>The Local Authorities Acts Amendment Act of 1926</i> "	The whole Act.
§18 Geo. V. No. 28	" <i>The Local Authorities Acts Amendment Act of 1927</i> "	The whole Act.
20 Geo. V. No. 31	" <i>The Local Authorities Acts Amendment Act of 1929</i> "	The whole Act, excepting s. 26 (being amendments of " <i>The Electric Light and Power Act, 1896</i> "), and s. 27 (being amendments to " <i>The Harbour Boards Acts, 1892 to 1928.</i> ")
¶23 Geo. V. No. 27	" <i>The Local Authorities Acts Amendment Act of 1932</i> "	The whole Act.
**25 Geo. V. No. 32	" <i>The Local Authorities Acts and Other Acts Amendment Act of 1934</i> "	Part IV. of the said Act.
††25 Geo. V. No. 19	" <i>The City of Mackay and Other Town Planning Schemes Approval Act of 1934</i> "	So much of the Act as relates to Town Planning Schemes by Local Authorities.
‡‡26 Geo. V. No. 36	" <i>The Local Authorities Acts Amendment Act of 1935</i> "	S. 2 of the said Act.

SECOND SCHEDULE.

SECOND
SCHEDULE.

The following Acts as amended by subsequent Acts, namely :—

ANIMALS PROTECTION.

16 Geo. V. No. 25 .. "*The Animals Protection Act of 1925.*"

ART UNION REGULATION.

21 Geo. V. No. 11 .. "*The Art Union Regulation Act of 1930.*"

BANKS AND BANKING.

14 Geo. V. No. 41 and Amending Acts "*The Agricultural Bank Acts, 1923 to 1934*" (being "*The Agricultural Bank Act of 1923*" as amended by "*The Agricultural Bank Act Amendment Act of 1929,*" "*The Agricultural Bank Acts Amendment Act of 1931,*" and Part III. of "*The Rural Assistance Board and Agricultural Bank Acts Amendment Act of 1934.*")

* *Supra*, page 11078.† *Supra*, page 11333.‡ *Supra*, page 11650.§ *Supra*, page 11991.|| *Supra*, page 12692.¶ *Supra*, page 14354.** *Supra*, page 15073.†† *Supra*, page 15180.‡‡ *Supra*, page 15547.

BANKS AND BANKING—*continued.*

- 25 Geo. V. No. 30 .. *"The Rural Assistance Board and Agricultural Bank Acts Amendment Act of 1934."*
- 7 Geo. V. No. 17 and Amending Acts Being *"The State Advances Act of 1916"* (as amended by *"The State Advances Act and Other Acts Relief Amendment Act of 1934."*)
- 23 Geo. V. No. 19 .. *"The State Advances Corporation Buildings Improvement Act of 1932."*
- 10 Geo. V. No. 7 and Amending Acts Being *"The Workers' Homes Act of 1919"* (as amended by *"The Workers' Homes Act Amendment Act of 1922," "The Workers' Homes Acts Amendment Act of 1925," "The Workers' Homes Acts Amendment Act of 1930,"* and Part III. of *"The State Advances and Other Acts Relief Amendment Act of 1934."*)

BRIDGES.

- 56 Vic. No. 22 *"The Fitzroy Bridge Loan Act of 1892."*
- 53 Vic. No. 15 *"The Granville and Burnett Bridges Act of 1889"* (as amended by s. 27 (2) of *"The Local Authorities Acts Amendment Act of 1912."*)
- 61 Vic. No. 22 *"The Lamington Bridge Act of 1897."*
- 14 Geo. V. No. 9 *"The Nerang River Bridge and Southport-Burleigh Road Act of 1923"* (as amended by *"The Nerang River Bridge Act of 1933,"* and by Part VII. of *"The Local Authorities Acts and Other Acts Amendment Act of 1934."*)
- 16 Geo. V. No. 14 *"The Townsville Bridges Act of 1925."*

BRISBANE CITY.

- 15 Geo. V. No. 32 and Amending Acts *"The City of Brisbane Acts, 1924 to 1936"* (being *"The City of Brisbane Act of 1924"* as amended by *"The City of Brisbane Act Amendment Act of 1930,"* by *"The City of Brisbane Acts Amendment Act of 1933,"* by Part V. of *"The Local Authorities Acts and Other Acts Amendment Act of 1934,"* and by *"The City of Brisbane Acts Amendment Act of 1935."*)
- 7 Geo. V. No. 24 .. *"The City of Brisbane Improvement Act of 1916,"* (as affected by s. 27 of *"The City of Brisbane Act of 1924."*)
- 15 Geo. V. No. 35 .. *"The City of South Brisbane Improvement Act of 1924."*

1936.

Local Government Act.

BRISBANE CITY—continued.

- 2 Geo. V. No. 21 .. *"The Belmont Tramway Loans Validation Act of 1911."*
- 57 Vic. No. 13 *"The Brisbane Municipal Loan Act of 1893."*
- 60 Vic. No. 27 *"The Brisbane Municipal Loan Act of 1896."*
- 64 Vic. No. 32 *"The Brisbane Municipal Loan Act of 1900."*
- 61 Vic. No. 11 *"The South Brisbane Municipal Loan Act of 1897 "* (to be repealed on redemption of debentures by loan raised under the Act of 1921.)
- 18 Geo. V. No. 20 *"The Brisbane River Tidal Lands Improvement Act of 1927."*
- 1 Edw. VII. No. 19 and Amending Acts .. *"The City of South Brisbane Loan Acts, 1901 to 1921,"* being—
"The South Brisbane Municipal Loan Act of 1901,"
"The City of South Brisbane Loan Act of 1906,"
"The City of South Brisbane Loan Acts Amendment Act of 1910,"
"The City of South Brisbane Loan Acts Amendment Act of 1912,"
"The City of South Brisbane Loan Acts Amendment Act of 1913,"
"The City of South Brisbane Loan Acts Amendment Act of 1921."
(Note.—No further moneys to be borrowed under these Acts.)
- 39 Vic. No. 4 *"The Brisbane Drainage Act of 1875."*
- 27 Vic. No. 20 *"The City of Brisbane Town Hall Act, 1863."*
- 46 Vic. *"The Brisbane Town Hall Act of 1882."*
- 58 Vic. No. 22 *"The Musgrave Wharf Extension Act of 1894."*
- 60 Vic. No. 7 *"The Musgrave Wharf Extension Act Amendment Act of 1896."*
- 4 Geo. V. No. 27 **"The Brisbane Tramways Act of 1913."*
- 13 Geo. V. No. 14 **"The Brisbane Tramway Trust Act of 1922."*
- 15 Geo. V. No. 26 **"The Brisbane Tramway Trust Act Amendment Act of 1924."*
(*As affected by *"The City of Brisbane Act of 1924."*)
- 6 Geo. V. No. 8 *"The Toowong Park Act of 1915."*
- 61 Vic. No. 15 *"The Victoria Bridge Act of 1897 "* (as amended by *"The Local Authorities Acts Amendment Act of 1922 "*) and control vested in Brisbane City Council by *"The City of Brisbane Act of 1924."*
- 62 Vic. No. 12 *"The Victoria Bridge Act Amendment Act of 1898."*

COAL.

- 24 Geo. V. No. 18 and Amending Act .. *"The Coal Production Regulation Act of 1933."*
 26 Geo. V. No. 37 .. *"The Coal Production Regulation Act Amendment Act of 1935."*

CREMATION.

- 4 Geo. V. No. 16 .. *"The Cremation Act of 1913."*
 26 Geo. V. No. 28 .. *"The Cremation Act Amendment Act of 1935."*

CRIMINAL CODE.

- 63 Vic. No. 9 and Amending Acts .. *"The Criminal Code"* (as amended by *"The Criminal Code Amendment Act of 1913," "The Criminal Code Amendment Act of 1913 (No. 2)," "The Criminal Code Amendment Act of 1914," "The Criminal Code Amendment Act of 1922," "The Criminal Code Amendment Act of 1922 (No. 2)," "The Criminal Code (Prohibition of Secret Commissions) and Further Amendment Act of 1931."*)

ELECTRICITY.

- 60 Vic. No. 24 and Amending Acts .. *"The Electric Light and Power Act, 1896"* (as amended by *"The Electric Light and Power Act Amendment Act of 1933,"* and by *"The Electric Light and Power Acts Amendment Act of 1934."*)
 26 Geo. V. No. 31 .. *"The City of Brisbane (Stanley River Dam) Electricity Supply Act of 1935."*

FARMERS' DEBT ADJUSTMENT.

- 26 Geo. V. No. 23 .. *"Farmers' Assistance (Debts Adjustment) Act of 1935."*

FIRE BRIGADES.

- 10 Geo. V. No. 23 and Amending Acts .. *"The Fire Brigades Acts, 1920 to 1931"* (being *"The Fire Brigades Act of 1920"* as amended by *"The Local Authorities Acts Amendment Act of 1922,"* by *"The Fire Brigades Act Amendment Act of 1923,"* and by *"The Fire Brigades Acts Amendment Act of 1931."*)

FISH.

- 26 Geo. V. No. 33 .. *"The Fish Supply Management Act of 1935."*

GAS.

- 7 Geo. V. No. 11 .. *"The Gas Act of 1916."*
 24 Geo. V. No. 20 .. *"The Gas Act Amendment Act of 1933."*

1936.

*Local Government Act.*SECOND
SCHEDULE.

HARBOURS.

56 Vic. No. 26 and
subsequent Acts

“*The Harbour Boards Acts, 1892 to 1928*”
(being “*The Harbour Boards Act, 1892,*” as amended by “*The Harbour Boards Act, 1892, Amendment Act, 1900,*” “*The Harbour Dues and Harbour Boards Acts Amendment Act of 1905,*” “*The Harbour Boards Acts Amendment Act of 1906,*” “*The Harbour Boards Acts Amendment Act of 1920,*” “*The Harbour Boards Acts Amendment Act of 1922,*” and “*The Harbour Boards Acts Amendment Act of 1928.*”)

25 Geo. V. No. 2

.. “*The Cairns Harbour Board and Council of the Town of Cairns Wharf Site Agreement Validation Act of 1934.*”

HEALTH.

50 Vic. No. 21 ..

.. “*The Health Act Amendment Act of 1886.*”

64 Vic. No. 9 and
Amending Acts

“*The Health Acts, 1900 to 1934*” (being “*The Health Act of 1900*” as amended by “*The Health Act Amendment Act of 1911,*” “*The Health Act Amendment Act of 1914,*” “*The Health Act Amendment Act of 1917,*” “*The Health Acts Amendment Act of 1922,*” “*The Health Acts Amendment Act of 1931,*” and “*The Health Acts Amendment Act of 1934.*”)

LABOUR.

21 Geo. V. No. 1 and
Amending Acts

“*The Income (Unemployment Relief) Tax Acts, 1930 to 1935*” (being “*The Income (Unemployment Relief) Tax Act of 1930*” as amended by subsequent Acts and Orders in Council).

LANDS.

1 Geo. V. No. 15 and
Amending Acts

“*The Land Acts, 1910 to 1936*” (being “*The Land Act of 1910*” as amended by subsequent Acts; also “*The Prickly-pear Land Acts, 1923 to 1934,*” “*The Discharged Soldier Settlement Acts, 1917 to 1932,*” “*The Sugar Workers' Selections Acts, 1923 to 1932,*” “*The Upper Burnett and Callide Land Settlement Acts, 1923 to 1932,*” “*The Land Acts (Crown Dues) Relief Act of 1934,*” “*The Closer Settlement Acts, 1906 to 1934,*” and “*The Sugar Workers' Selections Acts, 1923 to 1932.*”)

LOCAL AUTHORITIES.

Local Works Loan Acts.

- 44 Vic. No. 9 "The Local Works Loans Act of 1880."
 62 Vic. No. 9 "The Local Works Loans Acts Amendment Act of 1898."
 63 Vic. No. 7 "The Local Works Loans Acts Amendment Act of 1899."
 1 Edw. VII. No. 27 .. "The Local Authorities Act of 1901."
 9 Geo. V. No. 7 "The Local Works Loans Acts Amendment Act of 1918."

Sale of Land.

- 46 Vic. No. 5 "The Sale to Local Authorities Land Act of 1882."

Steam Rollers.

- 56 Vic. No. 33 "The Steam Rollers Regulation Act of 1892"
 (as amended by "The Local Authorities Acts Amendment Act of 1912," s. 34).

Town Halls.

- 48 Vic. "The Maryborough Town Hall Act of 1884."
 62 Vic. "The Toowoomba Town Hall Act of 1898."

Town Planning.

- 25 Geo. V. No. 19 "The City of Mackay and Other Town Planning Schemes Approval Act of 1934" (so far as relates to the City of Mackay).

Local Bodies Loans.

- 14 Geo. V. No. 8 "The Local Bodies' Loans Guarantee Act of 1923."

Grazing Districts Improvement.

- 21 Geo. V. No. 44 (as amended by subsequent Acts) "The Local Authority (Grazing Districts Improvement) Acts, 1930 to 1934" (being "The Grazing Districts Improvement Act of 1930," "The Local Authority (Grazing Districts Improvement) Transfer of Powers Act of 1933," and Part VI. of "The Local Authorities and Other Acts Amendment Act of 1934"); and also "The Stock Routes Improvement and Animal and Vegetable Pests Destruction Act of 1936."

MARSUPIALS.

- 62 Vic. No. 16 and amending Acts "The Marsupial Proof Fencing Acts, 1898 to 1913" (as amended by subsequent Acts).

1936.

Local Government Act.

MINING.

- 62 Vic. No. 24 and Amending Acts and “*The Mining Acts, 1898 to 1927,*” as amended by subsequent Acts (being “*The Mining Act of 1898*” as amended by subsequent Acts; also “*The Miners’ Homestead Leases Acts, 1913 to 1929,*” as amended by subsequent Acts; “*The Mining on Private Land Acts, 1909 to 1929,*” as amended by subsequent Acts; “*The Drainage of Mines Act of 1912,*” and “*The Coal Mining Acts, 1925 to 1928,*” as amended by subsequent Acts.)

RABBITS.

- 4 Geo. V. No. 7 and amending Acts “*The Rabbit Act of 1913*” (as amended by subsequent Acts).

RAILWAYS AND TRAMWAYS.

- 46 Vic. No. 10 “*The Tramways Act of 1882.*”
 54 Vic. No. 16 “*The Tramways Act of 1882 Amendment Act of 1890.*”
Local Acts.
 6 Edw. VII. No. 2 .. “*The Etheridge Railway Act of 1906.*”
 7 Geo. V. No. 22 .. “*The Japoon Tramway Act of 1916.*”
 61 Vic. No. 19 “*The Mareeba to Chillagoe Railway Act of 1897.*”
 64 Vic. No. 22 “*The Mount Garnet Freehold Mining Company’s Railway Act of 1900.*”
 7 Geo. V. No. 29 .. “*The Mount Molloy Railway Act of 1917.*”
 5 Geo. V. No. 4 “*The Mourilyan and Geraldton Tramways Act of 1914.*”
 4 Edw. VII. “*The Munro’s Tramway Act of 1904.*”
 3 Edw. VII. No. 8 .. “*The Queen Cross Reef Gold Mining Company’s Railway Act of 1903.*”
 8 Geo. V. No. 16 “*The Woongarra Tramway Act of 1917.*”

ROADS.

- 10 Geo. V. No. 26 and Amending Acts “*The Main Roads Acts, 1920 to 1934*” (being “*The Main Roads Act of 1920*” as amended by “*The Main Roads Act Amendment Act of 1922,*” “*The Main Roads Acts Amendment Act of 1923,*” “*The Main Roads Acts Amendment Act of 1925,*” “*The Main Roads Acts Amendment Act of 1928,*” “*The Main Roads Acts Amendment Act of 1929,*” and “*The Main Roads Acts Amendment Act of 1934.*”)

ROADS—*continued.*

- 23 Geo. V. No. 20 .. *"The Main Roads Fund Transfer Approval Act of 1932."*
- 24 Geo. V. No. 7 .. *"The Main Roads Fund Transfer Approval Act of 1933."*
- 25 Geo. V. No. 13 .. *"The Main Roads Fund Transfer Approval Act of 1934."*
- 26 Geo. V. No. 8 .. *"The Main Roads Fund and Heavy Vehicles Road Fund Transfer Approval Act of 1935."*

SHIPPING.

- 41 Vic. No. 3 *"The Navigation Act of 1876."*
- 60 Vic. No. 31 *"The Navigation Act Amendment Act of 1896."*
- 2 Geo. V. No. 5 *"The Navigation Acts Amendment Act of 1911."*
- 21 Geo. V. No. 21 *"The Navigation Acts Amendment Act of 1930."*

STATISTICS.

- 60 Vic. No. 16 and Amending Acts .. *"The Statistical Returns Act of 1896" (as amended by "The Statistics Act of 1935.")*
- 23 Geo. V. No. 25 and Amending Acts .. *"The Bureau of Industry Act of 1932," (as amended by Part III. of "The Industries Assistance and Other Acts Amendment Act of 1933," and by "The Bureau of Industry Acts Amendment Act of 1934.")*
- 26 Geo. V. No. 32 *"The Bureau of Industry Act of 1935."*

STOCK.

- 6 Geo. V. No. 16 and Amending Acts .. *"The Diseases in Stock Acts, 1915 to 1931" (being "The Diseases in Stock Act of 1915" as amended by "The Diseases in Stock Act Amendment Act of 1930," and by "The Diseases in Stock and Brands Acts Amendment Act of 1931," and by "The Statistics Act of 1935.")*

TRANSPORT AND TRAFFIC.

- 23 Geo. V. No. 24 *"The State Transport Act of 1932."*
- 5 Edw. VII. No. 18 and Amending Acts .. *"The Traffic Acts, 1905 to 1933" (being "The Traffic Act of 1905," as amended by "The Traffic Act Amendment Act of 1910," "The Traffic Act Amendment Act of 1916," "The Traffic Acts Amendment Act of 1928," and "The Traffic Acts Amendment Act of 1933.")*

1936.

Local Government Act.

TRANSPORT AND TRAFFIC—continued.

- 16 Geo. V. No. 22 and Amending Acts .. *"The Heavy Vehicles Acts, 1925 to 1931"* (being *"The Heavy Vehicles Act of 1925"* as amended by *"The Heavy Vehicles Act Amendment Act of 1929,"* and by *"The Heavy Vehicles Acts Amendment Act of 1931."*)
- 22 Geo. V. No. 14 .. *"The Tolls on Privately Constructed Road Traffic Facilities Act of 1931."*)

WATER AND SEWERAGE.

- 9 Edw. VII. No. 12 .. *"The Metropolitan Water Supply and Sewerage Act of 1909."*
- 3 Geo. V. No. 10 .. *"The Metropolitan Water Supply and Sewerage Act Amendment Act of 1912."*
- 6 Geo. V. No. 32 .. *"The Metropolitan Water Supply and Sewerage Act Amendment Act of 1915."*
- 9 Geo. V. No. 18 .. *"The Metropolitan Water Supply and Sewerage Acts Amendment Act of 1918."*
- 12 Geo. V. No. 2 .. *"The Metropolitan and Ipswich Water Supply and Sewerage Acts Amendment Act of 1921."*
- 12 Geo. V. No. 28 .. *"The Metropolitan Water Supply and Sewerage Acts Amendment Act of 1921."*
- 14 Geo. V. No. 17 .. *"The Metropolitan Water Supply and Sewerage Acts Amendment Act of 1923."*
- 15 Geo. V. No. 27 .. *"The Metropolitan Water Supply and Sewerage Acts Amendment Act of 1924"* (being *"The Metropolitan Water Supply and Sewerage Acts, 1909 to 1924,"* and subject to Orders in Council under *"The City of Brisbane Acts, 1924 to 1934."*)
- 25 Geo. V. No. 8 .. *"The Inkerman Irrigation Board (Rates and Charges) Act of 1934."*
- 55 Vic. No. 11 *"The Water Authorities Act of 1891."*
- 12 Geo. V. No. 11 *"The Water Authorities Act Amendment Act of 1921."*
- 22 Geo. V. No. 46 *"The Water Authorities Act Amendment Act of 1931."*
- 17 Geo. V. No. 12 *"The Water Act of 1926"* (as amended by *"The Land Acts Amendment Act of 1927,"* by *"The Mining Acts Amendment Act of 1927 (No. 2),"* and by *"The Irrigation Acts Amendment Act of 1933."*)
- 21 Geo. V. No. 4 *"The Water Act Amendment Act of 1930."*
- 22 Geo. V. No. 44 *"The Irrigation and Water Supply Acts Amendment Act of 1931."*
- 13 Geo. V. No. 29 *"The Irrigation Act of 1922."*

WATER AND SEWERAGE—continued.

24 Geo. V. No. 21	..	"The Irrigation Acts Amendment Act of 1933" (as amended by "The Land Acts Amendment Act of 1934.")
13 Geo. V. No. 20	..	"The Water Power Act of 1922."
6 Edw. VII. No. 8	..	"The Charters Towers Water Board Act of 1906."
9 Geo. V. No. 6	..	"The Charters Towers Water Board Act Amendment Act of 1918."
2 Geo. V. No. 10	..	"The Thursday Island Water Works Act of 1911."
3 Geo. V. No. 21	..	"The Thursday Island Waterworks Act Amendment Act of 1912."
17 Geo. V. No. 11	..	"The Townsville Water Authority (Waterworks Approval) Act of 1926."
25 Geo. V. No. 6	..	"The Townsville Water Authority (Waterworks Approval) Act Amendment Act of 1934."

WIRE AND WIRE-NETTING.

18 Geo. V. No. 23	..	"The Wire and Wire-Netting Advances Act of 1927."
24 Geo. V. No. 23	..	"The Wire and Wire-Netting Advances Act of 1933."

THIRD
SCHEDULE.

(s. 24.)

THIRD SCHEDULE.

RULES FOR THE CONDUCT OF ELECTIONS.

SUBDIVISION I.—GENERAL PROVISIONS.

Presiding
officer.

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.

"Voters' roll" includes every electoral roll to be used at any election in an undivided Area or a division of a divided Area as a voters' roll.

"Chairman" includes the mayor or chairman, as the case may be.

Returning
officer.

2. At every election the clerk shall by virtue of his office be the returning officer.

Substitute
for returning
officer.

If the returning 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.

Such substitute shall thereupon for the time being have all the power and authority of and be deemed to be the returning officer.

1936.

*Local Government Act.*THIRD
SCHEDULE.

In the case of accident or omission, the Governor in Council may appoint some person to be returning officer.

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.

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. 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 rule is provided, be conclusive evidence of the title of every person therein named to vote :

Roll when to be conclusive roll.

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 sections eleven and 11A of the Elections Act shall be disqualified from voting.

5. (1.) Notwithstanding anything contained in this Act, when any person who is entitled to be enrolled on a voters' roll for an Area or division claims to vote at an election and his name does not appear on such voters' roll owing to the fact that it was omitted or erased from the electoral roll or rolls of the electoral district or districts or parts thereof comprised within the Area or division concerned owing to an error of the Principal Electoral Officer or officer of his Department or other error, or in consequence of mistaken identity or otherwise and through no fault of the person himself, such person may be permitted to vote if—

Vote of person whose name omitted from or erased from the roll.

- (a) He sent or delivered to the Principal Electoral Officer or electoral registrar a duly completed claim for enrolment or transfer of enrolment, as the case requires, in respect of the electoral district and the claim was received by the Principal Electoral Officer or electoral registrar before the due date of completing the compilation of the voters' roll for the election at which he claims to vote and that he received from the Principal Electoral Officer or the electoral registrar an acknowledgement of such claim, and he did not after sending or delivering the claim and before the said due date become qualified for transfer of enrolment to another district ; or
- (b) His name was not to the best of his knowledge removed from the electoral roll owing to objection or transfer or disqualification, and he had from the time of his enrolment for the electoral district to the said due date retained his right to enrolment for that district,

and makes a declaration in the prescribed form before the returning officer or any presiding officer or justice of the peace.

For the purposes of this subsection the term "voters' roll" shall where necessary include any electoral roll used as a voters' roll.

(2.) Notwithstanding anything contained in this Act, when any person whose name appears on an electoral roll or rolls of the electoral district or part thereof comprised within an Area or division and in the compilation of the voters' roll from such electoral roll his name was omitted from such voters' roll owing to error, or through no fault of his own, such person may subject to this Act and regulations be permitted to vote upon proof by a declaration by him in the prescribed form before a returning officer or any presiding officer or justice of the peace that he is the person whose name has been so omitted.

Voting.

(3.) Where a person claims to vote under the provisions of this rule the presiding officer shall give to such person a ballot-paper in the prescribed form, and the voter shall mark and fold his ballot-paper in the manner prescribed and return it so folded to the presiding officer.

Duty of
presiding
officer.

(4.) The presiding officer shall thereupon, in the presence of the voter and of such scrutineers as are present, and without unfolding the ballot-paper, enclose it in an envelope bearing the declaration of the voter, and after securely fastening the envelope shall place it aside for separate custody.

(5.) Immediately at the close of the poll, the presiding officer shall enclose all such envelopes for the Area or division in an outer envelope and transmit the same to the returning officer for such Area or division.

He shall also inform the returning officer, if necessary by telegram, of the number of persons who voted under this rule for the Area or division concerned.

Duty of
returning
officer.

(6.) The returning officer, on receipt of the envelope containing the envelopes in which the votes are enclosed under this rule shall, before opening any envelope containing a vote, or allowing any other person to do so, examine the declaration of the voter, and if it is in order and he is satisfied, after making such inquiry as may be necessary, that the voter is a person to whom clause one or two, as the case may be, of this rule applies, shall proceed to examine and count the votes accordingly.

Application
of
provisions.

(7.) The provisions of this rule shall extend and apply to any person, whether the name of such person appears on any list of erasures in an electoral roll, or voters' roll, or not.

Returning
officer to
give public
notice of
election.

6. (1.) 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 forty-two 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.

1936.

Local Government Act.

(2.) After the date of such public notice of such election as aforesaid, and before the date of any election, every article, report, letter, or other matter commenting upon any candidate, or political party, or the issues being submitted to the electors printed and published in any newspaper, circular, pamphlet, or "dodger" shall be signed by the author and authors, giving his or their true name and address or names and addresses at the end of the said article, report, letter, or other matter. Any person who contravenes this provision shall be liable to a penalty not exceeding fifty pounds. Political articles must be signed.

(3.) Any newspaper editor or proprietor who permits, in any newspaper which he edits or owns, the publication of any unsigned article, report, letter, or other matter commenting upon any candidate, or political party, or the issues being submitted to the electors after the date of such public notice of such election as aforesaid and before the date of the election shall be liable to a penalty not exceeding fifty pounds.

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:— Mode of nomination.

We, the undersigned electors of the Town [or City or Shire or Division] of No. _____ of the Shire] of _____, hereby nominate [stating christian name and surname], of _____, for the office of Mayor or Chairman [as the case may be] of the Council of the Member _____ of the said Town [or City or Shire or of the said 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.)

(2.) Such person or some person on his behalf shall, at the time of the delivery of the nomination paper, pay to the returning officer in sterling money or Australian notes or by a cheque drawn by a bank on itself the sum of five pounds to be dealt with as hereinafter provided.

(3.) 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.

(4.) 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 Government Act of 1936" 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 a chairman or 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 a chairman or 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

1936.

Local Government Act.

(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 later 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 like effect :—

I (A.B.) do hereby retire from being a candidate for election at the ensuing election of Mayor or Chairman [as the case may be] for the Town [or City or Shire or Division of the Shire] of Members

Dated the _____ day of _____, 19 ____ . (Signed) _____ A.B.

Witness—
C.D.

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 in some newspaper 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. No election shall be liable to be questioned by reason of—

- (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.

THIRD
SCHEDULE.*Local Government Act.*

1 GEO. VI. No. 1.

Destination
of money
paid on
nomination.

16. The returning officer shall pay into the general fund the moneys paid to him as aforesaid by all such candidates as do not at the poll receive a number of votes equal at least to one-fifth part of the votes received by the successful candidate if there is only one or such one of the successful candidates (if there are more than one) as received the smallest number of votes and shall, after the election, repay to each of the candidates who has duly retired from his candidature, or who has been returned without a poll, or who has received a number of votes equal to at least such one-fifth part, whether he is declared elected or not, the moneys so paid by or for them respectively, and the same may, in default of such repayment, be recovered by action before any two justices.

For the purpose of ascertaining whether an unsuccessful candidate has received such one-fifth part of the votes in the case of an election in a divided Area, the votes obtained by the successful candidate or such one of the successful candidates as received the smallest number of votes in the same division in which the unsuccessful candidate was a candidate shall alone be considered.

Returning
officer to
maintain
order.

17. Every returning officer shall have power and authority to maintain and enforce order and to keep the peace at any election held before him.

All police officers shall aid and assist the returning officer in the performance of his duty.

Expenses of
returning
officer.

18. 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 general fund.

Corrupt
practices.

19. Any act which would avoid the election of a member of the Legislative Assembly shall avoid the election of a chairman or member under this Act.

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.

Votes not to
be divulged.

20. (1.) If a returning officer, presiding officer, or any scrutineer, or poll clerk, in the discharge of his duties under this Act at or concerning an election or a candidate learns for what candidate any voter has voted at such election, he shall not by word or act, or any other means whatsoever, directly or indirectly, divulge or discover or aid in divulging or discovering the fact, save in answer to some question which he is legally bound to answer.

Returning
officer, &c.,
not to make
notes or
memoran-
dum of
votes.

(2.) If the returning officer, presiding officer, or any scrutineer or poll clerk makes any mark upon any list of voters, or makes or writes any note or memorandum denoting, or whereby he can know or remember, for what candidate any voter has voted at an election, he shall be liable to a penalty not exceeding fifty pounds.

Misfeasance,
&c., of
officers, &c.

(3.) Every person acting as returning officer, presiding officer, or poll clerk or a candidate at an election who is guilty of any wilful misfeasance, or wilful or negligent act of commission or omission, contrary to any of the provisions of this Act, shall for every such offence be liable to a penalty not exceeding fifty pounds.

1936.

*Local Government Act.*THIRD
SCHEDULE.

21. (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.

Declaration
of poll.

(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.

22. The returning officer shall forthwith after the declaration of the poll at any election—

Ballot-
papers
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.

23. 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 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.

Cases of polls
other than
for election.

24. When a poll is required to be taken, it shall be taken by ballot in the mode prescribed in Subdivision II. of these rules, unless in the case of a Shire the Governor in Council directs that it shall be taken in the whole Shire or in any division or divisions thereof by voting by postal ballot, in the mode prescribed in Subdivision III. of these rules, in which case it shall be taken in the whole Shire or in such division or divisions in the latter mode accordingly :

Poll, how
taken.

Provided that the provisions of Subdivision IV. (Contingent Voting) of these rules shall apply to the election of the chairman of an Area.

SUBDIVISION II.—VOTING BY BALLOT.

*Polling-places and Polling; Postal Voting in Case of Sickness or Absence from Area.*Polling-
places.

25. (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 :

Provided further, that the notices referred to in rules six and eleven of Subdivision I. shall contain the list of polling-places appointed by the returning officer :

Provided also, that in the case of any cancellation of any such polling-place public notice of cancellation shall be made by the returning officer.

(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.

Polling-
booths, &c.

26. 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.

Presiding
officers.

27. (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.

Several
polling-
booths at
same
polling-
place.

(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.

All provisions relating to presiding officers shall apply to presiding officers presiding at such polling-booths.

Poll clerks.

(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.

Substitutes
for
presiding
officers.

(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.

1936.

Local Government Act.

(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.

Adjournment when no 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.

28. (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—

Proceedings in case of riot or violence.

(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 chairman or member elected until the poll has been finally closed and the ballot-papers have been examined and counted by him as hereinafter provided.

29. (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 or to the like effect:—

Ballot-papers to be printed and furnished.

MAYOR OR CHAIRMAN.

(Election of Mayor or Chairman.)

Mark your vote by placing the figure 1 in the square opposite the name of the candidate for whom you desire to vote.

In the case of the election of Mayor or Chairman, where there are more than two candidates, you may also give a Contingent Vote or Votes by writing the figures 2, 3, &c., in the square or squares opposite the name or names of the candidate or candidates other than the candidate for whom you vote in the first instance.

BROWN, John

GREEN, Charles

MEMBERS.

(Election of [here insert number, as the case may be] Members.)

Mark your vote by placing in the squares respectively opposite the names of at least [here insert the number which represents the number of members to be elected] candidates, the figures 1, 2, 3, 4, and so on, up to and inclusive of the number [here insert the number which represents the number of members to be elected.]

- 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.

30. 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.

31. 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 _____, a Candidate for election in and for the Town [or City or Shire or Division of the Shire] of _____ 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____. }
Returning Officer or Presiding Officer. }

A.B.

1936.

*Local Government Act.*THIRD
SCHEDULE.

32. 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.

Presiding officer to provide ballot-box and papers.

This box shall be opened 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.

33. (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.

Returning officer to provide a ballot-room.

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.

34. (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:—

Questions to be put to voter.

1. Are you the person whose name appears as A.B. in the Voters' Roll for this Town [*or City or Shire or division*] ?
2. Have you already voted at this election [*for this 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.

Consequence of answers.

35. 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 a vote to make a solemn declaration against bribery in the form following, that is to say—

Declaration against bribery.

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 a 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.

36. 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 other question or declaration necessary.

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 voter's 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.

Ballot-papers to be given to electors. **37.** (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.

And number to be concealed. (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.

Elector's name to be marked on roll. **38.** (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.

(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 in 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. **39.** (1.) The elector having received a ballot-paper shall, in one of the compartments provided for the purpose, mark his ballot-paper—in the case of the election of chairman, by placing the figure 1 in the square opposite the name of the candidate for whom he desires to vote; and in the case of the election of members, by placing the figures 1, 2, 3, 4 (and so on, as the case requires) in the squares respectively opposite the names of the candidates for whom he votes, equal to the number of members to be elected (each vote so numbered in consecutive order being a vote), 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 :

Provided that in the case of the election of the chairman of the Area, and where there are more than two candidates, the elector

1936.

Local Government Act.

may also give a contingent vote or votes by writing the figures 2, 3, &c., in the square or squares opposite the name or names of the candidate other than the candidate for whom the elector votes in the first instance.

(2.) While an elector is in a compartment preparing his ballot-paper no other person shall, except as is hereinafter provided, be allowed in such compartment :

Provided that if any elector satisfies the presiding officer that he is blind, or that his sight is so impaired, or that he is so physically incapacitated that he is unable to vote without assistance, the presiding officer shall permit another elector appointed by the voter to enter an unoccupied compartment with such elector and mark, fold, and deposit such elector's ballot-paper for him :

Provided further, that if any such elector fails to appoint another elector in pursuance of the last preceding proviso, or if any elector satisfies the presiding officer that he is so illiterate that he is unable to vote without assistance, the presiding officer, in the presence of such scrutineers as may be present, or if there is no scrutineer present then in the presence of the poll clerk, or if the elector so desires, in the presence of a person appointed by the elector instead of the poll clerk, shall take the following action.

- (a) If requested by the elector, state the names of the candidates and the political party in whose interest each or any of them is standing.
- (b) In the case of the vote for election of chairman and subject to the provisions relating to contingent voting mark the ballot-paper by placing the figure "1" in the square opposite the name of the candidate for whom the elector says he desires to vote in the first instance.
- (c) In the case of the vote for election of members, mark the ballot-paper by placing the figures 1, 2, 3, 4 (and so on, as the case requires), in the squares respectively opposite the names of the candidates for whom the elector says he desires to vote.
- (d) Fold and deposit the elector's ballot paper for him.

(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.

40. (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.

41. (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.

(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 subclause two hereof and all the forms of notice received by him from electors as mentioned in the last preceding subclause, 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 lastmentioned 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.

1936.

Local Government Act.

THIRD
SCHEDULE.

(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.

42. (1.) Every ballot-paper which—

- (a) Does not bear a ballot-number ; or
- (b) Has such number torn off ; or
- (c) Has no vote indicated on it, or has fewer consecutive figures, commencing with the figure 1 in the 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 :

Provided that in any case where there is only one candidate required to be elected, any ballot-paper which has a cross only in the square opposite the name of any one candidate, and has no figure 1 in any square or no mark or writing thereon as hereinbefore provided, shall not be rejected :

Provided further, that any ballot-paper which has more consecutive figures commencing with the figure 1 in the squares than the number of candidates required to be elected shall not be rejected for that reason alone :

(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 rule contained shall be deemed to affect the jurisdiction of the Supreme Court or a judge thereof with respect to elections.

43. 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 number in words as well as figures of the votes received for each candidate so counted as aforesaid and the number of informal ballot-papers ; and

Presiding officer to examine and count votes at his polling-place and then seal and forward ballot-papers to returning officer.

- (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 such parcels and permit the same to be sealed by the scrutineers present if they so desire ; and
- (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.

Returning officer to examine and count votes at his polling-place and then seal up the same.

44. 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 the number of informal ballot-papers ; 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 open sealed parcels transmitted by presiding officers and count the votes, after which each parcel to be resealed.

45. 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

1936.

Local Government Act.

- (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 hereinbefore 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.

46. 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 :—

- (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.

Prohibition
of
canvassing
&c., near
polling-
booth.

Any person who contravenes this section shall be liable to a penalty not exceeding twenty pounds.

47. 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 at
polling-
booth.

Any person who contravenes this section shall be liable to a penalty not exceeding twenty pounds.

48. 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.

Election of
members in
division.

Postal
voting
in case of
sickness or
absence from
Area.

49. Any elector who, by reason of ill-health will be unable on polling-day to attend at a polling-place to vote or who believes that on polling day he will be absent from the Area or division, as the case may be, for which he is entitled to vote, may, at any time after the publication of the notice of election and before the day appointed for taking the poll, apply in writing to the returning officer to vote by postal ballot.

No such application by a voter who cannot write his or her own name shall be granted.

The application must be signed by the applicant with his or her own hand in the presence of and must be declared before and attested by the returning officer or any elector of the same Area for which the applicant is enrolled, or by a justice of the peace, each of whom is hereby authorised to take such declaration.

Application
for postal
ballot-paper
in case of
sickness or
absence from
Area.

50. The application shall be in the following form or to the like effect:—

To the Returning Officer, City [Town or Shire] of—

I [here state name in full, place of residence, and occupation], do hereby declare as follows, that is to say:—

- (i.) I am an Elector for the Area [or Division No. _____] of the City [Town or Shire] of _____, and am now entitled to vote.
- (ii.) I [here state the grounds on which the application is based], and therefore make this application to entitle me to vote by postal ballot.
- (iii.) I request the necessary postal ballot-paper be forwarded to me at the above address.

Elector.

Signed in my presence and declared before me at
this _____ day of _____, 19 _____.

Witness—

Elector of the same Area [or Justice of the Peace or Returning Officer.]

Candidates
or agent not
to witness
application.

51. No person who is a candidate at the election or the agent of such person shall be competent to witness any such application.

Penalty.

52. Any person who makes in any such application any statement which in any material particular is to his or her knowledge false, and any person who witnesses any such application containing any statement which in any material particular is to his or her knowledge false, or who, not being a competent witness, witnesses any application for a postal ballot-paper, shall be liable to a penalty not exceeding fifty pounds.

Duty of
returning
officer.

53. Upon receipt of an application and after the day of nomination the returning officer, if satisfied that the applicant is entitled to vote, shall forthwith transmit by post to such applicant a printed ballot-paper.

The envelopes containing the ballot-papers so posted by the returning officer shall be endorsed with the words "Postal Ballot-paper, City [Town or Shire] of _____."

The ballot-paper for each Area or division, as the case may be, shall contain the names in full in alphabetical order, of all the candidates nominated for such Area or division, respectively, and shall be initialled by the returning officer.

1936.

Local Government Act.

The returning officer shall keep a list of all applications for postal ballot-papers, and also of the names of all electors to whom such ballot-papers have been sent.

If there is time conveniently to do so, the returning officer shall, on all copies of rolls issued by him for use at the election, make a note against the name of every elector to whom a postal ballot-paper has been issued.

If there is not time conveniently to note the facts aforesaid on the rolls, the returning officer shall immediately advise all presiding officers of such issue in such manner as he thinks fit.

54. The form of the ballot-paper shall be similar to that prescribed in Subdivision III. of these rules. Form of ballot-paper.

55. Every ballot-paper so transmitted to a voter shall be accompanied by an unsealed envelope addressed to the returning officer at the place of nomination, and endorsed "Postal Ballot-paper, City [Town or Shire] of _____," and after voting, such ballot-paper shall be transmitted by post to the returning officer by the voter so as to reach the postmaster not later than six o'clock in the afternoon of the day appointed for the taking of the poll. Envelope addressed to returning officer to accompany ballot-paper.

56. At six o'clock in the afternoon on the day appointed for closing the poll, the returning officer shall demand the ballot-box from the postmaster, and if required to do so shall give to the postmaster a written receipt for the same, and shall forthwith convey the ballot-box to the place appointed as hereinbefore provided for examining the votes and ascertaining the result of the election. Removal of ballot-box.

57. Save as aforesaid, and save as they are inconsistent with the foregoing rules numbered forty-eight to fifty-six, all the provisions of Subdivision III. of these rules relating to voting by postal ballot shall, so far as they are applicable, apply to votes recorded in the manner directed by these rules for postal voting in case of sickness or absence from the Area or division, as the case may be. Application of Subdivision III. of Schedule III. of Local Authorities Acts.

SUBDIVISION III.—VOTING BY POSTAL BALLOT.

58. When in the case of a Shire a poll is directed to take place in the mode prescribed in this Subdivision of these rules, the following provisions shall have effect in lieu of the provisions hereinbefore prescribed relating to voting by ballot. Voting by postal ballot.

59. The returning officer shall forthwith after the day of nomination transmit by post to every voter entitled to vote at the election a printed ballot-paper, and shall also on the voters' roll in force make a mark against the name of every voter to whom he has posted a ballot-paper. Such roll is hereinafter referred to as the "marked Voters' Roll." Ballot-paper sent by returning officer to every voter.

The envelopes containing the ballot-papers so posted by the returning officer shall be endorsed with the words "Ballot-paper, Shire of _____"

Every ballot-paper shall contain the names in full in alphabetical order, of all the candidates for the Shire or division, as the case may be, and shall be initialled by the returning officer.

The ballot-paper shall be so printed and prepared that the voter may effectually conceal the name of the person for whom he has voted.

1936.

*Local Government Act.*THIRD
SCHEDULE.

60. Every ballot-paper so transmitted to a voter shall be accompanied by an unsealed envelope addressed to the returning officer at the place of nomination and endorsed, "Ballot-paper, Shire of _____"

Envelope
addressed to
returning
officer.

61. In printing ballot-papers, regard shall be had to the following rules, that is to say:—

Mode of
printing
ballot-
papers.

- (i.) The paper used for ballot-papers shall be of such thickness as when folded will conceal the names of the candidates and the manner in which a voter has voted ;
- (ii.) The surname and the first letter of each christian name of every candidate shall be printed in plain capital letters of not smaller than pica type ;
- (iii.) The name of one candidate only shall be printed in one line ;
- (iv.) On each side of every such line there shall be a blank space of not less than one-quarter of an inch ;
- (v.) Reasonable space shall be left for the signature of the voter, and of the witness to the voter's declaration, and for the statement of the witness that he is an elector of the same Shire, a justice of the peace, or returning officer, as the case may require ;
- (vi.) If two candidates have the same surname and christian name, the residence and occupation of each such candidate shall be added to his name.

62. Before posting the ballot-papers the returning officer shall cause the form of declaration on each ballot-paper to be filled in with—

Papers to be
filled up.

- (i.) The name of the Shire or division, as the case may be ;
- (ii.) The christian name and surname in full, when known, of the voter ;
- (iii.) The place of residence of the voter ;
- (iv.) The place of nomination ;
- (v.) The number of members to be elected ; and
- (vi.) The date on which the poll will close.

63. If a candidate desires to retire from his candidature he may, before the ballot-papers are posted, sign and deliver to the returning officer, or to the clerk, who shall forthwith deliver it to the returning officer, a notice in the following form, or to the like effect:—

Candidate
may retire.

I (A.B.) do hereby retire from being a Candidate for Election to the ensuing Election of ^{Chairman} Members [as the case may be] for the Shire (or division) of the Shire] of

Dated this _____ day of _____, 19 _____.

(Signed) A.B.

Witness : C.D.

The returning officer, on receipt of such notice, shall make known as publicly as possible, by advertisement in some newspaper or otherwise, the fact of the candidate's retirement, and, if the number

of candidates is by his retirement reduced to the number of persons to be elected at the election, shall, as soon as conveniently may be, declare the remaining candidate or candidates to be duly elected, and, if the number is not so reduced, shall omit or erase the name of the candidate so retiring from the ballot-papers.

Ballot-box
at nearest
post office.

64. After posting the ballot-papers, the returning officer shall provide a locked ballot-box with a cleft or opening therein capable of receiving the ballot-papers, and he shall forthwith place such ballot-box in charge of the postmaster at the post office nearest to the place of nomination, but shall himself retain the key thereof.

Ballot-paper
posted to
returning
officer.

65. (1.) The voter shall mark the ballot-paper in the mode prescribed by rule thirty-nine, and fold up and gum together the parts thereof as indicated thereon, and shall then sign such paper in the presence of some other elector of the same Shire, or a justice, or the returning officer. He shall then place the ballot-paper in an envelope addressed to the returning officer at the place of nomination, and endorsed "Ballot-paper, Shire of _____," and shall close the envelope and transmit the same by post.

Returning
officer may
assist voter.

(2.) The returning officer may, at the request of a voter, mark the ballot-paper for him, but the returning officer shall not personally receive any vote except through the post, as hereinbefore provided.

Marksman.

(3.) The signature or mark of a voter who cannot write, or who cannot write the characters of the English language, must be attested by a justice or the returning officer.

(4.) No person who cannot write, or who cannot write the characters of the English language, shall be competent to attest the signature of a voter.

Candidate
or his agent
not to attest
signatures.

(5.) No candidate or the agent of a candidate at the election or postmaster or receiving officer of the post office shall attest the signature of a voter to a ballot-paper for use in the election; every such person who so witnesses a signature shall be liable to a penalty not exceeding fifty pounds, but the vote shall not be thereby invalidated.

Candidate
or his agent
not to collect
ballot-
papers.

(6.) No candidate or agent of a candidate shall receive or take any ballot-paper or envelope containing a ballot-paper from a voter.

Penalty.

Any such person who so takes or receives a ballot-paper or envelope containing a ballot-paper from a voter shall be liable to a penalty not exceeding fifty pounds, and the election of a candidate who or whose agent so takes or receives a ballot-paper or envelope containing a ballot-paper shall be void.

Duplicate
ballot-paper
in certain
cases.

(7.) At any time before three o'clock in the afternoon of the day next preceding the day appointed for closing the poll the returning officer may issue a second or duplicate ballot-paper to any voter whose original ballot-paper has miscarried or has been destroyed:

Provided that the voter shall first make a declaration before a justice or the returning officer that he has not received the original ballot-paper, or that it has been destroyed, and that he has not already voted at the election.

1936.

*Local Government Act.*THIRD
SCHEDULE.

(8.) The postmaster shall deposit in the ballot-box referred to in rule sixty-four of these rules every post letter addressed to the returning officer and endorsed "Ballot-paper, Shire of _____" which is received through the post at his office between the day of nomination and one o'clock in the afternoon of the day appointed for closing the poll. Duty of postmaster.

All envelopes containing ballot-papers which have been irregularly posted and which the returning officer has on that account refused to accept, and all envelopes containing ballot-papers which have been posted or received through the post after the hour of one o'clock aforesaid, shall be endorsed to that effect by the postmaster, and be forthwith sent by him to the Dead Letter Department of the Post Office, where they shall be opened and returned to the senders.

66. For the purposes of every election, the returning officer shall appoint a place at which the votes shall be examined and the result of the election ascertained. No house or place licensed or registered for the sale of fermented or spirituous liquors shall be appointed as the place for such examination and ascertainment. Place for examination of votes.

67. At one o'clock in the afternoon on the day appointed for closing the poll, the returning officer shall demand the ballot-box from the postmaster and, if required to do so, shall give to the postmaster a written receipt for the same, and shall forthwith convey the ballot-box to the place appointed as hereinbefore provided for examining the votes and ascertaining the result of the election. Removal of ballot-box.

68. The returning officer shall, then and there, in the presence of his poll clerk, if any, and of such of the scrutineers as may attend but not of any candidate— Scrutiny of votes and declaration.

- (i.) Examine and count the number of votes received for each candidate, observing with respect to each ballot-paper the following directions:—He shall first mark off the voters' name upon the marked voters' roll. He shall then examine the declaration and attestation attached to the ballot-paper, and if they are regular shall mark the part containing the same and also the other part of the ballot-paper with the same number, beginning with the number 1 for the first vote dealt with, 2 for the next, and so on, in regular numerical order for all the votes allowed by him. He shall then separate the declaration and attestation from the other part of the ballot-paper, and deposit such declaration and attestation in a receptacle provided for the purpose, and also forthwith deposit the other part in a locked ballot-box. If the declaration and attestation are not regular, he shall reject the ballot-paper without separating it into parts or marking any numbers thereon. When all the ballot-papers have been dealt with in manner aforesaid he shall open such ballot-box, and shall open out the parts of the ballot-papers deposited therein by tearing off the perforated gummed edges, and then proceed to examine and count the number of votes received for each candidate ;

- (ii.) Make out a written statement, signed by himself and countersigned by the poll clerk, if any, and by 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.

At the time of opening the ballot-box the returning officer shall produce for the information of the scrutineers the marked voters' roll.

The number marked by the returning officer upon a ballot-paper, and being identical with the number marked by him on the attestation and declaration, shall at a scrutiny be conclusive evidence of the vote of the person making such declaration.

Informal
and
imperfect
votes.

69. (1.) At the examination of the ballot-papers every ballot-paper which—

- (i.) Does not bear the initials of the returning officer ; or
- (ii.) Is not signed by the voter and attested in the manner prescribed by this Act ; or
- (iii.) Is manifestly irregular ; or
- (iv.) Is signed by any person other than a qualified voter ; or
- (v.) Has no vote indicated on it, or has fewer consecutive figures commencing with the figure 1 in the squares than the number of candidates to be elected ; or
- (vi.) Is so imperfectly executed that the intention of the voter cannot with certainty be ascertained,

shall be rejected :

Provided that in any case where there is only one candidate required to be elected, any ballot-paper which has a cross only in the square opposite the name of any one candidate and has no figure 1 in any square or no mark or writing thereon as hereinbefore provided shall not be rejected :

Provided further, that any ballot-paper which has more consecutive figures commencing with the figure 1 in the squares than the number of candidates required to be elected shall not be rejected for that reason alone :

Ballot-
paper when
not to be
rejected.

(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.

(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.

Elections
divisions.

70. In a divided Shire, the foregoing provisions of these rules relating to voting by postal-ballot shall be read as applying to elections of members to be held for each division instead of for the Shire at large.

1936.

Local Government Act.

THIRD
SCHEDULE.

SUBDIVISION IV.—RULES FOR SECURING ABSOLUTE MAJORITY OF VOTES.

71. The provisions of the rules of this Subdivision IV. shall only apply in respect of the election for the office of chairman of an Area.

Application of rules of this Subdivision IV.

72. In the succeeding rules the term “absolute majority of votes” means a number of votes greater than one-half of the number of all the electors who vote at an election, exclusive of electors whose ballot-papers are rejected, but the casting vote of the returning officer, when, given, shall be included in reckoning an absolute majority of votes.

Meaning of absolute majority of votes.

73. When a poll is taken at an election a candidate for election as chairman shall not, except as hereinafter provided, be elected as chairman unless he receives an absolute majority of votes.

Members must obtain absolute majority of votes polled.

74. In any case where there are more than two candidates for the election of chairman, an elector may, if he thinks fit, indicate on his ballot-paper in respect of such election for chairman the name or names of any candidate or candidates for whom he does not vote in the first instance, but for whom he desires his vote or votes to be counted in the event of any candidate for whom he votes in the first instance not receiving an absolute majority of votes; and, if he indicates more than one such candidate, may indicate the order in which he desires that his vote or votes shall be counted for any such candidate or candidates.

Electors may give contingent votes.

Such indication shall be made by writing the figures 2, 3, or any subsequent number opposite to the name or names of the candidate or candidates for whom he does not vote in the first instance, but for whom he desires his vote to be so counted, and the order indicated by such numbers shall be taken to be the order in which he desires his vote to be so counted :

Provided always, that no mere irregularity or error in writing such figures shall invalidate the vote or votes given by an elector in favour of any candidate or candidates in the first instance if the ballot-paper of such elector is otherwise in order.

75. If in respect of the election of chairman of an Area there is no candidate who receives an absolute majority of votes, all the candidates except those two who receive the greatest number of votes shall be deemed defeated candidates.

Counting of votes for election of mayor or chairman.

The vote of every elector who has voted for a defeated candidate shall be counted for that one, if any, of the remaining two candidates for whom he has indicated in the manner aforesaid that he desires his vote to be counted.

The vote so counted for such remaining candidates shall be added to the votes originally given for them, and the candidate who receive the greatest number of votes, including the votes so counted, if any, shall be elected.

THIRD
SCHEDULE.

Local Bodies' Loans Guarantee, Etc., Act. 1 EDW. VIII. No. 28,

Casting
vote.

76. Where two or more candidates, neither of whom is elected, receives an equal number of votes in the first instance, for the purpose of determining who shall be deemed the defeated candidate or candidates; the returning officer shall decide by his casting vote which of them has or have the greatest number of votes.

Ballot-paper
not to be
rejected for
certain
informalities.

77. If an elector makes a cross opposite to the name of a candidate for whom he votes in the first instance the ballot-paper shall not be rejected for that reason only.

LOCAL BODIES' LOANS.

1 EDW. VIII.
No. 28.
THE LOCAL
BODIES'
LOANS
GUARANTEE
ACT AND
AUDIT ACTS
AMENDMENT
ACT OF 1936.

An Act to Amend "The Local Bodies' Loans Guarantee Act of 1923" and Other Acts in certain particulars.

[ASSENTED TO 11TH DECEMBER, 1936.]

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:—

PART I.—
PRELIMINARY.

PART I.—PRELIMINARY.

Short title
and
construction
of Act.

1. This Act may be cited as "*The Local Bodies' Loans Guarantee Act and Audit Acts Amendment Act of 1936.*"

Parts of Act.

2. This Act shall be divided into Parts, as follows:—

PART I.—PRELIMINARY;

PART II.—AMENDMENTS OF *"THE LOCAL BODIES' LOANS GUARANTEE ACT OF 1923";

PART III.—AMENDMENT OF THE AUDIT ACTS.

* 14 Geo. V. No. 8, *supra*, page 10693.