

THE ROADS ACT, 1911

(No. 29 of 1911.)

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WESTERN AUSTRALIA.



ANNO PRIMO

GEORGII QUINTI REGIS,

XL.

No. 29 of 1911.

AN ACT to consolidate and amend the Law
relating to Road Boards.

[Assented to 16th February, 1911.]

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

PART I.—PRELIMINARY.

1. This Act may be cited as the *Roads Act*, 1911. Short title.
2. This Act shall come into operation on the first day of July, Commencement.
one thousand nine hundred and eleven.
3. This Act is divided into Parts, as follows:— Division of Act.
 - PART I.—PRELIMINARY, ss. 1-7.
 - PART II.—ROAD DISTRICTS, ss. 8-12.
 - PART III.—ROAD BOARDS, ss. 13-115.
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 - PART V.—POWERS AND DUTIES OF BOARDS, ss. 137-191.
 - PART VI.—REVENUE, ss. 192-254.
 - PART VII.—BORROWING AND SPECIAL POWERS, ss. 255-286.
 - PART VIII.—ACCOUNTS AND AUDITS, ss. 287-308.
 - PART IX.—OFFENCES AND MISCELLANEOUS, ss. 309-337.

Repeal: First
Schedule.
1902, No. 48, s. 3.

4. (1.) The Acts mentioned in the First Schedule are hereby repealed to the extent therein mentioned.

But such repeal shall not affect any right, privilege, obligation, or liability acquired, accrued, or incurred under any such Act, or any act, deed, matter, or thing lawfully done thereunder.

And notwithstanding such repeal:

All by-laws in force within any district at the commencement of this Act, and lawfully made under any repealed Act, shall continue in force until repealed in the manner provided by this Act.

All rates and other moneys which, under any repealed Act, are due or payable to or leviable by the Board of any district shall be and continue to be so due, payable, and leviable, and shall be paid to and may be received and recovered by the Board under the provisions of this Act.

All rights and liabilities in respect of rates due at the commencement of this Act shall remain the same as if this Act had not passed.

All penalties imposed under any repealed Act may be enforced as if this Act had not passed.

All books and documents made evidence shall continue evidence to the same extent as if this Act had not passed.

All works and undertakings authorised to be executed and all engagements existing at the commencement of this Act shall be carried out under this Act.

All lists of ratepayers and electoral lists in force at the commencement of this Act shall be deemed to have been made under this Act, and this Act shall apply to the same accordingly.

Save so far as there is anything in this Act inconsistent therewith, this Act shall apply to all matters and things made, done, or commenced under any repealed Act, as if this Act had been in force at the time they were made, done, or commenced, and they were made, done, or commenced thereunder.

(2.) In every unrepealed Act in which reference is made to the District Roads Act, 1871, or any other repealed Act providing for the constitution of road districts such reference shall be construed as having been intended to extend to the enactment for the time being in force providing for the constitution of road districts.

Interpretation.

See 1902, No. 48, s. 4. 5. In this Act, unless the context otherwise requires, the following terms shall have the meanings stated:—

“Board” means the Road Board of a district;

“Chairman” includes the member acting as chairman for the time being;

- “Cycle” means and includes a bicycle, tricycle, or other velocipede, or motor cycle.
- “District” means a road district constituted or deemed to be constituted under this Act;
- “Engine” means any steam lorry, traction, or other engine, or machine on its own wheels, and includes a street roller whether driven by steam or horse power.
- “Government Road” means a road declared to be a Government road under the provisions of the Public Works Act, 1902;
- “Improvements” includes houses and buildings of every kind, railways, tramways, fencing, planting, excavations for holding water, wells, dams, draining, ringbarking, clearing from timber, scrub, or noxious weeds, or any other improvements whatsoever the benefit of which is unexhausted at the time of valuation : But for the purposes of valuation does not include machinery whether affixed to the soil or not.
- “Land” includes all reclaimed land, and all messuages, tenements and hereditaments, houses, buildings, and other structures or property erected on land, or thereunder, but for the purposes of land valuation does not include any machinery, whether affixed to the soil or not.
- “Local authority” means the council of a municipality or the board of a road district.
- “Magistrate” means a Resident Magistrate, or Police Magistrate, or any two Justices of the Peace in the absence of a Magistrate.
- “Member” means a member of a Board, and includes the chairman;
- “Minister” means the responsible Minister of the Crown for the time being administering this Act ;
- “Month” means calendar month;
- “Motor Car” means and includes any motor car, automobile, motor carriage, or other carriage or vehicle propelled either partly or wholly by any volatile spirit or electricity, or by any means other than animal power.
- “Naturalised subject” means a subject of the King naturalised under the law of the United Kingdom, or of a Colony which has become a State of the Commonwealth, or of the Commonwealth or of a State;
- “Occupier” means the person by whom or on whose behalf any land is actually occupied, and if there is no occupier the person entitled to possession, and includes any person in the unauthorised occupation of any Crown land, and any person who, under a license or concession

relating to any specific land belonging to the Crown, has the right of taking any profit of the land ;

“Outlying land” means any land not included in a road district or municipal district.

“Owner” as applied to land means—

(1.) Any person who is in possession or entitled to possession of the land, or in receipt or entitled to the receipt of rents and profits of the land, as—

(a.) The holder of a legal or equitable estate or freehold in possession therein ; or

(b.) The holder of an estate less than freehold under a lease or agreement granted or made by or with the Crown ; or

(c.) A mortgagee of the land ; or

(d.) The trustee, attorney, or authorised agent of any such holder or mortgagee ; or

(2.) Any person who—

(a.) Is in the unauthorised occupation of any Crown Land ; or

(b.) Under a license or concession relating to any specific Crown Land has the right of taking any profit of the land ; or

(c.) Is in the actual occupation (with or without title) of the surface or any portion of the surface of a mining tenement within the meaning of the Mining Act, 1904.

“Person” includes a corporation, sole or aggregate;

“Prescribed” means prescribed by this Act or any regulation or by-law made under its authority;

“Property” includes all real and personal property, and all estates, interests, easements, and rights, whether legal or equitable, in, to, or out of property, real or personal, including things in action;

“Public drain” means any drain, sewer, water channel or water table vested in or under the control of the Board, or which the Board has improved, maintained, or exercised control over; but does not include any drain, sewer, water channel or water table under the control of a Drainage Board or a Government Department.

“Public highway” includes any inland lake, whether natural or artificial, and any navigable water vested in the Board on which boats are used to ply for hire;

“Public notice” means notice by advertisement in the “Government Gazette,” but the Board may give notice of any matter or thing by such additional means as to the Board may seem fit;

- “Public place” means and includes every road within the meaning of this Act, and every place under the control of the Board which the public are allowed to use or resort to;
- “Public reserve” includes park lands, squares, reserves, foreshores, and other lands included in or adjoining any road district, and set apart for the use and enjoyment of the inhabitants of such road district, and vested in or under the care, control, or management of the Board.
- “Ratepayer” means the owner or occupier of rateable land within the district;
- “Returning Officer” includes deputy returning officer;
- “Road” means any land notified in the “Government Gazette” as a road, or as a main or minor road, and includes any road declared or notified as such under any repealed Act; and any public highway, whether carriage way, bridle path, track, cycle track, or footpath; and all bridges, culverts, drains, ferries, jetties, fords, gates, buildings, and other things appertaining thereto; and any part of a road; but does not include Government roads;
- “Suburban land” means land set apart as such by the Governor under the provisions of the Land Act, 1898, or any Land Regulation in force prior to that Act;
- “Town or Townsite” means any land constituted, defined, or reserved as the site of a town or village under the Land Act, 1898, or any amendment thereof or under any Land Regulations in force at any time prior to that Act, and also any land which has been a municipal district or portion thereof and also any land subdivided and laid out as the site for a town, township, or village in accordance with a subdivisional plan, registered in the Office of Titles or the Department of Lands;
- “Vehicle” means any carriage, cart, dray, lorry, van, omnibus, trap, hand-cart, or other conveyance whatsoever, with or without springs.
- “Writing,” or any term of like import, includes words printed, painted, engraved, lithographed, copied, or traced, and where anything is required to be written it may be partly in writing and partly in print.

6. When any day appointed by this Act for any purpose happens in any year on a Sunday, or public holiday either throughout the State or in the district, then such appointment shall take effect as for the next following week day which is not a public holiday.

Sundays and
holidays.
1902, No. 48, s. 5.

Misnomer in Act.
Order in Council,
etc., not to prejudice.
1906, No. 32, s. 8.

7. No misnomer or inaccurate description contained in this Act, or in any Order in Council, by-law, regulation, or notice made, published, or served thereunder, shall in anywise prevent or abridge the operation of this Act with respect to the subject of such description, provided the same is designated so as to be understood.

PART II.—ROAD DISTRICTS.

The Governor may
constitute, unite,
divide, or abolish
districts.
See 1902, No. 48,
s. 6.

8. (1.) The Governor may, by Order in Council,—

- (a.) Constitute any portion of Western Australia which is not included in a municipal district, a road district, with such boundaries and by such name as are specified in such order;
- (b.) Unite two or more districts into one district;
- (c.) Divide a district into two or more districts ;
- (d.) Divide or redivide a district into wards, and define the boundaries of and assign names to wards;
- (e.) Alter the boundaries of any district or ward by transferring any portion thereof to another district or ward ;
- (f.) Include in any district or ward outlying land;
- (g.) Abolish a district, and dissolve the Board thereof;
- (h.) Abolish all or any of the wards of a district;
- (i.) Alter the name of any district or ward.

(2.) Before any power conferred by this section is exercised, the Minister shall publish in four successive issues of the "Government Gazette," and cause to be served on the Boards concerned, notice of the intention of the Governor to exercise such power.

If within one month, or such extended time as the Governor directs, after such publication no sufficient cause is shown to the satisfaction of the Governor why the power proposed to be exercised should not be exercised, the Governor may exercise the power.

See 1909, No. 52,
s. 7.

(3.) If for two consecutive financial years the revenue derived from the general rates of any Board, not exempted under section two-hundred and twenty-three, is, in each year, less than one hundred and fifty pounds the Governor may abolish the district and include the area thereof in some other district.

Effect of abolition
of districts.
See 1906, No. 32,
s. 17.

9. (1.) When—

- (a.) a road district is abolished and the Board thereof is dissolved, and the area of such district is included in another district; or
- (b.) two or more road districts are abolished and the Boards thereof are dissolved, and such districts are constituted one district,

the property and assets and the liabilities of the road district or districts so abolished shall become vested in and be liabilities of the existing or newly constituted district in which any road district so abolished has been included :

Provided that if the abolition of a district and its inclusion in another district, or in a new district, are not provided for by the same Order in Council, the Minister may, after such abolition and until such inclusion, in his name as such Minister collect, get in, sue for and recover, and sell, convey, transfer, and assign the assets of the abolished district, and apply the moneys realised by such collection, getting in, and sale (after payment thereof of expenses) in or towards the discharge of the liabilities of the abolished district.

(2.) Whenever on the exercise by the Governor of any other power conferred by section eight it may be necessary so to do, the Governor shall apportion the assets and liabilities of the respective districts between them, and adjust and finally determine all rights, liabilities, and questions arising therefrom.

Effect of division,
severance, etc.
See 1902, No. 48,
s. 8.

If any of the local authorities affected is indebted in respect of moneys advanced to it by way of loan, the Governor may declare and apportion the liabilities of the respective local authorities in respect of such loan, and may declare upon what portion of the district of any of the local authorities any part of such loan shall, as between the several portions of such district, be chargeable to the intent that any loan rate applicable thereto may be levied only on the rateable land within such portion.

(3.) On the exercise by the Governor of any of the powers conferred by section eight, all by-laws in force in any district or portion thereof abolished or severed, as the case may be, at the time of the abolition or severance shall remain in force in the portion of the district of the new local authority which comprises such area or portion thereof until they are repealed by the new local authority.

Effect as to By-Laws.

(4.) When a portion of a district becomes a new district or portion of another district then—

Effect as to valuation and rates.

(a.) The valuation (if any) last in force of the rateable land in the portion so affected shall continue to be in force until a fresh valuation thereof has been made by the local authority of the new district or the district in which such portion is included.

(b.) All rates (including interest thereon, if any) which have accrued due in respect of land situated within the portion so affected, and which remain unpaid at

the date of the alteration, shall be and remain due, payable, and leviable and may be paid to and received, levied, and recovered by the local authority of the district in which such portion was, before the alteration, included; but such authority shall retain only such part thereof as would (if such rates accrued due from day to day) have accrued due in respect of any period before the alteration, and the balance shall be paid over to the local authority of the other district, less five per centum, which the collecting authority may charge by way of commission.

(5.) In this section the word "district" for the purposes of this Act includes a municipal district.

Existing districts.
1902, No. 48, s. 7.

10. All districts existing at the commencement of this Act, under the provisions of the Acts hereby repealed, shall be and continue districts for the purposes of this Act, and, so far as is necessary, shall be deemed to have been constituted under this Act.

Townsites to be included in districts.
1902, No. 48, s. 9.

11. Where a townsite, not being a municipality, is surrounded by or adjoins any district, it shall be included in the district.

If such townsite adjoins more than one district, it shall be included in such district as may be determined by the Governor.

Powers in Municipal Corporations Act, 1906, may still be exercised.

12. Nothing in this Act shall prevent the Governor from exercising any power conferred on him by Part III. of the Municipal Corporations Act, 1906; but no district or any portion thereof shall be constituted, or transferred to, a municipal district unless the procedure set out in subsection two of section eight hereof shall have first been followed.

PART III.—ROAD BOARDS.

Division (1).—Constitution of Boards.

Boards.

See 1902, No. 48, s. 11.

13. (1.) In every district there shall be a Board, to be called the (*name of district*) Road Board, and consisting of not less than five or more than eleven members as the Governor from time to time declares by Order in Council.

(2.) If the district is divided into wards, the Governor shall from time to time determine the number of members for each ward.

(3.) The members of the Board shall be elected as herein-after provided.

Board to be a body corporate.
1902, No. 48, s. 14.

14. Every Board shall be a body corporate, with perpetual succession and a common seal, and may purchase or otherwise acquire and hold land for the purposes of this Act.

15. Except as hereinafter provided the chairman, members, and officers of every Board constituted under any Act hereby repealed shall continue in office as if this Act had been in force at the time when they were elected or appointed.

Existing Boards.
1902, No. 48, s. 12.

16. On a district being divided or re-divided into wards—

(a.) all the members of the Board shall go out of office on the day appointed by the Minister, but shall be eligible for re-election ; and

Constitution of
Board on division of
district into wards.
See 1902, No. 48,
s. 13.

(b.) the Minister may order, settle, adjust, and finally determine any rights, liabilities, questions, and matters which may arise in consequence of any district being so divided.

17. On the exercise by the Governor of any power conferred by section eight, and mentioned in paragraph (b), (c), (e), or (f) of subsection one thereof, or on a change being made in the number of members of a Board, the Governor may, by Order in Council, declare and direct whether a new election of members shall be held for the district or any ward thereof, and, if so, when such election shall be held, and whether any and which of the existing members shall go out of office, and at what time, and may order, settle, adjust, and finally determine any rights, liabilities, questions, and matters regarding the representation of electors on the Board and the constitution of the Board which he may deem necessary to be ordered, settled, adjusted or determined.

New election on
change of number
of members or
boundaries.

Provided that when any portion of a road district has been severed, the electors of that portion shall not thereafter be entitled as such to vote at any election in or for the district.

Division (2).—Qualification of Members.

18. (1.) Every adult male person, being a natural born or naturalised subject of the King, and having, as the owner or occupier of rateable land in the district, the qualification of an elector under this Act, and who is not under any of the disabilities hereinafter specified, shall be qualified to be elected and to act as a member of the Board of such district:

Qualification of
members.
See 1902, No. 48,
s. 15.

Provided that no person shall be qualified to be elected unless on the day of nomination all rates payable in respect of any land within the district, for the payment of which he is liable, have been paid.

(2.) When a district is divided into wards, it shall not be necessary that the qualification should arise in respect of land within the ward for which the member is elected.

Ibid., s. 16.

(3.) Where the owner of any rateable land is qualified to be elected as a member of the Board, the local manager or superintendent of such owner shall be qualified to be elected a member of the Board, if the owner does not reside on the land.

Disqualifications.
See 1902, No. 48,
s. 17.

19. Any person who—

- (1.) Has been convicted and is under sentence, or subject to be sentenced, for any offence punishable under any law in force in this State, by imprisonment for one year or longer; or
- (2.) Is an undischarged bankrupt; or
- (3.) Is of unsound mind; or
- (4.) Is the holder of any office of profit under the Board; or
- (5.) Has any direct or indirect pecuniary interest in any agreement with the Board otherwise than as a member, and in common with the other members, of an incorporated company consisting of at least twenty members;

shall be incapable of being elected or acting as a member of a Board.

Provided that subsection five shall not apply to any person because he—

- (a.) In the ordinary course of business and not pursuant to any written contract, *bona fide* sells goods to, or does work, for the Board; or
- (b.) Rents from the Board for entertainments or business purposes any building, hall, or room.
- (c.) Is the lessee from the Board of any land; or
- (d.) Is beneficially interested in any newspaper in which the board inserts advertisements.

But no member claiming exemption under this proviso shall take part in any discussion, or vote on any question, relating to any such matter as is therein mentioned in which he is directly or indirectly interested.

Supervening dis-
qualifications.

20. If a member of a Board—

- (1.) Ceases to be a subject of the King or to be otherwise qualified as provided in section eighteen; or
- (2.) Becomes subject to any of the disabilities mentioned in the last preceding section; or

- (3.) Accepts, whether by assignment, composition, or otherwise, any such relief as is afforded by law to bankrupt, insolvent, or embarrassed debtors;

his place shall thereupon become vacant, and such vacancy shall be deemed to be an extraordinary vacancy.

21. (1.) Every person who acts as a member of a Board, being disqualified under the provisions of this Act to be or continue such, save in the case of incapacity proceeding from unsoundness of mind, shall be guilty of an offence against this Act.

Penalty for acting when disqualified.
1906, No. 32, s. 42.

(2.) All acts and proceedings of any person elected and acting as a member, notwithstanding that any such person has not been or is not duly qualified, shall be as valid and effectual as if such person had been duly qualified.

Division (3) — Retirement and Vacancies.

22. On the second Wednesday in April in every year, a certain number of members shall go out of office by rotation, and such number shall, subject as hereinafter provided, be determined as follows:—

Annual retirement of members.
See 1902, No. 48, s. 18.

(a.) If the number of members is a multiple of three, one-third of the members shall go out of office.

(b.) If the number of members is not a multiple of three, the member to go out of office shall, subject as hereinafter provided, be determined by the Board, so that no member shall continue in office for more than three years, and that, as nearly as may be, one third of the number of members shall retire in each year.

(c.) The members for a district or ward to go out of office shall (except as hereinafter provided) be the members who have been longest in office without re-election.

(d.) As between two or more members for a district or ward who have been in office an equal time without re-election, the member who at his election received the least number of votes shall go out of office. If they received the same number of votes, or there was no ballot, it shall be decided by lot which of them shall go out of office.

(e.) The respective numbers of the retirements for the wards (if any) shall be proportioned to the respective numbers of members for such wards, or such retirements shall be divided amongst such wards in accordance with the determination of the Board in, as nearly as may be, such proportions.

(f.) If a Board does not, before the twenty-third day of March, make any determination which it is hereby empowered to make, then the Minister may make such determination.

Retirement in case
of new districts.
1902, No. 48, s. 19.

23. If the first election for a new district or the election following any vacation of office by the members of a board as a whole is held after the thirtieth day of September in any year, no member shall be required to go out of office until the second Wednesday in April in the second year ensuing.

Extraordinary
vacancies.
See 1902, No. 48,
s. 22.

24. (1.) The office of any member shall become vacant, and such vacancy shall be deemed to be an extraordinary vacancy within the meaning of this Act, if such member—

- (a.) dies; or
- (b.) by notice under his hand delivered to the chairman or secretary of the Board resigns his office; or
- (c.) is declared ousted of such office by the Supreme Court or a Judge thereof whether or not he was entitled to have been declared by the returning officer to be elected; or
- (d.) is absent from three or more consecutive ordinary meetings of the Board without leave obtained from the Board in that behalf.

(2.) The non-attendance of a member at the time and place appointed for any ordinary meeting of the Board shall not be deemed absence from an ordinary meeting of the Board within the meaning of this section—

- (a.) unless a meeting of the Board at which a quorum is present is actually held on that day; or
- (b.) while any proceeding in connection with the ouster from office of such member is pending in the Supreme Court, or such member's return is the subject of a pending proceeding under section ninety-one.

Retiring member
eligible for re-
election.
1902, No. 48, s. 21.

25. Every member who retires or vacates his seat by rotation, resignation, or otherwise howsoever shall, if otherwise qualified, be eligible for re-election.

Division (4).—Appointment of Commissioner where no Board.

Power to appoint
Commissioner where
there is no board or
quorum.
See Viet., 1903,
No. 1893, s. 13.

26. (1.) In case at any time there is in any district no Board or not sufficient members to form a quorum, and a duly constituted returning officer has given notice of an election of members either for the whole district or (in case the district is subdivided) for every ward for which there is not the proper number of members in manner provided by this Act, and a sufficient number of members has not been elected at such election together with the members (if any) already in office to form a quorum of the Board, in every such case the Governor may, by Order in Council, appoint some fit and proper person to be commissioner of such district, and may remove every person so appointed.

(2.) Every such commissioner shall be paid such salary out of the ordinary income of the district as the Governor may determine.

(3.) Every commissioner so appointed shall be deemed the Board and shall have and exercise all the powers and be subject to all the duties of the Board and the chairman thereof.

27. If when a commissioner is appointed for any district any members are in office in such district, they shall thereupon go out of office.

On appointment of commissioner remaining members go out of office.

Vict., 1903, No. 1893, s. 14.

28. When a commissioner has been appointed for any district the Governor may, at any time he thinks fit, by Order in Council, appoint a day for holding an election of members for such district at which the whole number of members assigned to the district shall be returned, and thereupon all the powers and duties of the commissioner shall cease.

Power after appointment of commissioner to restore government of district to a board. See 1903, No. 1893, s. 15.

Division (5).—Qualification of Electors.

29. (1.) Every adult person, being a natural born or naturalised subject of the King, and being on the thirteenth day of January in any year the owner or occupier of land liable to be rated within the district, shall be qualified as an elector, and, when registered on an electoral roll, to vote at elections of members for the district, but subject to the provisions hereinafter contained.

Electors.

See 1902, No. 48, s. 25.

Provided that the owner and occupier shall not be separately registered as electors in respect of the same rateable land :

Provided also that the occupier shall not be entitled to be registered as an elector unless, under the provisions hereinafter contained, he applies to the Board to have his name inserted in the electoral list, but if such application is made and sustained the occupier shall be registered in lieu of the owner.

(2.) When a district is divided into wards, every person entitled to vote—

Wards.

See *Ibid.*

(a.) shall be so entitled for such ward only in which the qualifying land of such person is situated; and

(b.) shall be so entitled for every ward wherein any qualifying land of such person is situated.

Provided that where any person is the owner or occupier of land held as one holding and situated partly in one ward and partly in another ward, the whole of the land shall be deemed to be situated within one of such wards according to the choice of such person to be made at or before the holding of the Revision Court, and if no choice is made as the Court may determine.

(3.) Every person entitled to vote shall at every election have a number of votes proportionate to the annual rateable value

Number of votes.

No. 24 of 1904, s. 4.

or the unimproved capital value (according to the system of rating adopted by the Board) of the land owned or occupied by such person within the district or ward, according to the following scale:—

ANNUAL VALUE.			NUMBER OF VOTES.
Not exceeding ten pounds	...	...	One
Exceeding ten pounds and not exceeding twenty-five pounds	...	...	Two
Exceeding twenty-five pounds and not exceeding fifty pounds	...	...	Three
Exceeding fifty pounds	...	...	Four
UNIMPROVED CAPITAL VALUE.			NUMBER OF VOTES.
Not exceeding one hundred and fifty pounds			One
Exceeding one hundred and fifty pounds and not exceeding three hundred pounds	...	...	Two
Exceeding three hundred pounds and not exceeding six hundred pounds	...	...	Three
Exceeding six hundred pounds	...	...	Four

Voting of rate-
payers of muni-
cipality or part
thereof transferred
to Road Board.

(4.) Where a municipal or road district or portion of a municipal or road district shall have become transferred to a road district after the thirteenth day of January in any year, then every person who on that day was the owner or occupier of rateable land within the transferred area shall, for the purposes of this division, be deemed to have been such owner or occupier within the last-mentioned road district, and the Board shall, on demand by any person interested, amend the electoral roll or list for the year by the inclusion of such names and particulars therein as might have been included therein if the transfer had taken place before the thirteenth day of January.

Joint owners or
occupiers.
1902, No. 48, s. 26.

30. (1.) When more persons than one are jointly owners or occupiers of rateable land, each of such persons not exceeding two shall, for the purpose of the last preceding section, be deemed to be an owner or occupier of land of the rateable value of one-half the rateable value of the whole land.

(2.) Such persons, if more than two, may, by writing under their hands delivered on or before the thirty-first day of January in any year to the secretary to the Board appoint two of their number to be registered in respect of such land; and if no persons are so appointed, those whose names come first in alphabetical order shall be registered.

Power to corpora-
tions to nominate a
person to be placed
on the roll.
See 1902, No. 48,
s. 27.

31. (1.) When a corporation or joint stock company is the owner or occupier of rateable land, such corporation or joint stock company may, by letter delivered on or before the thirteenth day

of January in any year to the secretary to the Board, appoint a person to be registered in the place of such corporation or joint stock company; and such person may vote on behalf of the corporation or joint stock company.

(2.) In default of any such appointment being made, the manager, secretary, superintendent, or attorney of any corporation or joint stock company may be registered.

32. The manager for the owner of any rateable land, in case such owner is qualified as an elector, may, on the written application of the owner, be registered on the electoral roll, and vote in place of the owner of the land, if the owner does not reside on the land.

Manager may be registered.
1902, No. 48, s. 28.

33. At any election in a new district for which no electoral roll is in force, any person qualified to have his name placed upon the electoral list shall be entitled to vote, and each such person shall have one vote.

New districts.
1902, No. 48, s. 29.

Division (6.)—Electoral Rolls.

34. (1.) On or before the fourteenth day of January in every year, the Board shall make out, in the prescribed form, a list of all persons appearing to be entitled to vote at an election of members of the Board.

Preparation of lists.
See 1902, No. 48, s. 30.

(2.) When a district is divided into wards a separate list shall be made out for each ward.

(3.) Every list shall be arranged in alphabetical order of surnames, shall contain the several particulars indicated in the prescribed form, and shall be signed by the chairman; and a copy shall, on the said day and on the seven days next following, be exhibited on the outer door of the office of the Board or in some other public place in the district.

Provided that any occupier, not being the owner of any rateable land, may lodge at the office of the Board a claim to have his name inserted on the said list in lieu of the name of the owner of the rateable land occupied by him; provided that where the land is held by joint occupiers the provisions of section thirty shall apply. Any application made under this proviso shall be in the prescribed form, and shall be delivered on or before the fourteenth day of February in any year, and may be sent through the post or by telegraph.

35. Any person—

(a.) Whose name has been omitted from a list; or

(b.) Who is dissatisfied with the rateable value put upon the land of which he is the owner or occupier,

may apply to the Board to have his name inserted, or to have the rateable value altered, as the case may be.

Claims.
See 1902, No. 48, s. 31.

Such application shall be in the prescribed form, and shall be delivered on or before the fourteenth day of February in any year, and may be sent through the post or by telegraph.

Objections.

See 1902, No. 48,
s. 32.

36. Any person whose name appears on any electoral list may object to any person as not being entitled to have his name retained on the list, or to the rateable value of land placed against the name of any person.

Every such objection shall be made to the Board, and to the person objected to, in the prescribed form, and shall be delivered on or before the fourteenth day of February in any year, and may be sent through the post or by telegraph.

Lists to be published of claims and objections.

See 1902, No. 48,
s. 33.

37. The Board shall cause lists to be made of the names and addresses of the persons claiming to have their names inserted on the electoral list, or to have the amount of the rateable value set against their names altered, and the particulars of such claims; and also of the persons whose names, or the rateable value of whose lands have been objected to; and shall cause such lists, with appropriate headings stating the contents thereof, to be exhibited on the outer side of the outer door of the office of the Board, or in some other public place in the district, on or before the twenty-first day of February in each year.

Board to hold Court for revision of list.

See 1902, No. 48,
s. 34.

38. (1.) The Board shall hold an open Court for the revision of the electoral list on such day between the first and seventh day of March, both inclusive, in each year as may be appointed by the Board.

(2.) The Court may be held at the office of the Board, or, if the Board thinks fit, at any other place within the district.

Notice to be given.

See 1902, No. 48,
s. 35.

39. Seven days' notice of the holding of such Court shall be given by exhibiting such notice on the outer door of the office of the Board, or in some public place in the district, and so far as practicable by advertisement in a newspaper usually circulating in the district.

Constitution of Court.

1902, No. 48, s. 36.

40. (1.) The Court shall consist of three or more members of the Board.

(2.) The chairman, if present, shall preside, but in his absence the members present may appoint one of their number to be chairman.

Court may be adjourned.

1902, No. 48, s. 37.

41. Every Court may from time to time be adjourned; and if at any time, for half an hour after the time appointed for holding any Court, three members of the Board are not present, any one member, or if no member is present, the secretary, may adjourn the Court.

Powers of the Court

1902, No. 48, s. 38.

42. The Court shall have power to hear, receive, and examine evidence, and for that purpose to administer an oath or affirmation, and by summons under the hand of the chairman of the Court to require any person to appear before the Court, and to produce all such books and papers in his possession or under his control as

may appear necessary for the purpose of his examination; and the Court shall have the like powers for compelling the attendance of witnesses summoned, and their examination, as by any law in force for the time being are vested in justices exercising summary jurisdiction; and the Court shall, upon hearing in open Court, by the decision of a majority, determine upon the validity of all claims and objections.

Any person failing to obey the summons of the Court shall be liable to a penalty not exceeding Ten pounds.

43. The Court shall—

Hearing of claims
and objections.

1902, No. 48, s. 39.

- (a.) Insert in the list under revision the name of every person who has claimed, and is proved to the satisfaction of the Court, to be entitled to have his name inserted.
- (b.) Determine the claim of every person to have the rateable value put upon the land of which he is owner or occupier altered.
- (c.) Remove from the list the name of every owner where the occupier has, in accordance with the provisions of section thirty-four lodged and sustained a claim to be enrolled.
- (d.) Retain upon the list the name of every person objected to, with the rateable value set against his name unaltered, unless the person objecting appears by himself or by someone on his behalf in support of the objection.
- (e.) On the appearance of the person objecting, require proof by the person objected to of so much of the qualification as is embraced in the grounds of objection; and in case such qualification is not proved to the satisfaction of the Court, strike out the name of the person objected to, or alter or correct the rateable value set against his name, as the case may require.
- (f.) Retain on the list the name and qualification of every person against whom no objection has been sustained.
- (g.) Strike out the name of any person proved to be disqualified or dead.
- (h.) Correct any mistake, or supply any omission which may appear to have been made in the list in respect of the name, address, or occupation of any person, or in respect of the description or situation of the rateable land.

44. If it appears to the Court that any person has made or attempted to sustain any frivolous or vexatious claim or objection,

Costs in cases of
frivolous, etc.,
claims or objections.
the 1902, No. 48, s. 40.

the Court may award such costs as to the Court may seem meet to be paid by such person to the person resisting such claim or objection; and the same may, in default of payment, be recovered in a summary manner before any two justices.

Certificate, etc., of
revision.
1902, No. 48, s. 41.

45. The chairman shall, in open Court, write his initials against the names struck out or inserted, and against any part of the list in which any mistake has been corrected or omission supplied, and shall sign his name to every page of the list so settled, and shall then cause to be written at the foot or end of the list a certificate that the same has been revised and is correct, with the date thereof, and the chairman and at least two other members of the Court shall sign such certificate.

List to be made out
and signed by
chairman.
1902, No. 48, s. 42.

46. (1.) The list so certified shall be delivered to the secretary or an officer appointed by the Board for the purpose, who shall forthwith cause the names thereon to be copied or printed in alphabetical order in the prescribed form and with the several particulars thereby required; and to every name a number shall be prefixed, such numbers beginning at the first name with the number one and continuing in regular arithmetical series to the last name on the list.

(2.) The Chairman having satisfied himself of the correctness of such list shall, on or before the fifteenth day of March, sign the same.

(3.) In the absence of the chairman the list may be signed by the acting chairman for the time being.

List so signed to be
the electoral roll.
See 1902, No. 48,
s. 43.

47. The list so signed as aforesaid shall be the electoral roll for the district, and shall not (except as herein otherwise expressly provided) be added to or altered, and shall continue in force until a new roll is made.

Provided that if it is proved to the satisfaction of the Minister that any list has not been duly compiled, or for any sufficient reason a fresh list should be compiled, the Minister may by order in writing, addressed to the chairman, and published in the "Government Gazette," direct a fresh list to be compiled in such manner and in accordance with such rules as he shall prescribe.

Copy of roll to be
evidence.
1902, No. 48, s. 44.

48. Any copy purporting to be a copy of the electoral roll signed by the chairman shall be *prima facie* evidence of the contents of the roll in any court of justice, or for any other purpose.

Provided that such electoral rolls shall at all reasonable times be open to inspection by any member of the Board or ratepayer, and any such person may take copies or extracts from the said electoral roll without payment of any fee.

Copies of roll to be
supplied.
1902, No. 48, s. 45.

49. The Board shall supply a copy of the electoral roll to any person requiring the same on payment of a reasonable charge not exceeding five shillings.

50. No omission to give any notice with regard to any list, or to keep any list for perusal or inspection, shall prevent, invalidate, or render imperfect any of the proceedings hereinbefore provided for with regard to the compilation or completion of any such list.

Omission to publish, etc., not to invalidate proceedings.
1902, No. 48, s. 46.

51. If from any cause anything connected with the preparation or revision or completion of the electoral list or roll for a district has not been done within the time appointed or limited for that purpose, the Minister may, by an order to be published in the "Government Gazette," direct the same to be done, and may appoint the several times and intervals of time, or the several remaining times and intervals of time, as the case may require, at or within which the acts hereinbefore required to be done in connection with the preparation or revision or completion of the list or roll shall or may be done, and upon such order being published in the "Government Gazette" such omission or non-compliance shall be rectified, and such list or roll shall be validated according to the tenor of such order.

Minister may appoint time for doing anything connected with electoral lists not done within time prescribed.

See 1906, No. 32, s. 70.

52. When a Board fails to hold a Court for the revision of the electoral list, the Minister, on extending the time, may authorise such Court to be formed and held by any three persons nominated by him.

Procedure on failure of Board to hold Revision Court.

See 1902, No. 48, s. 46.

The persons so nominated (of whom one shall be nominated chairman) shall have the same powers as if they were members of the Board, and as if the chairman so nominated were chairman of the Board.

53. In the case of any new district, or of any district where there is no Board, all acts and things whatsoever required or necessary to be done under this Act may be lawfully done by such person at such time and at such place as the Minister may appoint in that behalf.

Where no Board, Minister may appoint person to make roll.

See 1902, No. 48, s. 47.

Division (7.)—Election of Members.

54. The first election of members of a Board for a new district, and the election following any vacation of office by the members of a Board as a whole, shall be held on such day as the Minister may appoint.

First elections.

1902, No. 48, s. 48.

55. An annual election of members of the Board shall be held for every district on the second Wednesday in April in every year.

Annual elections.

Provided that when the first election for a new district, or the election following any such vacation of office as in section fifty-four mentioned, is held after the thirtieth day of September in any year, the next election shall not take place until the second year ensuing.

Extraordinary
vacancies.

See 1902, No. 48,
s. 50.

56. When an extraordinary vacancy arises from any cause, an election shall be held to fill such vacancy within one month from the occurrence of such vacancy, on a day and at a place to be fixed by the Board, or the chairman, of which public notice shall be given.

Provided that the member elected or appointed to fill such vacancy shall be deemed, for the purpose of retirement, to have been elected when his immediate predecessor was elected, and shall retire accordingly.

Provided also that when any such vacancy occurs within three months before an annual election the seat may, with the approval of the Minister, continue vacant until the annual election.

Returning officer.
1902, No. 48, s. 52.

57. Every election shall be held before some person, hereinafter called the returning officer.

Appointment in new
districts.

See 1902, No. 48,
s. 52.

Appointment of
returning officer
generally.

See 1902, No. 48,
s. 52.

58. At the first election in a newly constituted district the returning officer shall be appointed by the Minister.

59. (1.) At every election, except as aforesaid, the returning officer shall be the chairman or other person appointed by the Board, but if there is no Board, or no person is appointed by the Board, then such person as the Minister may appoint shall be the Returning Officer.

(2.) Such appointment shall be notified by affixing a written notice to that effect on the outer side of the outer door of the office of the Board or other accustomed place of meeting of the Board at least eight days before the day fixed for such election, and keeping the same there affixed until the day of such election; but no omission to so publish the said notice shall be deemed to invalidate any such appointment.

Returning officer
not to be a
candidate.

1902, No. 48, s. 53.

Returning officer
may appoint a
deputy, etc.

See 1902, No. 48,
ss. 57, 58.

(3.) No person who acts as returning officer at any election shall be or become a candidate for any office at such election.

60. (1.) The returning officer may appoint one or more deputy returning officers, and such poll-clerks as are required for taking the poll, and may make and enforce all necessary regulations, and fix the polling place or polling places, unless the same are fixed by the Board.

(2.) If after public notice of any election has been given, and before the conclusion of such election, the returning officer dies or becomes incapable of acting, such deputy returning officer, or in case no deputy has been appointed, the secretary to the Board shall, for all the purposes of such elections, be deemed to be the returning officer.

Expenses of Re-
turning Officers,
etc.

1902, No. 48, s. 72.

61. All reasonable expenses of and incident to any election incurred by the returning officer and approved by the Board shall be repaid to him by the Board, and the Board may grant to the

returning officer a fee not exceeding two guineas, and to each deputy returning officer and poll clerk a fee not exceeding one guinea.

Division (8).—Nomination of Candidates.

62. The nomination day shall be the seventh day next preceding the day appointed by or under this Act for the election. Nomination day.

63. (1.) Any person who is qualified and desirous of being a candidate for election shall, at or before six o'clock in the afternoon on the nomination day, or within seven clear days next preceding the nomination day, cause to be delivered to the returning officer or the secretary at the office of the Board, or some other place within the district to be appointed by the returning officer, of which public notice shall be given, a nomination paper in the prescribed form. Nomination—how made.
See 1902, No. 48, s. 51.
1906, No. 32, s. 92.

(2.) Such nomination paper shall be signed by the person named therein as a candidate, or by his agent thereunto duly authorised in writing, in token of his assent to be so named.

(3.) No candidate shall nominate for more than one ward at any election.

64. (1.) On the nomination day the returning officer shall attend at six o'clock in the afternoon at the office of the Board, or such other place as may have been appointed for the nomination, and shall read the names of the candidates nominated. Proceedings at nomination.
See 1906, No. 32, s. 94.

(2.) In the event of there being no greater number of candidates than is required to be elected, the returning officer shall declare such candidates to be duly elected, and they shall be deemed to have been duly elected.

(3.) In the event of there being more candidates than the number required to be elected, the returning officer shall advertise in a newspaper or otherwise publish the names of the candidates, the polling day, and the polling place or places.

(4.) It shall be in the power of any candidate so nominated, by notice in writing signed by him addressed to the returning officer, and delivered to such returning officer or the secretary, at any time before the expiration of forty-eight hours after the day of nomination, to withdraw from such candidature:

Provided that if such withdrawal, or the death of any candidate reduces the number of candidates to a number not greater than required to be elected, the returning officer shall, on the polling day, without taking a poll, declare the remaining candidates duly elected; but if such withdrawal or death of any candidate reduces the number of candidates to a number less than required to be elected, any vacancy not filled up shall be deemed to be an extraordinary vacancy.

(5.) The returning officer shall reject the nomination of any person who has not been nominated in accordance with section sixty-three, but no returning officer shall inquire into the qualification of any person to be elected or stand or be nominated as a candidate.

Acceptance of nomination conclusive as to compliance with Act.

65. The acceptance by the returning officer of any nomination shall be conclusive evidence of the due compliance with the provisions of section sixty-three, except with regard to such qualification as aforesaid.

Division (9).—The Polling.

Polling places.

See 1902, No. 48, s. 54.

66. The Board shall appoint and give public notice of a chief polling place, and such other polling places as it may deem necessary within or without the district.

Ballot-papers.

See 1902, No. 48, s. 64.

67. Before, and in time for every such election, the returning officer shall cause to be printed a sufficient number of ballot-papers in the prescribed form, and each such ballot-paper shall be initialled by such returning officer at the back thereof:

Provided always, that the initials of such returning officer may be lithographed or stamped by or under his authority.

Presiding officers.

See 1902, No. 48, ss. 55, 58, and 59.

68. (1.) The returning officer shall preside at the chief polling place, and a deputy returning officer shall preside at each polling place other than the chief polling place.

(2.) Any presiding officer may appoint a substitute to perform his duties during his temporary absence.

(3.) No returning officer shall vote at any election of which he is the returning officer except in the case of an equality of votes.

(4.) The deputy of any returning officer, if entitled to vote, may vote in like manner as if he had not been appointed and acted as deputy returning officer.

Scrutineers.

1902, No. 48, s. 60.

69. Each candidate shall be entitled to appoint, in writing, one scrutineer to be present at each polling place during the election.

Powers of returning officer, etc.

70. (1.) Every returning officer shall have power and authority—

See 1906, No. 32, s. 100.

(a.) To maintain and enforce order and keep the peace at any election or polling held by him;

(b.) Without any other warrant than this Act, to cause to be arrested and taken before a justice any person reasonably suspected of—

(i.) Knowingly and wilfully making a false answer to any of the questions herein-after mentioned; or

(ii.) Personating or attempting to personate any voter; or

(iii.) Attempting unlawfully to vote more than once at the same election; or

(iv.) Leaving or attempting to leave the polling place after having received a ballot-paper and before having deposited the same in the ballot-box as hereinafter provided;

(c.) Without any other warrant than this Act, to cause any person to be removed who obstructs the approaches to any polling place or conducts himself in a disorderly manner, or misconducts himself, or fails to obey the orders of the returning officer: And any person so removed shall not again be allowed to enter the polling place during the time such election is being held without the permission of the returning officer.

(2.) All constables shall aid and assist such returning officer in the performance of his duty.

71. (1.) The returning officer shall provide for each polling place a separate locked box, with a cleft or opening therein capable of receiving the ballot-papers.

Ballot-boxes.
See 1906, No. 32,
s. 101.

(2.) Every such ballot-box shall be opened and exhibited to the scrutineers before the polling begins, and shall be then locked and sealed, and shall stand on the table opposite the returning officer or deputy returning officer, who shall keep the key of the said box.

72. (1.) The poll at any election shall be taken by the returning officer, and shall commence at ten o'clock in the forenoon and close at seven o'clock in the afternoon of the same day.

Manner of taking
poll.
See 1906, No. 32,
s. 102.

(2.) Every person entitled to vote at the election may, at such election, give as many votes as he is entitled to to each of the number of persons to be elected, but no ballot-paper shall be counted which purports to vote for less than the full number of persons to be elected.

Ballot-papers to be
given to persons
applying.
See 1906, No. 32,
s. 103.

73. (1.) Except as hereinafter provided, every person who is qualified to vote, and is desirous of voting at any election, shall present himself to the returning officer, and, if required so to do, shall state his name and address.

(2.) If such returning officer finds that the name of such person is on the electoral roll, if any, he may, and if there is no electoral roll he shall, ask such person the appropriate questions hereinafter mentioned, and if such questions when asked are answered satisfactorily, the returning officer shall—

(a.) Deliver to such person so many ballot-papers as are equal to the number of votes such person appears by the electoral roll to be entitled to give; and

(b.) On the copy of the electoral roll used by him for the purposes of the election make a mark against the name of such person, to signify that the ballot-paper or ballot-papers to which such person is entitled have been duly given to him.

(3.) All the ballot-papers to which any person is entitled at such election shall be received by him at one and the same time: And no person, having once received any such ballot-paper or ballot-papers, and voted, shall at the same election receive any other ballot-paper or ballot-papers, or exercise any further right of voting.

Manner of voting by
ballot.
See 1906, No. 32,
s. 104.

74. Every person to whom a ballot-paper or ballot-papers have been given shall, within the ballot room, and without leaving the same—

(a.) Mark his vote or votes on the ballot-paper or ballot-papers in the manner hereinafter described;

(b.) Fold up each ballot-paper so as to conceal the interior and disclose the initials of the returning officer upon the back thereof; and

(c.) In the presence of the returning officer, and such scrutineers as are in attendance, deposit such ballot-paper or ballot-papers in the ballot-box:

Provided that, in the case of any voter unable to read or write, the returning officer, if required, shall, in the presence of such scrutineers as are then in attendance, mark his ballot-paper for him.

How vote to be
marked.
See 1906, No. 32,
s. 105.

75. The elector shall indicate his vote or votes by making a cross on his ballot-paper or ballot-papers in the square opposite the name of the person or of each person for whom he votes

76. (1.) At every election of members for a new district, where there is no electoral roll in force, the returning officer shall put to every person tendering his vote the questions following:—

Questions at elections previous to making electoral roll.

See 1906, No. 32, s. 106.

- (a.) What is your name in full?
- (b.) Are you of the full age of twenty-one years?
- (c.) Are you a natural born or naturalised subject of the King?
- (d.) Are you the occupier or owner, and which, of rateable land within this district [*or the.....ward of this district, as the case may be*] and liable to be rated for such land under the Roads Act, 1911.
- (e.) What is the rateable land in respect of which you claim to vote, and the name and situation thereof?
- (f.) Have you already voted at this present election?

(2.) No person who shall refuse to answer any of such questions, or whose answers to the same shall not show his right to give such vote, shall receive a ballot-paper or be permitted to vote.

77. (1.) At all elections where there is an electoral roll in force, the returning officer may, if he thinks fit, or, if required so to do by any candidate or scrutineer shall put to any person tendering his vote the questions following:—

Questions to be put to elector at all other elections.

See 1906, No. 32, s. 107.

- (a.) Are you the person whose name appears as A.B. in the roll now in force for this district [*or the.....ward of this district, as the case may be*] being enrolled therein in respect of land described to be situated in [*here specify the street or other place described in the roll*]?
- (b.) Are you of the full age of twenty-one years?
- (c.) Are you a natural born or naturalised subject of the King?
- (d.) Have you already voted at the present election?

(2.) No person who shall refuse to answer any of such questions, or who shall not answer the first, second, and third of such questions absolutely in the affirmative, and the fourth of such questions absolutely in the negative, shall receive a ballot-paper or be permitted to vote.

Spoilt ballot-papers.
See 1906, No. 32,
s. 108.

78. (1.) An elector who has inadvertently dealt with any ballot-paper in such a manner that it cannot be used as a ballot-paper may, on delivering to the returning officer or other presiding officer the ballot-paper, and proving the fact of the inadvertence to the satisfaction of the officer, obtain another ballot-paper in the place of the ballot-paper so delivered up.

(2.) The ballot-paper so delivered up shall be cancelled and destroyed, and a memorandum of such cancellation and destruction indorsed on the counterfoil.

Voting in absence.
See 1902, No. 48,
s. 63.
1906, No. 32, s.
109.

79. (1.) Any elector—

(a.) Who intends to be absent from the district on the day of election; or

(b.) Resides more than five miles from a polling place;
or

(c.) Is prevented by illness or infirmity from attending a polling place,

may, at any time within one month previous to the date of any election, apply to a returning officer, or to any magistrate, justice of the peace, or other person appointed by the Minister in that behalf, to vote under the provisions of this section.

(2.) The returning officer, magistrate, justice of the peace or other person appointed as aforesaid, shall then write on each of two counterfoils the name of the district, and the ward (if any) for which the applicant desires to vote, together with the names in full and address of the applicant, and shall sign the back of a ballot-paper and on the face thereof shall write the name of the district and the ward (if any) as on the counterfoils, and shall give the ballot-paper to the elector.

(3.) The elector shall then write on the ballot-paper the name or names of the candidate or candidates for whom he votes, and shall fold it up and, in the presence of the returning officer, magistrate, justice of the peace, or other person appointed as aforesaid, put it into an envelope.

(4.) The returning officer, magistrate, justice of the peace, or other person appointed as aforesaid, shall then seal up the envelope, and write "Ballot-paper" thereon, and shall put one of the counterfoils into an envelope, and seal it up and write "Counterfoil" thereon, and shall then send both envelopes, enclosed in another envelope, by post or otherwise, to the returning officer.

(5.) The returning officer, on receipt of any such envelopes, shall, without opening them, retain them in his possession until the commencement of the poll, and shall, at any convenient time or times during or immediately after the taking of the poll, in the presence of the scrutineers, proceed to open the envelopes con-

taining the counterfoils, and having made a mark on the copy of the electoral roll in use at the polling place against the name of each person who appears by such counterfoils to have voted, shall keep such counterfoils in the same manner as the counterfoils of the ballot-papers used by him at such election. Having thus dealt with the counterfoils, the returning officer shall proceed to open the envelopes containing the ballot-papers received up to the close of the poll, allowing the scrutineers the opportunity (if they desire it) of seeing that the seals of the said envelopes are intact; and, as he takes out any ballot-paper from its envelope, he shall, without opening the same, indorse upon it the number of votes to which the voter is entitled, and deposit it in the ballot-box. The indorsement of the returning officer of the number of votes to which the absent voter is entitled shall be conclusive.

(6.) Any person who has applied to a returning officer, magistrate, justice of the peace, or other person appointed as aforesaid, for the purpose of voting under this section, and has complied with the provisions of this section, shall not be entitled to vote otherwise at the election, although the said envelopes, or either of them, may not have been sent to the returning officer, or although they or either of them have miscarried.

(7.) For all subsequent purposes the returning officer shall treat any counterfoils and ballot-papers received in accordance with the provisions of this section in the same way in which he is required to treat counterfoils of ballot-papers given by himself to voters and ballot-papers received by himself from voters.

(8.) The ballot-papers and counterfoils to be used under this section may be in the prescribed form, and any such ballot-paper and counterfoil shall be held in due and proper form, so far as the name of a candidate is concerned, if the name of the candidate for whom the elector desires to vote is sufficiently indicated as aforesaid.

(9.) It shall be unlawful for any person who has nominated a candidate at any election to take the vote of any elector at such election.

(10.) The returning officer, magistrate, justice of the peace, or other person appointed as aforesaid may put to every person applying to vote under this section any of the questions prescribed in section seventy-six or seventy-seven, and subsection two of those sections shall apply to persons applying to vote under this section.

(11.) An elector voting under this section shall not be required to write any other name than the surname of the candidate for whom he votes unless there are two or more candidates having the same surname, in which case he shall write such christian name, occupation, or residence of the candidate as shall be necessary to indicate for whom the vote is intended to be cast.

(12.) No vote given under this section shall be rejected for any mistake in spelling or omission on the elector's part where his intention is clear.

Deputy returning officers to transmit ballot-papers to returning officer.
1902, No. 48, s. 109.

80. Each deputy returning officer shall, immediately on the close of the ballot, seal up the ballot-box containing the ballot-papers taken at the polling place whereat he presided, and shall, with the least possible delay, deliver the same or cause the same to be delivered to the returning officer.

Ascertainment of the poll.
See 1906, No. 32, s. 110.

81. (1.) As soon as practicable after the election is held, the returning officer shall, at the chief polling place and in the presence of such candidates and scrutineers as are in attendance, open the ballot-boxes and examine the ballot-papers and thereby ascertain the result of the election.

(2.) The returning officer shall reject as null and void any ballot-paper on which is written any matter or thing which is not justified by this Act to be written thereon, or any ballot-paper by which any elector purports to vote for more or less than the number of candidates to be elected, and any ballot-paper under section seventy-nine whereon the name or names of the candidate or candidates, as the case may be, for whom the voter votes is not intelligibly expressed and in a manner to be commonly understood; but no ballot-paper shall be rejected for mere want of form.

(3.) The returning officer shall indorse on any ballot-paper which he rejects the word "rejected," and he shall be the sole judge as to whether any ballot-paper shall be rejected or not: Provided always, that his decision shall be subject to reversal, as hereinafter provided.

(4.) The returning officer, having ascertained the respective results of such poll, shall then and there declare the name or names of the person or persons who have been duly elected to the respective offices for which such election has been held.

(5.) In the event of the number of votes being equal for any two or more candidates for such respective offices, the returning officer shall, by his casting vote, decide which of the said candidates shall be elected.

Ballot-papers when not deemed to be informal.

See 1906, No. 32, s. 111.

82. A ballot-paper shall not be informal by reason only—

(a.) That the names of the candidate or candidates for whom the elector does not vote are struck out; or

(b.) That a cross placed opposite the name of a candidate is not within the square, if, in the opinion of the returning officer, the intention of the elector is clearly indicated ;

(c.) Of the omission of the elector to make a cross in the square opposite the name of the candidate, or, when two or more candidates are to be elected, the names of the candidates for whom he votes, if the names of the candidates for whom he does not vote are struck out.

83. (1.) The returning officer shall forthwith, after the declaration of the poll, cause all the parcels of ballot-papers to be sealed up, indorsed with a description of the contents thereof, and delivered to the secretary, to be safely kept for six months after such delivery.

Disposal of ballot-papers.
See 1906, No. 32, s. 112.

(2.) The secretary shall, after the expiration of six months, cause such ballot-papers, without unsealing the parcels, to be destroyed in the presence of three of the members of the Board.

84. (1.) The secretary shall, within seven days after every election, make a return in the prescribed form to the Minister, stating the names of the successful candidate or candidates at such election, and their respective offices, for publication in the "Government Gazette."

Publication of result of elections in Government Gazette.
1906, No. 32, s. 113.

(2.) The production of a copy of the "Government Gazette" containing any such notice shall be prima facie evidence that the person or persons named therein has or have been duly elected.

85. When the proceedings at any election are interrupted or obstructed by any riot or violence, the returning officer shall not finally close the poll, but shall adjourn the taking of such poll until the day following, and, if necessary, shall further adjourn such poll until such interruption or obstruction has ceased, when such returning officer shall again proceed with the taking of such poll.

Adjournment of polling in case of riot.
1906, No. 32, s. 114.

86. (1.) If from any cause not being such as in the last preceding section mentioned, after a poll stands appointed for any election, no such poll takes place on the day appointed for the same, 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 or by placards affixed in public places within the district.

Adjournment, when from some cause no election held.
1906, No. 32, s. 115.

(2.) On any adjournment of a poll under this or the last preceding section, the returning officer shall, in the presence of the scrutineers and other officers present,—

- (a.) Cover and seal up the opening in each ballot-box so that nothing can be put in or taken out of such box;
- (b.) Seal up all unused ballot-papers and all rolls in use at such poll;
- (c.) Lodge with the secretary for safe keeping all such ballot-boxes, ballot-papers, and rolls, and such ballot-boxes, ballot-papers, and rolls shall not be opened or unsealed until such adjourned poll is again proceeded with, and then only in the presence of the scrutineers and other officers present.

Errors of form not to vitiate elections.
1906, No. 32, s. 116.

87. (1.) No election shall be deemed to be void in consequence solely of any delay of any of the stages of such election beyond the time appointed, or of any error on the part of the returning officer which does not affect the result of such election, or of any error, defect, or impediment of a merely formal nature.

(2.) The Governor may adopt, or cause to be adopted, such measures as are necessary to remove any obstacle by which the due course of any election is likely to be impeded, and may supply any deficiency that would otherwise affect the same.

(3.) Any measures so adopted shall be forthwith published in the "Government Gazette."

Election not to be questioned for defect of title.
1906, No. 32, s. 119.

88. No election shall be liable to be questioned by reason only of any want or defect of title of any person by or before whom such election shall have taken place, if such person shall have acted at such election, nor by reason of any formal error or defect in any declaration or other instrument, or in any publication made under this Act, or intended so to be, nor by reason of any publication being out of time.

Invalidity of election no plea to action.
1906, No. 32, s. 120.

89. No advantage shall be taken of the invalidity of any election in any action or other proceeding by or against the Board, but every such action or proceeding shall be tried as if no such objection existed.

Abortive election.
Cf. 1906, No. 32, ss. 117, 118.
1902, No. 48, s. 74.

90. (1.) In case a lawfully appointed election shall be held neither upon the day originally appointed therefor nor upon any day to which the same shall be or stand adjourned, or if, in case of such election being or purporting to be held, all or any of the vacancies required to be filled thereat shall fail to be so filled, or if

the election shall at any time be declared wholly or partially invalid, then a fresh election shall be held to fill every vacancy which was intended to be filled at the first mentioned election, and which has failed to be so filled, or as to which such election shall have been declared invalid.

(2.) A fresh election may be held under this section as often as the necessity shall arise, and shall be held at such time and place as the Board or chairman shall appoint, and every member elected thereat shall go out of office as if elected at such first mentioned election.

(3.) Every act necessary to be done in order to and for the completion of such election shall and may be done, and shall be valid and effectual for all purposes.

(4.) If any act or thing required to be done for the purposes of this section by any Board or chairman cannot be done by such Board or chairman by reason of there being no quorum of such Board, or no such chairman in office, or for any other reason, then the Minister may do such act or thing.

(5.) Provided that nothing in this section shall affect the power of the Governor to appoint a commissioner under the provisions of Division (4) of Part III.

Division (10).—Disputed Returns.

91. Whenever complaint is made to a magistrate by any person who was a candidate at any election, or by any six persons entitled to vote at any election, that any election held within any magisterial district wherein such magistrate has jurisdiction was invalid, or that any other person ought to be returned as a member of the Board in preference to the person actually returned as elected,—

Invalid elections,
how remedied.
See 1902, No. 48.
s. 73.

- (a.) It shall be lawful for such magistrate to issue a summons summoning the returning officer at such election, and any person returned at such election, and any other persons to appear before himself and such other justices as may then be present, on a day to be named in such summons.
- (b.) On the parties appearing, or, in default of their appearance, on its being shown that such summons was duly served, it shall be lawful for such magistrate, and at least one other justice resident within such district, to investigate the matter of such complaint.

- c.) If on such investigation it appears that such election was invalid, or that any other person ought to have been returned, in preference to the person returned as elected, the court may declare accordingly, and thereupon, if the court declares the said election to have been invalid, the same shall be deemed to have been null and void, and a fresh election shall be held as hereinbefore provided; and if the court declares that any person ought to have been returned in preference to any other person, the latter person shall at once cease to be a member of the said Board, and the person so declared as aforesaid to have been duly elected shall be deemed, to all intents and purposes, to have been duly elected.
- (d.) No such proceedings shall be taken except within three weeks of the day of the election out of which the complaint arises.
- (e.) The court may make such order as to costs as it may think right, which may be enforced as an order of a court of summary jurisdiction.

Provided that no order shall be made for payment of costs by a candidate, unless it is proved to the satisfaction of the court that the candidate has by himself or his agent contravened the provisions of this Act.

Division (11).—Electoral Offences.

Offences.
1906, No. 32,
s. 123.

92. To secure the due execution of this Part of this Act and the purity of elections, the following acts are hereby prohibited and penalised:—

- (a.) Breach or neglect of official duty;
- (b.) Illegal practices, including—
 - (i.) Bribery;
 - (ii.) Undue influence;
- (c.) Electoral offences.

Breach or neglect
by officers.
1902, No. 32,
s. 124.

93. “Breach or neglect of official duty” includes—

- (a.) Any attempt by any officer to influence the vote of any elector, or, except by recording his vote, the result of any election;

- (b.) The disclosure of any knowledge officially acquired by any officer or scrutineer touching the vote of any elector;
- (c.) Any neglect or refusal by any officer to discharge any official duty, and any violation by any officer of any provision of this Part of this Act.

Breach or neglect of official duty shall be punishable by a penalty not exceeding two hundred pounds, or by imprisonment not exceeding one year.

94. Whoever—

- (a.) Promises, or offers, or suggests any valuable consideration, advantage, recompense, reward or benefit for or on account of, or to induce any candidature, or withdrawal of candidature, or any vote or omission to vote, or any support of, or opposition to, any candidate, or any promise of any such vote, omission, support, or opposition;
- (b.) Gives or takes any valuable consideration, advantage, recompense, reward, or benefit for, or on account of, any such candidature, withdrawal, vote, omission, support, or opposition, or promise thereof;
- (c.) Promises, offers, or suggests any valuable consideration, advantage, recompense, reward, or benefit, for bribery, or gives or takes any valuable consideration, advantage, recompense, reward, or benefit for bribery,

shall be guilty of bribery.

Bribery.
1906, No. 32,
s. 125.

95. Without limiting the effect of the general words in the preceding section, "bribery" particularly includes the supply of meat, drink, or entertainment after nomination-day, or horse or carriage hire for any elector whilst going to or returning from the poll, with a view to influence the vote of an elector.

Definition.
1906, No. 32,
s. 126.

96. Whoever—

- (a.) Threatens, offers, or suggests any violence, injury, punishment, damage, loss, or disadvantage for or on account of or to induce any candidature, or withdrawal of candidature, or any vote, or any omission to vote, or any support or opposition to any candidate, or any promise of any vote, omission, support, or opposition; or
- (b.) Uses, causes, inflicts, or procures any violence, punishment, damage, loss, or disadvantage for or on account of any such candidature, withdrawal, vote, omission, support, or opposition,

shall be guilty of undue influence.

Undue influence.
1906, No. 32,
s. 127.

Definition.
1906, No. 32,
s. 128.

97. Without limiting the effect of the general words in the preceding section, "undue influence" includes every interference or attempted interference with the free exercise of the franchise of any elector.

Illegal practices.
1906, No. 32,
s. 129.

98. In addition to bribery and undue influence, the following shall be illegal practices:—

- (a.) Any publication of any electoral advertisement, other than an advertisement in a newspaper announcing the holding of a meeting, hand-bill, or pamphlet, or any issue of any electoral notice, without at the end thereof the name and address of the person authorising the same;
- (b.) Printing or publishing any printed electoral advertisement, hand-bill, or pamphlet (other than an advertisement in a newspaper) without the name and place of business of the printer being printed at the foot of it.

Punishment.
1906, No. 32,
s. 130.

99. Any illegal practice shall be punishable as follows:—

- (a.) Bribery or undue influence, by a penalty not exceeding two hundred pounds or by imprisonment not exceeding one year;
- (b.) Any other illegal practice, by a penalty not exceeding one hundred pounds or by imprisonment not exceeding six months.

Penalties in case of
nomination of
incapacitated
person.
1906, No. 32,
s. 131.

100. Whoever—

- (a.) Nominates himself or permits himself to be nominated as a candidate for the office of member of any Board, knowing himself to be, under the provisions of the Act, incapable of being or continuing such member; or
- (b.) Knowingly without being duly authorised, as provided in section sixty-three, by the person nominated so to do, signs any nomination paper nominating or purporting to nominate as a candidate for the office of member of any Board any person incapable of being or continuing such member,

shall for every such offence be liable to a penalty not exceeding twenty pounds.

Prohibition of
canvassing near
polling-booths.
1906, No. 32,
s. 132.

101. The following acts are, on polling day, and on all days to which the polling is adjourned, prohibited within each polling-booth, and within a distance of fifty yards from such 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.

Any person offending against this section shall, for every such offence, be liable to a penalty not exceeding twenty pounds.

102. The matters mentioned in the first column of the table at the foot of this section shall be electoral offences punishable as provided in the second column of the table opposite the statement of the offence.

Electoral offences.
1906, No. 32,
s. 133.

Table of Electoral Offences and Punishments.

First Column—Offences.	Second Column—Punishments.
Personating any person to secure a ballot-paper to which the personator is not entitled, or personating any other person for the purpose of voting	Imprisonment not exceeding two years
Fraudulently destroying or defacing any nomination or ballot-paper	Imprisonment not exceeding two years
Fraudulently putting any ballot or other paper into the ballot-box	Imprisonment not exceeding six months
Fraudulently taking any ballot-paper from any polling place	Imprisonment not exceeding six months
Forging or uttering, knowing the same to be forged, any nomination or ballot-paper	Imprisonment not exceeding two years
In any polling place on polling day misconducting himself, or failing to obey the lawful directions of the returning officer	Penalty not exceeding fifty pounds, or imprisonment not exceeding one month
Supplying ballot-papers without authority ...	Imprisonment not exceeding six months
Unlawfully destroying, taking, opening, or otherwise interfering with ballot-boxes or ballot-papers	Imprisonment not exceeding six months
Wagering on the result of any election ...	Penalty not exceeding fifty pounds
Wilfully defacing, mutilating, destroying, or removing any notice, list, or other document affixed by any returning officer or by his authority	Penalty not exceeding two pounds
Wilfully making any false statement in any application, return, or declaration, or in answer to a question under this Act	Imprisonment not exceeding two years
Distributing any advertisement, hand-bill, or pamphlet published in contravention of section ninety-eight	Penalty not exceeding fifty pounds, or imprisonment not exceeding one month
Canvassing by a salaried officer of a board at any election under this Act	Penalty not exceeding fifty pounds
Any contravention of this Part of this Act for which no other punishment is provided	Penalty not exceeding fifty pounds

Offender may be removed from polling place.
1906, No. 32,
s. 134.

103. Whoever in any polling place on polling day misconducts himself, or fails to obey the lawful directions of the returning officer, or presiding officer, may be removed from the polling place by any constable or by any person authorised by the returning officer.

Further punishment.
1906, No. 32,
s. 135.

104. Any person so removed re-entering or attempting to re-enter the polling place without the permission of the returning officer or presiding officer shall be guilty of a further electoral offence, punishable on conviction by twice the penalties prescribed in the table for the original offence.

Expenditure on behalf of a candidate.
1906, No. 32,
s. 136.

105. Any person purporting to act for and on behalf of a candidate and incurring or authorising any electoral expense without the written authority of the candidate or of his agent authorised in writing shall be guilty of a contravention of this Act.

Liability for indirect acts.
1906, No. 32,
s. 137.

106. Every person shall be liable for an illegal practice committed directly or indirectly by himself, or by any other person on his behalf, and with his knowledge or authority.

Attempts.
1906, No. 32,
s. 138.

107. Any attempt to commit an offence against this Part of this Act shall be an offence against this Act punishable as if the offence had been committed.

Certificate *en*
1906, No. 32,
s. 139.

108. On any prosecution under this Act the certificate of the returning officer that the election mentioned in the certificate was duly held and that the person named in certificate was a candidate at the election shall be evidence of the matter stated.

Hard labour may be awarded.
1906, No. 32,
s. 140.

109. Where imprisonment may be awarded for an offence against this Part of this Act it may be awarded with or without hard labour.

Indictable offences.
1906, No. 32, s. 141.

110. Offences against this Part of this Act punishable by imprisonment exceeding one year are indictable offences.

Summary conviction.
1906, No. 32,
s. 142.

111. All offences against this Part of this Act which are not indictable offences shall be punishable on summary conviction.

Criminal Code not to apply.
1906, No. 32,
s. 143.

112. On and after the commencement of this Act nothing contained in Chapter XIV. of the Criminal Code shall apply to road board elections.

Division (12).—Ouster from Office.

Ousted from office.
See 1902, No. 48,
s. 23,

113. (1.) Where any person incapable, under the provisions of this Act, of acting or continuing to act as a member, holds or

exercises office, the Supreme Court or a Judge thereof may, upon the application of the Board or of any ratepayer, grant a rule or order calling upon such person to show cause why he should not be ousted from his office.

(2.) If, upon the return of the rule or order, it appears to the Court or Judge that the person so holding or exercising office was, while holding or exercising office, incapable, under the provisions of this Act, of holding office, the Court or Judge may make the rule or order absolute, or, if the matter does not so appear, may discharge the rule or order, and in either case with or without costs.

(3.) The person against whom any such rule or order is made absolute shall be deemed thereby to be ousted from such office accordingly, and an extraordinary vacancy shall be deemed to have been thereby created.

114. (1.) Whenever a Board shall not observe the provisions of this Act, or in any other case when the Governor shall think fit, the Governor may supersede the Board, either wholly or partially, or remove the members of the Board from office, and authorise the Minister to exercise all or any of the functions of the Board for such time as he shall think fit, or until the election of a new Board. Notice of such supersession or removal shall be published in the "Government Gazette."

Governor may supersede a Board.
See 1902, No. 48, s. 24.

(2.) Any member removed from office under this section shall be disqualified for twelve months for re-election as a member of the Board.

115. On the exercise by the Governor of the powers conferred by the last preceding section all the officers of the Board shall relinquish their offices unless the Governor shall otherwise direct.

Vacation of office.

PART IV.—PROCEEDINGS OF THE BOARD.

116. At the first meeting of the Board of a new district, and at the first meeting of every new Board, and at the first meeting of every Board after every annual election, the Board shall elect one of the members to be chairman:

Election of chairman.
See 1902, No. 48, s. 75.

Provided that a meeting of a Board for the purpose of this section shall not be duly constituted unless two-thirds at least of the members of the Board are present.

117. The chairman shall hold office until the conclusion of the next annual election of members:

Duration of office of chairman.
See 1902, No. 48, s. 76.

Provided that at the meeting of the Board next preceding every annual election, the Board shall elect one of its continuing members to be chairman from the date of such annual election until the first meeting of the Board after such annual election.

Chairman to preside. **118.** The chairman shall, when present, preside at all meetings of the Board.
1902, No. 48, s. 77.

Absence of chairman. **119.** (1.) In the absence of the chairman from any meeting, or if after being present he retires, the members present may elect one of their number to be chairman for that meeting, or for the remainder of the meeting.
1902, No. 48, s. 78.

(2.) In the absence of the chairman from the district, or in case of the illness of the chairman, the members present at any meeting may elect one of their number acting chairman during such absence or illness.

Resignation of chairman. **120.** The chairman may resign his office by writing under his hand addressed to the Board, and in such case, or if his office becomes vacated, the Board shall elect another member to be chairman in his place.
1902, No. 48, s. 79.

Appointment of officers. **121.** (1.) The Board may, from time to time, appoint and remove a secretary and such other officers and servants as may be deemed necessary, and may define their duties, and may assign reasonable remuneration for their services.
See 1902, No. 48, s. 80.

(2.) No secretary or other officer entrusted with moneys shall be appointed until he shall have given security for the faithful discharge of his duties by the guarantee of an insurance company or a bond with sureties approved by the Minister, nor shall any officer be continued in his office unless such security is from time to time renewed.

(3.) The Board may out of its ordinary revenue pay any premium payable in respect to such security.

Remuneration on resignation or abolition of office. **122.** On the resignation or death of any officer, or on the cessation or abolition of the office of any officer, the Board may, with the approval of the Minister, cause to be paid to such officer or to such of his surviving relatives as the Board may think fit, any gratuity not exceeding the amount of one month's salary for each year of the service of such officer.
See 1906, No. 32, s. 155.

Board meetings. **123.** (1.) The Board shall meet for the transaction of business at such place and at such times as the Board may from time to time appoint, and at least once in every three months, unless the district is situated Northward of the twenty-sixth parallel of South latitude, in which case the ordinary meetings of the Board may, with the approval of the Minister, be held once in every six months.
See 1902, No. 48, s. 81.

(2.) The chairman may call a meeting of the Board as often as he shall think proper, by notice in writing under the hand of the chairman or secretary, sent to each member at least seven days before such meeting.

(3.) If the chairman shall refuse or neglect to call any meeting after receiving a requisition for that purpose, signed by three members of the Board, such three members may call a meeting of the Board, by serving a notice in writing signed by such three members and stating the business to be transacted, on each of the other members at least seven days before the date of the meeting, or at such shorter period as the Governor may from time to time prescribe by notice in the "Government Gazette" for any specified district or districts.

124. All powers vested in the Board may be exercised by a quorum, which shall consist of at least three members. Quorum.
1902, No. 48, s. 82.

125. (1.) At all meetings of the Board, save where it is otherwise provided, all the members present shall vote, and the questions there considered shall be decided by open voting, and by the majority present. How questions
decided.
1902, No. 48, s. 83.

(2.) Each member, including the chairman, shall have one vote, and in the case of an equality of votes the chairman shall have a second or casting vote.

126. No member shall vote upon or take part in the discussion of any matter before the Board in which he has, directly or indirectly, by himself or his partner, any interest, or in which any person of whom he is an employee has any interest, apart from any interest in common with the public, and any member who knowingly offends against this section shall be liable to a penalty not exceeding fifty pounds for every such offence. Member cannot vote
when interested.
1902, No. 48, s. 84.

127. Any meeting of the Board may be adjourned, and if a quorum is not present within half an hour of the time appointed for any meeting the members, or member if there is only one present, or the secretary if no member is present, may adjourn such meeting to another day, and notice of such adjourned meeting shall be given to each member. As to adjournment
of meetings.
1902, No. 48, s. 85.

128. Any resolution of the Board may be revoked or altered at the same or any subsequent meeting, either by the unanimous vote of all the members, or by a vote of the majority of the Board, subject in such last-mentioned case to the condition that, seven days at least before such subsequent meeting, notice thereof, and of the proposal to alter or revoke such resolution, shall be given to each member. As to revocation or
alteration of resolutions.
1902, No. 48, s. 86.

Board may appoint committee.

1902, No. 48, s. 87.

129. (1.) The Board may, from time to time—

(a.) Appoint committees, either for general or special purposes;

(b.) Delegate to a committee power to do any specific act or hold any inquiry.

(2.) The chairman shall, by virtue of his office, be a member of every committee, and if present at any meeting shall preside.

(3.) Every committee shall report to the Board.

Meetings of committee.

See 1902, No. 48, s. 88.

130. (1.) A committee may meet at such time and place as it may think fit, and may adjourn any meeting, but no business shall be transacted unless three members at least are present.

(2.) If the chairman of the Board is not present, one of the members present shall be appointed chairman for the meeting.

(3.) All questions shall be determined by a majority of votes of the members present, and the chairman shall have an original, and in case of an equality of votes, a second or casting vote.

(4.) The chairman of every committee shall cause minutes of the proceedings of such committee to be kept in a minute book to be provided for that purpose.

Proceedings of Board not to be invalidated by vacancy.

1902, No. 48, s. 89.

131. No proceedings of the Board, or of any committee, or of any person acting as member shall be invalidated in consequence of there being a vacancy in the number of the members at the time of such proceedings, or by reason of the discovery after such proceedings that there was some defect in the election or appointment of any person so acting, or that he was incapable of being a member.

Minutes of Boards.

1902, No. 48, s. 90.

132. Minutes of proceedings of the Board shall be kept in a book, in which shall be entered the names of the members attending each meeting, and the names of the members voting on each question on which there is a division, and every resolution, order, or other proceeding of the Board; and the minutes of the proceedings of every meeting shall be read at the next ordinary meeting of the Board, and if found correct shall be signed by the chairman of such meeting.

Minutes to be evidence of proceedings.

1902, No. 48, s. 91.

133. The minutes of proceedings of the Board kept as above provided, or a certified copy, sealed with the seal of the Board and signed by the chairman, shall be received in any court of justice, and for all purposes whatsoever, as evidence of the proceedings appearing by such entry to have been taken, without proof of the meeting to which the same refers having been duly convened or

held, or of the persons attending such meeting having been or being members of the Board, or the signature of the chairman, or the fact of his having been chairman; all of which matters shall be presumed until the contrary is proved.

134. The minute book shall be kept at the office or usual place of meeting of the Board, and shall be open to inspection, without fee, during all office hours, by any member of the Board, or by any ratepayer of the district.

Minute book to be open to inspection.
1902, No. 48, s. 92.

135. (1.) The Board shall from time to time provide and maintain a public office within the district, or, if more convenient, without the district, for holding meetings, and for the use of its officers, and for transacting public business relating to the district.

Board to provide office.
See 1902, No. 48, s. 93.

(2.) Notice of the situation of the office and of the office days and hours shall be published by the Board within the district.

(3.) If the office is situated outside the district it shall, for the purposes of this Act, be deemed within the district.

136. (1.) The Board shall hold a general meeting of ratepayers once at least in every year, and at any time upon the requisition of any twenty or more ratepayers.

General meeting of ratepayers.
See 1902, No. 48, s. 93.

(2.) Seven days' notice of the time and place of every such meeting shall be given by advertisement in a newspaper usually circulating in the district, and by posting the same on the outer door of the office of the Board.

(3.) The chairman of the Board, if present, shall preside at every such meeting.

(4.) In case of the absence, or after being present, of the retirement of the Chairman of the Board, the person to preside shall be one of the ratepayers chosen by the ratepayers present.

(5.) Such meeting may be held within the district, or with the consent of the Minister within an adjoining municipal district, and shall be held in some public hall or building not licensed for the sale of intoxicating liquors.

(6.) The latest balance-sheet of the Board and report of the auditors shall be produced and read at the commencement of the business of the annual general meeting.

PART V.—POWERS AND DUTIES OF BOARDS.

137. The Board shall, subject to the provisions of this Act, and of the Public Works Act, 1902, have the care, control, and management of all roads within the district.

Control of roads.
See 1902, No. 48, s. 95.

138. Any sea or river jetty the approach to which is within a district shall, if the Governor so directs, be deemed to be within the district, and if such jetty is a public jetty it shall, if the Governor so directs, be under the management and control of the Board of the district.

Jetties.
1909, No. 52, s. 2.

Governor may place reserves, etc., under control of Boards.

See 1902, No. 48, s. 96.

139. (1.) Subject to the provisions of the Permanent Reserves Act, 1899, the Governor may place under the control and management of the Board any public reserve, park, recreation ground, or common, and may at any time alter or rescind any such order.

(2.) For the purpose of controlling or managing any public reserve, park, recreation ground, or common, the Board shall have all the powers of a Board of Parks and Reserves appointed under the Parks and Reserves Act, 1895, together with the powers conferred on the Board by this Act.

(3.) Nothing in this Act shall be deemed to confer any power on a Board to control or manage any park or reserve committed by the Governor to a Board of Parks and Reserves appointed under the Parks and Reserves Act, 1895.

Governor may place certain works under control of Boards.

140. The Governor may, subject to the provisions of the Public Works Act, 1902, place under the control and management of the Board any road, bridge, well, dam, tank, reservoir, building, machine, or other work or thing in the district, on such terms and conditions as to the Governor may seem fit, and may at any time alter or rescind any such order.

Governor may appoint Board a Drainage Board.
1904, No. 47, s. 4.

141. (1.) The Governor may appoint the Board a Drainage Board for any drainage district constituted within the road district.

(2.) Upon the application of the Order in Council in the "Government Gazette," the following provisions shall apply:—

- (a.) The Board may, within the drainage district, exercise the powers and shall perform the duties of a Drainage Board elected under the provisions of the Land Drainage Act, 1900, or any amendment thereof.
- (b.) All drains and drainage works constructed within the drainage district under the said Act shall be vested in the Board.
- (c.) The members of any Drainage Board appointed or elected for such district under the provisions of the said Act, and the officers of such Board, shall go out of office.
- (d.) The assets, liabilities, contracts, and engagements of the Drainage Board shall become vested in, and shall attach to the Road Board, and may be recovered and enforced by or against the Road Board.

Bridges, etc., under control of Board.
See 1906, No. 32, s. 233.

142. Every bridge, ferry, or jetty of which the Board has the management or control shall be deemed to be situated within the district of the Board.

Governor may exempt roads, etc., from the control of Board.
1902, No. 48, s. 97.

143. The Governor may exempt from the jurisdiction of the Board any road or bridge or any public work connected therewith,

or any portion of a district required for use in connection with any road, bridge, or public work.

144. The Board may—

- (1.) Make, form, alter, level, grade, improve, repair, maintain, light, water, cleanse, and keep in good order and condition all roads, bridges, ways, footpaths, cycle tracks, camel tracks, culverts, drains, watercourses, stock-yards, and other things within the district, and do all such acts and things necessary for or incidental to the proper management thereof ; Powers of Board:
General management of roads, etc.
See 1902, No. 48,
s. 98.
- (2.) Make or pave footways: Footways.

Provided that, in any townsite and in any area specified by the Governor by proclamation in the "Government Gazette," one moiety of the expense incurred in paving footways shall be repaid to the Board by the owners of all rateable lands abutting on any such footway or part thereof, apportioned according to the frontage of such lands abutting on the footway or part thereof, and may be recovered from such owners by the Board in any Court of competent jurisdiction.
- (3.) Construct and maintain sea or river jetties, bathing enclosures, and bathing houses ; Jetties and bathing houses.
- (4.) Construct, sink, and maintain tanks, wells, dams, and reservoirs, and bore or otherwise search for water for the purpose of providing a water supply along any line of road within the district; Water supply.
- (5.) In and through any lands within the district, make and open such ditches, gutters, tunnels, drains, and watercourses for the drainage of any road as to the Board may seem fit, and may scour, cleanse, and keep open the same, and, for any of the purposes aforesaid, may enter upon any land; but the Board shall make compensation to the owners and occupiers thereof for any damage they may sustain through the exercise of any of the powers conferred by this subsection; Drains and watercourses.
- (6.) Drain the waters falling or flowing upon a road into the lands adjacent thereto upon paying compensation to the owners and occupiers of such lands: Provided that no compensation shall be payable when the drainage follows the natural flow of the water; Drainage from roads
- (7.) Plant and maintain trees and shrubs on any roads or in any public place; Tree-planting
- (8.) Improve public reserves vested in, acquired by or placed under the control of the Board, or the foreshore of any river or of the sea within or adjoining the boundaries of the district; Reserves.

Tramways.

- (9.) With the consent of the Minister, construct or authorise the construction, temporarily, of tramways upon, over, or across any road or public place, and permit the use thereof for any term not exceeding one year, or from year to year ;

Temporary closing for repairs.

- (10.) During such time as any road or place or any part thereof shall be under repair or alteration or during the making, altering, or repairing of any bridge or drain, or other necessary work in such road or place, prevent the passing of vehicles and animals by causing such fences or barriers to be placed on or across any such road or place as they may deem proper; but shall, during the time that such fences or barriers shall be continued, cause to be affixed thereon such lights during the night as shall be sufficient to prevent injury or danger to vehicles and passengers, and where needed and practicable provide passable and suitable side tracks: Provided always, that no such fences or barriers shall be erected without the written consent of the Board;

Deposit of road material.

- (11.) For the purpose of repairing any road, cause road metal or material to be placed upon any roadway, clear of the made portion thereof: Provided that no such metal or material shall be placed on any road so as to obstruct any other road, whether public or private, intersecting the same, or the entrance or approach to any private land ;

Clearing.

- (12.) Clear any road, reserve, or common of poisonous plants.

Ferries.

1909, No. 52, s. 5.

- (13.) Subsidise for a period not exceeding two years at any one time any ferry service in the district or between the district and any municipal or road district;

Hospitals.

1909, No. 52, s. 4.

- (14.) Subsidise any district nursing system, or hospital, public or private, for the reception of the sick, established within or without its district, or any duly qualified medical practitioner, but any expenditure under this subsection shall not exceed seven and a half per centum of the ordinary revenue of the Board in any financial year.

Joint subsidies.

- (15.) Join with any other local authority in the exercise of any such power as is conferred by either of the last two preceding subsections.

Any difference as to the amount of compensation under subsections five or six shall be determined by the award of a magistrate, with two assessors, one to be appointed by the owner or occupier and the other by the Board.

145. There shall vest in the Board within the district of which the same respectively are—

- (a.) All roads and the materials thereof, and all things appurtenant thereto;
- (b.) All buildings, fences, gates, posts, boards, stones, and erections placed upon any road; and
- (c.) All timber and indigenous or ornamental trees and shrubs.

Roads and material thereof vested in Board.

See 1906, No. 32, s. 244.

146. Every person who displaces, takes up, or makes any alteration in the soil, or other material of any road, path, or footway, or of any public place or reserve, vested in or under the control of the Board, or any fence thereon, or removes any scrapings thereof or sand thereon without the consent, in writing, of such Board shall be liable to a penalty not exceeding five pounds, and also to a further penalty not exceeding ten shillings for every square foot of the materials of the road, path, or footway, place, or reserve, exceeding one square foot so displaced, taken up, or altered.

Displacement, etc., of materials of streets.

See 1906, No. 32, s. 266.

147. The Board may use engines propelled by steam upon any street or way for the purpose of making and rolling the same, subject to the following conditions:—

- (a.) At least two persons shall be employed with each locomotive, one of whom shall, on foot, precede the locomotive when in motion, and who shall, in case of need, assist riders and drivers of horses and carriages passing the same.
- (b.) Barriers shall be provided and fixed, when practicable and not inconvenient, at the ends and in sections of streets or ways to prevent ingress or egress during the time a street or way is undergoing rolling with a steam roller.

Steam road roller.

See 1906, No. 32, s. 237.

148. Where any road, following the common boundary between two road districts, or a road district and municipal district, lies as to part of its breadth in one such district, and as to part of its breadth in the other, or as to the whole of its breadth in either such district, the road boards or road board and municipal council as the case may be, of such districts shall be bound, and may be compelled, to unite in making or repairing such road so far as the same follows such boundary.

Boards to unite in making or repairing a road on common boundary.

See 1906, No. 32, s. 258.

149. (1.) Where any portion of one bank of any river, creek, or watercourse follows any part of the boundary of or runs through any district or two or more adjacent districts, and the opposite portion of the other bank follows any part of the boundary of or runs through another district or two or more adjacent districts, then the respective local authorities of such districts may

Local authorities to unite in building or maintaining bridge, etc., across river, etc., common boundary.

See 1906, No. 32, s. 259.

be compelled, in manner hereinafter declared, to unite in doing and providing all or any of the works and services following—

- (a.) The repair and maintenance of any bridge or culvert now existing or hereafter to be constructed over such river, creek, or watercourse.
- (b.) The maintenance of any ferry service already or hereafter established over such river, creek, or watercourse.
- (c.) The construction, establishment or provision of any such bridge, culvert, or ferry service.
- (d.) The lighting of any such bridge.

(2.) The liability of the local authorities hereunder extends only to works and services within the combined area of their districts, or which exist or are required for providing passage directly from one part of such combined area to another:

Provided that the Minister may certify that any bridge or ferry is necessary to provide such passage, and that such passage cannot be conveniently so provided directly between places within the area, and may thereupon choose for that purpose some suitable situation outside or partly outside such area.

(3.) Subject as aforesaid the places between which such bridge, culvert, or ferry shall be constructed or provided shall be determined by the Minister.

(4.) No districts shall be deemed adjacent for the purposes of this section unless so determined by the Minister.

(5.) "District" in this section includes a municipal district:

Provided that in order to bring this section into operation one at least of the districts concerned must be a road district.

Minister may determine that such work or services be done or provided for.

150. The Minister may determine that any such work or service as is mentioned in either of the last two preceding sections shall be done or provided, and shall thereupon send to the local authorities concerned notice of his determination, with details of the nature, extent, and situation thereof, and if within one month thereafter no agreement or order of justices is entered into or made, as hereinafter provided, then the Minister may make any such order regarding the subject matter of his determination as justices might make under section one hundred and fifty-three in respect thereof if the same were the subject of an application under section one hundred and fifty-two, and shall notify the local authorities concerned of such order.

Agreement to be made between local authorities for maintaining works.

1906, No. 32,
s. 261.

151. Any of such local authorities may serve on the other or others a notice requiring any of such works or services as aforesaid as are specified in the notice, to be done or provided for, and shall accompany such notice with a proposal for carrying out or providing the work or service, and an offer to treat and agree with respect thereto, including the future maintenance, repair, and continuation of the whole or part thereof, and such agreement may be made accordingly.

152. If for the space of one month after the receipt of any such notice the local authorities concerned fail to agree as to the subject matter thereof, it shall be lawful for any of such local authorities at any time afterwards to apply to any two justices having jurisdiction within the magisterial district wherein the office of such authority is situated for a summons calling on the other local authority or authorities to show cause why the work or service mentioned in such notice should not be executed or provided.

Court may summon local authority failing to treat.

1906, No. 32, s. 262

153. The justices may, upon proof of the giving of such notice, and upon the appearance of both or all parties, or proof, if any party so summoned does not appear, of the due service upon such party of such summons,—

Court may apportion work and order execution.

1906, No. 32, s. 263.

- (a.) Hear and determine the matter in question, and determine (except in the case of works or services as to which the Minister has notified his determination under section one hundred and fifty) whether or not such work shall be done or service provided, and what shall be the nature, extent, and situation thereof; and
- (b.) Apportion such work or service between the local authorities or direct any local authority or authorities to execute the whole work or provide the whole of the service, and the other local authority or authorities to pay any portion of the cost thereof or make any periodical payments in respect thereof; and
- (c.) Provide, in like manner, for the future maintenance, repair, and continuation thereof.

154. Every such local authority shall have power to do, provide, perform, maintain, repair, and continue any works or services in accordance with such agreement or with any order of justices made under section one hundred and fifty-three or with any order or permission of the Minister made or given under section one hundred and fifty or one hundred and fifty-five, and to bear the cost of such performance, provision, maintenance, repair, and continuation.

Works may be executed accordingly.

155. (1.) If any local authority omits to do, provide, or continue any work or service which it ought to do, provide, or continue pursuant to any such agreement or order as aforesaid, the Minister may cause such work or service to be done, provided, or continued, and may authorise all such acts and things to be done as may be necessary for that purpose, and shall be entitled to be reimbursed the expenses incurred out of moneys placed for general purposes under section one hundred and ninety-three of this Act or as a municipal subsidy to the credit of such local authority, and the

On omission Minister or either party may execute and recover expense.
See 1906, No. 32, s. 264.

Colonial Treasurer may pay over to the Minister out of any such moneys any amount which the Minister may certify to be due to him hereunder.

(2.) Any other local authority concerned may, with the permission of the Minister, do, provide, or continue anything which the Minister may cause or authorise to be done, provided, or continued under the last preceding subsection, and may recover any expenses thereof from the local authority in default in any Court of competent jurisdiction.

Contribution by
other local
authorities.

156. The Minister may determine that any local authority other than the local authorities aforesaid shall be liable to contribute to the cost of any such work or service as is in section one hundred and forty-nine mentioned on the ground that the inhabitants of the district thereof are benefited by such work or service, and may as often as necessary determine what shall be paid either in a lump sum or by way of periodical payments by such local authority to any one or more of the local authorities aforesaid, and any such amount shall be recoverable by any party entitled in any Court of competent jurisdiction.

Judgment may be
satisfied out of
custody.

157. Any judgment recovered under section one hundred and fifty-five or one hundred and fifty-six may be satisfied by the Colonial Treasurer out of any such moneys placed in manner specified in section one hundred and fifty-five to the credit of the authority liable.

Minister may vary
orders.

158. The Minister may from time to time vary any order of determination of justices or of himself made or arrived at under section one hundred and fifty, one hundred and fifty-three, or one hundred and fifty-six.

Expenditure on
bridges and culverts
to be under direc-
tion of Minister.
1902, No. 48, s. 99.

159. The Board shall not expend a sum exceeding one hundred pounds in making any bridge or culvert, except by the direction and under the control of the Minister, or an officer authorised by the Minister in that behalf.

No road of less
width than sixty-six
feet to be laid out.
1902, No. 48,
s. 100.

160. No road shall, without the consent in writing of the Minister, be set out or constructed unless the width of such road, to be ascertained by measuring at right angles to the course of such road from front to front of the boundary line on either side thereof, shall be sixty-six feet at least.

No road to be set
out within sixty-six
feet of building.
1902, No. 48,
s. 101.

161. No road shall be set out or constructed within a distance of sixty-six feet of any permanently constructed building without the consent of the owner thereof, or the order of the Minister, and on payment of such compensation, if any, as the Minister may award.

The Minister may, if he thinks fit, direct the amount of compensation to be determined by the award of a magistrate, with two assessors, one to be appointed by the owner and the other by the Board.

Provided that this section shall not apply to town or suburban lands.

162. The Governor may—

- (a.) Proclaim any road to be a main road;
- (b.) Authorise any defects or want of reparation which the Minister may certify to exist in any part of a main road, to be remedied and made good by the Minister out of moneys placed, for general purposes, under section one hundred and ninety-three, to the credit of any Board in whose district such part may be situated; and
- (c.) Direct the Colonial Treasurer to pay over to the Minister out of such moneys such amount as the Minister may certify to be necessary to remedy and make good such defects and want of reparation.

Power for Minister to repair main roads in default of Board.

163. Every resolution of the Board to open a new road, or to divert an existing road, shall be subject to confirmation by the Governor.

Resolution to open new road to be confirmed by Governor.
1902, No. 48,
s. 102.

164. Whenever any land is required for the purposes of this Act, such land may be entered upon, surveyed, and taken under the powers contained in and in accordance with the procedure prescribed by the Public Works Act, 1902.

Procedure for taking land.
1902, No. 48,
s. 103.

165. (1.) Within ninety days of the taking of any portion of fenced land, the owner or occupier may, in writing, require the Board to erect along the land taken, on both sides thereof, either at once or at some future time to be specified by such owner or occupier, a fence similar to that enclosing the land not taken.

Owner or occupier may require fencing to be erected.
1902, No. 48,
s. 104.

(2.) If such requisition is duly made within the prescribed time such fencing shall be erected accordingly: Provided that if the land enclosed is held on pastoral lease, the Board may, instead of erecting fencing, erect gates in the fences through which a road is required to pass.

(3.) The expense of making and erecting such fencing or gates shall be borne by the Board, but any timber required for the purpose may be taken by the Board or any person acting with the authority of the Board from such enclosed land without any liability to compensate the owner or occupier.

(4.) The expense of keeping such fencing or gates in thorough repair shall thereafter be borne by the owner or occupier of the land on which such fencing or gates are erected.

(5.) In case of default of such owner or occupier, the Board may effect such repairs and recover the expense from such owner or occupier in any court of competent jurisdiction.

Notification of new road.

1902, No. 48,
s. 105.

166. (1.) On the confirmation by the Governor of the resolution of the Board to open a new road, or to alter the line of an existing road, the Minister for Lands shall cause notification thereof to be published in the "Government Gazette," and thereupon such road, or altered line of road, shall become a road within the meaning of this Act.

(2.) On any such altered line of road so becoming a road the road for which it has been substituted shall be deemed to have been closed in manner prescribed in section one hundred and sixty-eight, and the consequences set out in that section shall thereupon ensue.

Board may take materials for road-making.

1902, No. 48,
s. 106.

167. (1.) The Board, or any person authorised in writing under the seal of the Board, may—

(a.) Enter upon any land within the district, not being land under cultivation, or standing crop, a garden, yard, vineyard, orchard, plantation, park, recreation ground, or cemetery, and whether fenced or unfenced, and take from thence any timber, earth, stone, sand, gravel, or other material that may, in the judgment of the Board, be necessary for making or repairing any road or any bridge, culvert, fence, or gate within the district.

(b.) Deposit and leave on land adjoining any road any timber, earth, stone, sand, gravel, or other material that it may be necessary, in the judgment of the Board, for the persons engaged in making or repairing such road, bridge, culvert, fence, or gate to get rid of.

(2.) The Board shall not disturb or do any damage to any fence upon any such lands, nor enter upon any such lands when fenced, except through the existing and usual openings in such fence; but if there is no such opening convenient for the use of the Board, it shall be lawful for the Board, on giving three days' notice in writing of their intention so to do to the owner or occupier of such lands, to open any such fence; and in such case the Board shall erect a swing gate at such opening, which gate shall be kept closed by the Board; and any person leaving open such gate shall be liable, on conviction thereof, to a penalty not exceeding ten pounds. The Board shall, when such gate is no longer required by the Board, immediately remove same and make good such fence.

Compensation.

1904, No. 24, s. 8.

(3.) The Board shall make compensation to the owner of any land granted in fee simple or held under lease from the Crown, except for pastoral or timber purposes, for any damage which such owner may sustain through the exercise by the Board of the powers conferred by this section, including the value of the material taken, except so far as material is taken for use in the construction or repair of that section of the road which abuts upon the land of such owner or occupier.

(4.) Any difference as to the amount of compensation shall be determined by the award of a Magistrate, with two assessors, one to be appointed by the owner or occupier and the other by the Board.

(5.) If the Board, in the exercise of the powers hereby conferred, cause to be made any pit or hole in any land, the Board shall cause the same to be either filled up, sloped down, or securely fenced.

Excavations to be fenced.

1902, No. 48,
s. 106.

1904, No. 24, s. 2

(6.) The powers conferred by this section shall not be exercised upon any public reserve without the consent, in writing, of the Minister.

168. (1.) If—

Board may close a road permanently.

1902, No. 48,
s. 107.

(a.) The majority of the ratepayers of a district, in public meeting assembled, pass a resolution in favour of the closure of a road; or

(b.) The owner or occupier of any land over or along which any road may pass makes application to the Board in writing to close a road, giving full particulars of the road, with reference to its locality, dimensions, the owners and occupiers on each side thereof, and (to the best of the applicant's information and belief) how it became a road, whether by resumption, dedication, or otherwise; and

(c.) The Board assent to such resolution or application, the Board, after giving public notice thereof, shall request the Minister for Lands to obtain the Governor's confirmation of such assent.

(2.) The Governor may confirm or overrule such assent.

(3.) On the confirmation by the Governor of such assent, the land on which such road existed (hereinafter called the closed road) shall again form part of the location or other holding from which it was originally taken, and every part of the closed road shall vest in the owner for the time being of the land fronting such part, and if the lands on opposite sides of any such part of the closed road are owned by different owners, the area shall vest in such owners in proportion to the frontage of each owner to such closed road, and in the event of the closed road or any part thereof not having been alienated from the Crown, the closed road or such part shall remain in and be at the disposal of the Crown.

Provided that where any closed road has to be equally apportioned among two or more owners, the road board shall decide the proportion of land vested in each owner.

(4.) Public notice of such confirmation of any such resolution or application shall be given by the Board, or the Minister for Lands on behalf of the Board, by advertisement in the "Government Gazette" and in a newspaper circulating in the district and by notice to be exhibited at each end of the road.

(5.) In the case of an application, the public notices required by this section shall be given at the applicant's cost.

(6.) When any road is closed, and a new road made in lieu thereof through land belonging to the same person as that through which the closed road passed, then such person shall accept the closed road in exchange for the land required for the new road, subject to assessment of values as provided for in Section one hundred and sixty-four.

Board may close a track, not being a road.

See 1902, No. 48, s. 108.

169. The Board may, by a resolution duly passed by the Board and notified in the "Government Gazette," close any track over which a public right-of-way has been acquired, not being a road declared or notified as such in the "Government Gazette," and thereupon all public right-of-way over any such track shall cease and determine:

Provided that—

- (a.) At any time within three months after the notification of the closure of any such track or way, any person who shall think himself aggrieved by the closure may appeal therefrom to the Minister; and
- (b.) The Minister may, on such appeal, either confirm the closure of the track or way, or disallow the same; in which latter case, on publication of the decision of the Minister in the "Government Gazette," the resolution of the Board to close the track shall be absolutely void.

Provided that no right-of-way shall be acquired or be deemed to exist in respect of any such track over unoccupied Crown land unless the same has been officially marked upon some plan in the Department of Lands and Surveys.

Gates across roads.

See 1902, No. 48, s. 109.

170. (1.) Any person desiring to place a gate across a road shall apply to the Board for permission to do so.

(2.) The Board may grant or withhold such permission, and may, before dealing with the application, require the applicant to publish notice thereof in such manner as to the Board may seem fit.

(3.) The Board may keep a register of gates allowed to be erected under this section in its district, and may charge a fee not exceeding two shillings and sixpence for each registration to be paid by the person permitted to erect any such gate or gates.

(4.) The Board may at any time withdraw any such permission, and may require such gate to be removed by the person by whom it was erected, or may remove it and recover the expense of the removal from such person.

(5.) Any person leaving open any such gate shall be guilty of an offence against this Act.

(6.) The Board may, with the approval of the Governor, and on giving six months' notice in writing of their intention so to do to the owner or occupier of the lands adjoining a road across which any gate has been placed, under the provisions of any repealed Act, remove any such gate.

(7.) And the Governor may require any Board to give such notice and remove any such gate, and the Board shall forthwith proceed to act in accordance with such requirement.

171. If upon any land adjoining a road there is an excavation which in the opinion of the Board is dangerous, the Board may, by notice in writing to the occupier or owner of the land, require such excavation to be securely fenced; and if such owner or occupier shall, for seven days after service of such notice, or such extended time as the Board may allow, neglect to comply therewith to the satisfaction of the Board, the Board may fence the excavation and recover the cost as a debt due from such occupier or owner to the Board.

Board may require land on which there is an excavation to be fenced.

1902, No. 48,
s. 111.

172. If the Board are of opinion that any road under their control is obstructed by any tree growing or being on land adjoining thereto, it shall be lawful for any two justices, on the application of the Board, after summons served on the occupier or owner of the land, to make an order for the removal of such tree, or any part thereof, by such occupier or owner, and in default of compliance with such order within such time as the justices may appoint, such occupier or owner, as the case may be, shall be liable to a penalty not exceeding five pounds, and the Board may remove such tree or such part thereof, and the cost of such removal may be recovered from such occupier or owner as a debt due to the Board.

Trees obstructing or injuring roads.

1902, No. 48,
s. 112.

173. (1.) The Board shall cause all drains and watercourses of the Board to be kept so as not to be a nuisance or injurious to health, and to be properly cleared, cleansed, and emptied; and for the purpose of clearing, cleansing, and emptying the same may construct and erect such works as may be necessary, and may cause such drains to communicate with and be emptied into any place, not being a fresh water running stream, as they may deem fit or necessary.

Management of sewers and drains.

1902, No. 48,
s. 113.

(2.) No person shall, without the consent of the Board, cause any private drain or sewer to be emptied or to flow into any public drain of the Board, or to do any act, matter, or thing which shall, in the opinion of such Board, tend to the injury or stoppage of any such drain.

Board may abate
nuisance.
1902, No. 48,
s. 114.

174. Whenever it appears that the person by whose act, default, permission, or sufferance a nuisance arises, or the owner of the land whereon the nuisance exists, is not known or cannot be found, then the Board may remove or abate the nuisance, and the costs may be defrayed out of the rates or moneys applicable to the execution of this Act, but shall be recoverable from such person or the owner of the land, when discovered, in any court of competent jurisdiction.

Board may require
land abutting on
made roads to be
fenced.
See 1906, No. 32
s. 272.

175. (1.) Where any land, abutting upon any footway that has been made in whole or in part, is not fenced in to the satisfaction of the Board, or the fence is in a state of disrepair, the Board may, from time to time, order that such frontage of such land be fenced or refenced with a substantial fence of such description and material as the Board may prescribe.

(2.) The owner of the said land, after service on him, or upon the occupier of the land, of such order, shall, in such manner and in such time as shall be expressed therein, at his own cost, fence, refence, or repair, to the satisfaction of the Board, so much of the said land as shall abut upon any such road.

(3.) If any owner neglects to observe such order in the manner and time expressed therein, the Board may fence or refence such land, and demand and recover payment of the cost thereof from such owner.

(4.) In default of payment within thirty days from such demand, the Board may lodge a caveat with the Registrar of Titles against the transfer of such land until payment is made, and may sue for the amount so expended.

Prevention of fires.

See 1906, No. 32,
s. 343.
1909, No. 52, s. 6.

176. The Board may, with the consent of the Minister, either separately or in conjunction with any water board or other authorised body for supplying the district with water,—

(1.) Cause such reservoirs, tanks, mains, pipes, and fire-plugs to be constructed and laid down in such public places as the Board deems necessary for affording a supply of water for use in the event of fire within the district; and

(2.) Either separately or in conjunction with any fire insurance company or other persons, procure fire engines, fire escapes, ladders, and other machines and apparatus made use of for extinguishing fires and saving life and property in cases of fire; and in like manner

organise, establish, and maintain any fire brigade and make provision for, or contribute towards the payment of, any superintendent, officer, fireman, or other person employed therein, or grant any sum of money as rewards for meritorious conduct, or compensation for personal injury to any person assisting in the extinguishment or preventing the spread of fire, or in the rescue, or attempt to rescue, any person, animal, or goods therefrom within the district; and

- (3.) Cause fire-alarm bells to be fixed in such situations as the Board deems expedient; and
- (4.) Subsidise any fire brigade established within its district or in any adjoining district:

177. (1.) All powers and authorities and all things authorised or required to be exercised or done by justices of the peace under the Cattle Trespass, Fencing, and Impounding Act, 1882, in relation to pounds and poundkeepers (save and except the hearing of complaints and informations) shall, within the limits of any district, be exercised and done by the Board of such district.

Board may establish pounds.
1902, No. 48,
s. 115.

(2.) For the purposes of any law now or hereafter to be in force relating to the impounding of cattle, every Board shall be deemed the owner and occupier of all roads within its district, and of all reserves vested in or under the control of the Board, and of all unfenced land abutting on any such road or reserve.

See 1906, No. 32,
s. 242.

(3.) Any cattle found on any such road or reserve for the purpose of grazing, without the consent of the Board, shall be deemed to be trespassing on such road or reserve, and may be impounded by the Board under any law for the time being in force relating to the impounding of cattle.

See 1906, No. 32,
s. 243.

(4.) The Board may, with the assent of the local authority of an adjoining road or municipal district, by notice in the "Government Gazette," declare that a pound established in such adjoining district, and the keeper of such pound for the time being, shall be the pound and poundkeeper of the district of the first-mentioned Board as well as of the local authority of such adjoining district; in which case the districts shall be deemed one district for the purposes of the said Act, so far as it relates to pounds and poundkeepers; and such declaration may, by similar notice, be cancelled by the Board making the same.

(5.) All pounds and poundkeepers established and appointed at the commencement of this Act, and all tables of fees and prices, and all regulations in relation thereto, shall pass to and be binding upon and enforceable by the Board in whose district the same may be : Provided that such tables and regulations may be rescinded, altered, or amended, and any such poundkeeper may be dismissed by the Board.

(6.) Section sixteen of the Cattle Trespass, Fencing, and Impounding Act, 1882, shall hereafter be read and construed as if the words "or a Road Board" or "or the Road Board" as the case requires were inserted after the words "Council of a Municipality" and "Council of the Municipality," and "Council" wherever occurring therein, and as if the words "or Board" were inserted after the word "Municipality," in the fifth and ninth lines of the said section.

(7.) In subsection seven of section thirty-four of the said Act, the word "Board" shall, in connection with sales of cattle from a pound of any Board, be read in place of the words "resident or police magistrate" and "magistrate" respectively; and in subsection eight thereof the words "ordinary revenue of the Board" shall be read in place of "public revenue of the Colony."

Methods of entering
into contracts.
1902, No. 48,
s. 116

178. The Board may enter into contracts for the purposes of this Act, and every such contract may be made, varied, or discharged as follows, that is to say:—

- (1.) Any contract which, if made between private persons, would by law be required to be in writing and under seal may be made in writing and under the common seal of the Board, and may be varied or discharged in the same manner.
- (2.) Any contract which, if made between private persons, would by law be required to be in writing may be made in writing, signed by the chairman, acting by the direction and on behalf of the Board, and may be varied or discharged in the same manner.
- (3.) Any contract which, if made between private persons, would be by law valid, although not reduced into writing, may be made without writing by the chairman, acting by the direction and on behalf of the Board, and may be varied and discharged in the same manner.

By-laws.
See 1902, No. 48,
s. 117.
1904, No. 24, s. 10.

179. The Board may from time to time make, alter, and repeal by-laws for any of the following purposes:—

- (1.) For the conduct of the election of members of the Board so far as the same is not sufficiently provided for by this Act.
- (2.) To regulate the meetings, proceedings, and general conduct of the Board.
- (3.) To regulate the appointment, duties, and conditions of service of officers and servants of the Board.
- (4.) For the custody of deeds, records, books, and papers.

- (5.) As to the time and mode of collecting and enforcing payment of rates, either in arrear or current, and of license fees.
- (6.) As to the publication of notices.
- (7.) For the general regulation of traffic upon roads, and the general good rule and government thereof.
- (8.) For the general control, use, management, and repair of all lands, roads, bridges, ferries, jetties, piers, wharves, and landings under their control or management and the prevention of obstruction thereto.
- (9.) As to the manner in which horses, oxen, camels, or other animals in teams shall be driven, yoked, or harnessed upon a road.
- (10.) Regulating the weight of any engine, agricultural or other machine, or vehicle of any kind, and the weight of any load or material of any kind, which shall be permitted to cross any bridge or culvert, and the times when such engines, agricultural or other machines, or vehicles shall be allowed to cross any bridge or culvert.
- (11.) Regulating the use of traction engines, and prescribing the conditions on which traction engines may proceed over roads, and requiring the owners thereof to make compensation for any damage to any road, bridge, or culvert.
- (12.) Regulating the pace, speed, mode, or manner and times at or in which any horses, cattle, engines, agricultural or other machines, cycles, motor cars, or vehicles shall cross or be driven, led, or taken over any road.
- (13.) Prescribing the fees and fares and the number of passengers to be carried by licensed vehicles plying for hire within, or carrying passengers through, the district, and providing for the general cleanliness and good management of the same.
- (14.) Prohibiting or regulating the use on any road of any vehicle not having the nails in the wheels counter-sunk in such manner as may be specified by such by-law, or having on the wheels any bars, spikes, or projections forbidden by such by-law.
- (15.) Prohibiting or regulating the drawing or trailing of any sledge, timber, or other heavy material on any road, footway, carriage way, or cycle track.
- (16.) Prohibiting or regulating the locking of the wheel of any vehicle when descending a hill unless there is placed at the bottom of the wheel during the time of its being locked, a skidpin, slipper, or shoe of steel or

- iron in such a manner as to prevent the road from being damaged by the locking of the wheel.
- (17.) Regulating the speed at and the mode or manner in which cycles or motor cars may pass any vehicle, and the means whereby warning of their approach shall be given.
 - (18.) Prescribing the width of and the mode in which and the materials whereof, crossing places for vehicles and animals from any road or street to private properties over any made footpath shall be constructed.
 - (19.) Regulating the times during which vehicles shall carry lights, and the position and number of such lights, and the times when such lights shall be lighted and extinguished.
 - (20.) Requiring the annual registration of camels, and providing for the seizure and sale or destruction of every unregistered camel; but no person shall be required to register the same camel in more than one district.
 - (21.) Providing for the annual licensing of camel drivers, and regulating the issue, suspension, and cancellation of licenses, and prohibiting any camels being driven within the district by any person other than a licensed driver, and limiting the number of camels to be driven by each licensed driver; but every license granted in any district shall be a general license having effect in every other district.
 - (22.) Imposing a license fee, not exceeding ten shillings per annum, on every camel driver, and a registration fee, not exceeding one pound per annum, for every cow or gelded camel or bull camel under the age of three years plying for hire, if used for packing; but not exceeding ten shillings per annum for every such camel used for draught, and not exceeding five pounds per annum for every bull camel over the age of three years: But no fees shall be payable in respect of camels used by prospectors for prospecting purposes; and providing a registration fee not exceeding one pound per annum for every bull or stallion.
 - (23.) Providing for the issue by the Board, on the registration of any animal, of a registration disc inscribed with the name of the district, and the registration number, and requiring every person in charge of the animal to keep the disc attached to its neck.
 - (24.) Regulating the driving of or preventing any camels from being driven along any part of a road or track or within twenty feet of the centre thereof.
 - (25.) Requiring every camel driver or person having the charge of any camel to produce, for inspection, his license or certificate of registration.

- (26.) Preventing entire horses being led or exhibited through or in the streets or public places of any townsite at inexpedient hours.
- (27.) Preventing mares being covered in any townsite except in yards, buildings, or premises sufficiently enclosed or screened from public view.
- (28.) Prescribing the manner in which any fence or wall abutting on any road is to be erected in any particular portions of the district by order of the Board, and the description, style, and material of any such fence or wall.
- (29.) Prohibiting the erection of dangerous fences, or fences with barbed wire, abutting on roads or public places, and regulating and prescribing the materials of which fences abutting on roads or public places shall be erected.
- (30.) For the regulation and control of hoardings in any townsite, and compelling the use of hoardings, fences, lights, and other appliances where works are in progress in or upon any land or premises abutting on a road or land under the control of the Board.
- (31.) For the prevention, suppression, and speedy extinguishment of fires.
- (32.) Preventing the placing, stacking, or storing in any townsite, of any cases, paper, shavings, crates packed with straw, or any dangerous or inflammable substances, in the open air.
- (33.) For the prevention of obstructions of any roadways and footways, and of water channels and water courses therein.
- (34.) Regulating the carriage and storage of gunpowder, explosives, cartridges, and other dangerous goods.
- (35.) For regulating and controlling quarrying and blasting operations.
- (36.) Regulating or prohibiting the erection of hessian or calico structures, or structures of any other inflammable material.
- (37.) For the regulating of hoardings, buildings, balconies, or verandahs abutting on or extending over any road or public place.
- (38.) For the lighting of roads and other public places.
- (39.) For the prevention and abatement of nuisances.
- (40.) For the preservation of public decency and public health.
- (41.) Regulating or prohibiting bathing in the sea or in any river, pool, creek, or other open public water within the limits of or on the boundary of the district.

Setting apart any place or any portion of any such water for the sole use of and prescribing the times when the same may be used by either sex.

Fixing the hours within which persons may bathe, and requiring persons bathing to wear suitable clothing.

- (42.) Authorising the erection and using of bathing-houses, sheds, or machines, and providing for such other matters as appear expedient for preserving decency or promoting the convenience of the public in connection with bathing.
- (43.) Regulating the use of sea or river jetties, bathing enclosures, and bathing-houses under the control of the Board, and prescribing charges for admission to or for the use of the same.
- (44.) Regulating the use of the foreshore of any river or the sea, and for granting licenses to erect stalls, merry-go-rounds, and other structures thereon, and prescribing fees for the same.
- (45.) For the granting, with the approval of the Minister for Lands, of licenses for cutting timber and firewood on and the removal of gravel, stone, or sand from reserves vested in the Board, in addition to any licenses required under the Land Act, 1898.
- (46.) Prescribing and regulating the manner of keeping and depasturing goats and the driving of goats over roads, and empowering the Board to seize, impound, or destroy goats found at large in public places.
- (47.) Prescribing the registration of all goats kept within any townsite and the fees for same not exceeding sixpence for each goat.
- (48.) Prohibiting or regulating the keeping of bees.
- (49.) Regulating the hawking of fruit, fish, meat, poultry, game or vegetables, or any article of merchandise, and requiring licenses to be obtained by hawkers, and enforcing the obligation of hawkers and traders to carry scales.
- (50.) To prevent and prohibit animals from straying, or, if suffering from any infectious or contagious disease, from being driven or ridden on any road, and for the slaughter and destruction of any animal found so suffering on any road.
- (51.) For regulating the management and use of any public reserve, common, or public buildings, public works, and other things under the control of the Board, and the rights and privileges to be enjoyed by the inhabitants of the district or other persons over such reserve, common, or building respectively.

- (52.) Providing for the annual licensing of, and prohibiting the use of any unlicensed bicycle, tricycle, or motor car: But the license fee shall not exceed five shillings per annum for any bicycle or tricycle, or five pounds per annum for any motor car, and any person licensed for the district in which he resides shall not be required to take out a license in any other district.
- (53.) Requiring a special yearly license fee to be paid for vehicles or machines engaged in heavy traffic.
- (54.) Providing for the issue by the Board with every license for vehicles plying for hire, bicycles, tricycles, motor cycles, motor cars, motor wagons, and traction engines or other vehicles or machines engaged in heavy traffic of a registration disc inscribed with the name, or letters signifying the name, of the district and the registration number, and requiring every person in charge of any such vehicle, bicycle, tricycle, motor cycle, motor car, or motor wagon or traction engine to keep the registration disc on some conspicuous part thereof.
- (55.) Prescribing the fees and charges to be paid in addition to any fees payable under the Land Act, 1898, for grazing stock on any common vested in the Board, and providing for the collection and enforcing payment of such fees and charges.
- (56.) For any purposes within the powers conferred by section one hundred and forty-four of this Act.
- (57.) Requiring the owners of land within the district or any prescribed areas thereof to fence the boundary thereof abutting on any main road.
- (58.) For the prevention, suppression, and extinguishment of fires.
- (59.) For preventing the pollution of watercourses, pools, wells, dams, tanks, reservoirs, and other waters within the district of the Board.
- (60.) For regulating the supply and distribution of water at any public well, bore, or place formed for the storage of water and under the control of the Board, and imposing, collecting, and enforcing payment of charges therefor by consumers.
- (61.) For the prevention of injury and damage to any public building, dam, well, bore, or other place as aforesaid, or to the machinery, appliances, or property used therewith.

- (62.) For regulating the flow of poisonous or offensive waters from mines; for requiring suitable and properly protected channels and culverts to be constructed to carry away such waters; for providing for the disposal of such waters, and for the protection of human and animal life from dangers likely to arise therefrom.
- (63.) Requiring every person having any tent, camp, or other habitation on any land of which he is not the rateable owner or occupier to pay in advance a prescribed fee to be levied annually or otherwise as the Board may direct.
- (64.) For effectually regulating, observing, and carrying out all and every the powers and authorities conferred by this Act.

Uniform general
by-laws.

180. The Governor may make and publish in the "Government Gazette" uniform general by-laws for all or any of the purposes for which by-laws may be made under this Act, and such by-laws shall have the force of law in any districts which the Governor may prescribe from time to time, and shall supersede the by-laws made for the same or a similar purpose by the Boards of the districts so prescribed.

Penalties and fees.
See 1902, No. 48,
s. 117.

181. (1.) Any by-law made under this Act may—

- (a.) Impose a penalty not exceeding twenty pounds for the breach thereof;
- (b.) Fix the fees payable for and the duration of licenses;
- (c.) Prohibit the doing by unlicensed persons of any act or thing for which a license is required under this Act.

(2.) Any unlicensed person doing any act or thing for which a license is required, and any licensed person committing any breach of the conditions under which his license is granted, shall be guilty of an offence against this Act.

Confirmation and
publication of
by-laws.
1902, No. 48, s. 118.

182. (1.) By-laws shall not be inconsistent with or repugnant to any of the provisions of this Act, and when confirmed by the Governor and published in the "Government Gazette" shall have the force of law.

(2.) Copies of all by-laws, model by-laws, and uniform general by-laws made under this Act shall be laid before both Houses of Parliament forthwith, if then sitting, or within fourteen days after the next meeting of Parliament.

By-laws not to
relieve offenders
from other proceed-
ings.
1902, No. 48,
s. 119.

183. Nothing in any by-law shall relieve any person from any penalty, punishment, or action to which he would otherwise

be liable in respect of anything done by him in breach of any such by-law; and the Board may sue any person for any damage done to any road or bridge or other works in addition to recovering the amount of the penalty for the breach of the by-law.

184. (1.) A copy of the "Government Gazette" containing any such by-law shall be evidence in all courts of the same having been duly made under the authority of this Act.

Proof of by-laws.
1902, No. 48,
s. 120.

(2.) A copy of all by-laws having special reference to bridges and jetties shall be conspicuously displayed at each and every bridge and jetty to which such by-laws have reference.

(3.) Printed copies of all by-laws having reference to the traffic on roads generally, or on any road in particular, shall be on sale to every person applying for the same, at a price of not more than a shilling a copy, at the office of the Board having the control of the same.

185. (1.) The Governor may in his discretion extend the provisions set out in the Second Schedule hereto, to any district or portion thereof, and on publication in the "Government Gazette" of an Order in Council made under this section, such provisions shall come into force in the district or portion thereof to which such order relates.

Building regula-
tions.
Second Schedule.

(2.) The Governor may alter or revoke any Order in Council made under this section, or suspend its operation in any district or portion thereof for any period.

186. The Board may require mining companies to construct, fence, or otherwise protect and maintain, to the satisfaction of the Board, and in accordance with the by-laws (if any) made under this Act, proper channels and culverts to carry away cyanide water discharged upon any road or public place from any land used for or in connection with mining operations, or the Board may itself construct, fence, or otherwise protect and maintain such channels and culverts and recover the cost thereof from any mining company so discharging water.

Channels from
mines.

187. (1.) Except in vermin districts constituted under the Vermin Boards Act, 1909, the Board may apply its ordinary revenue in the destruction of vermin within the meaning of the said Act.

Destruction of
vermin and noxi-
ous weeds.

(2.) The Board may, and, if required by the Minister so to do, shall clear the roads, reserves, commons, and other land under its control of noxious weeds and may so far as necessary apply its ordinary revenue to such purpose.

188. A Board may from time to time, with the approval of the Minister, pay the reasonable expenses incurred by not more than one delegate in attending any Road Board conference.

Conferences.

Board may make compositions.

189. The Board may compound, compromise, or submit to arbitration any claim, debt, sum of money, action, or demand made, owing, or brought either by or against the Board.

Board relieved from certain actions,

1902, No. 48,
s. 121.

190. No action shall be brought against any Board in respect of any works made or constructed without negligence, and in the *bona fide* belief that the Board was acting in the exercise of its statutory powers, or in respect to any damage or injury arising out of the making or constructing of any such works, by reason only that the Board made or constructed the same, or caused the same to be made or constructed, without exercising any such power.

Liability of members of Board.

1902, No. 48,
s. 122.

191. In the execution and performance by any Board of the powers and duties conferred upon it by this Act, a member of the Board shall not be personally liable in respect of the execution or non-execution of the said powers or the performance or non-performance of the said duties, unless it shall be proved that such member has been guilty of wilful or intentional misconduct or negligence.

PART VI.—REVENUE.

Division (1).—Ordinary Revenue: Grants.

Ordinary revenue.

See 1902, No. 48,
s. 123.

1906, No. 32.
s. 375.

192. (1.) The ordinary revenue of every Board shall be made up of—

- (a.) The rents, issues, profits, and dues arising from or out of any real or personal property of the Board;
- (b.) Fees, profits, or rents arising from or out of any lands, reserves, or commons vested in or under the control of the Board;
- (c.) Dues and fees authorised by the Governor to be exacted in respect of any building, erection, or work placed by the Governor under the control or management of the Board;
- (d.) Fees for licenses granted, and registrations made by or on behalf of the Board, under the provisions of this Act;
- (e.) Fees for licenses and registrations which, under the provisions of any other Act or otherwise, are payable to the Board;
- (f.) Fines and penalties incurred and recovered under the provisions of this Act or the by-laws of the district;
- (g.) Fines and penalties which by any other Act are made payable to the Board ;

- (h.) All moneys payable in respect of any general rate struck under the provisions of this Act;
- (i.) All other moneys which the Board may receive under this Act, not being the proceeds of any loan or of any loan rate;
- (j.) All moneys which the Board may receive under any other Act if such moneys are applicable to the general purposes of this Act.

(2.) Such revenue shall be applied by the Board towards the payment of all expenses incurred in carrying this Act into execution, and of doing and performing all acts and things which the Board is empowered or required to do or perform.

193. (1.) The Governor may from time to time place to the credit of a Board, for the purpose of any specific object or for general purposes, any sum of money out of moneys appropriated by Parliament for the purposes of this Act.

Government
Grants.
See 1892, No. 48,
s. 124.

(2.) Such sum shall not be deemed to be ordinary income of the Board, and a separate detailed account of the expenditure thereof shall from time to time, and whenever required, be furnished to the Minister.

(3.) Any money granted to a Board under this section shall be paid to the credit of the Board at the Treasury, and when granted for a specific object shall not, without the consent of the Minister, be expended except for that specific object.

Division (2).—Rateable Property.

194. All land shall be rateable property within the meaning of this Act save as hereinafter excepted, that is to say:—

What shall be
rateable property.
See 1902, No. 48,
s. 123.
1906, No. 32,
s. 376.

- (1.) Land the property of the Crown and used for public purposes, or unoccupied.
- (2.) Land belonging to any religious body, and used or held exclusively as or for a place of public worship, a Sunday-school, a place of residence of a minister of religion, a convent, nunnery, or monastery, or occupied exclusively by a religious brotherhood or sisterhood.
- (3.) Land used exclusively as a public hospital, benevolent asylum, orphanage, public school, private school being the property of a religious body, public library, public museum, public art gallery, or mechanics' institute.
- (4.) Land used and occupied exclusively for charitable purposes.

- (5.) Land vested in any Board under the Parks and Reserves Act, 1895, or in trustees for agricultural or horticultural show purposes, or zoological or acclimatisation gardens or purposes, or for public resort and recreation.
- (6.) Land held or used as a cemetery.
- (7.) Land declared by the Governor or by any unrepealed Act passed before or after the commencement of this Act to be exempt from rates.
- (8.) Land held on conditional purchase lease granted before or after the commencement of this Act, under the Land Act, 1898, or any amendment thereof, for two years from the commencement of the lease.

Provided that no exempted land shall become liable to be rated by reason of such land being used for the purposes of any bazaar, or as a place of meeting for any religious, charitable, temperance, or benevolent object, or for a polling place at any parliamentary or other election.

Provided also that—

- (a.) Any land exempted by subsections two, three, and four of this section shall be deemed rateable property while the same is leased or occupied for any private purpose; and
- (b.) Any land used or occupied for any of the purposes mentioned in subsections three and four of this section shall be deemed to be rateable property if such property is held under lease or rented from any owner except the Crown:

But where any land which, but for this section, would not be rateable property is, at the commencement of this Act, held under any lease then unexpired, such land shall not become rateable land until the period for which such lease has been made has expired, or until the lessee has a right to determine the same, whichever first happens.

Division (3.)—Valuations.

Annual valuation of rateable property. See 1902, No. 48, ss. 125, 126, and 129.

195. The Board shall, on or before the seventh day of July in every year, make a valuation of all rateable land within the district, on the capital unimproved value, in accordance with the rules prescribed by the next following section; and every such valuation shall remain in force until a new valuation has been made:

Provided that the valuation of land held under mining lease from the Crown may be as prescribed in section two hundred and one.

Provided, also, that notwithstanding the adoption by the Board of a general system of valuation on the capital unimproved value, the Board may adopt in any townsite or other prescribed area within its district the system of valuation on the annual value.

196. In the valuation of land on the capital unimproved value, the following rules shall be observed:—

Mode of making valuation.
Capital unimproved value.

See 1902, No. 48, s. 126.

- (a.) Except as hereinafter provided, the value of rateable land shall be the estimated capital unimproved value thereof, that is to say, the price at which the land, in fee simple, unencumbered by any mortgage or charge thereon, and if no improvements existed thereon, might be expected to sell at the time when valued.

The valuation shall be made without regard to any metals or minerals contained, or supposed to be contained, in the land.

- (b.) Except as hereinafter provided the capital unimproved value of land held from the Crown under the laws in force for the time being relating to the use and occupation of Crown lands without the right to acquire the fee simple shall be a sum equal to twenty times the annual rent received by the Crown.
- (c.) When more persons than one are in separate occupation of a building erected upon any portion of rateable land, each of them shall be deemed to be in occupation of a part of the land, and the capital unimproved value of such part shall be taken to bear the same proportion to the capital unimproved value of the whole of the land as the annual rental value of the part of the building occupied by him bears to the annual rental value of the whole of the building.
- (d.) No separate portion of rateable land shall be valued at less than fifteen pounds.
- (e.) When land is held by trustees under a grant from the Crown, or under a Statute, subject to restrictions upon the mode of its use, the value of the land shall be estimated at a reduced amount, and the amount of the reduction shall be proportionate to the extent by which the availability of the land for profitable use is reduced by reason of such restrictions.

Annual value.

See 1902, No. 48,
s. 125.

1906, No. 32 s. 378.

197. In the valuation of land on the annual value the following rules shall be observed:—

- (a.) The annual value of rateable land which is improved or occupied shall be deemed to be a sum equal to the estimated full, fair, average amount of rent at which such land may reasonably be expected to let from year to year, on the assumption (if necessary to be made) that such letting is allowed by law, less the amount of all rates and taxes, and a deduction of twenty pounds per centum for repairs, insurance, and other outgoings:

Provided that no rateable land shall be computed under this paragraph as of an annual value of less than four pounds per centum upon the fair capital value of the fee simple thereof.

- (b.) When more persons than one are in separate occupation of a building erected on any portion of rateable land, each of them shall be deemed to be in occupation of a part of such land, and the annual value of such part shall be taken to bear the same proportion to the annual value of the whole of the land as the annual rental value of the part of the building occupied by him bears to the annual rental value of the whole of the building.
- (c.) The annual value of rateable land which is unimproved and unoccupied shall be taken to be not less than five pounds per centum upon the capital value of the fee simple thereof.

Valuation of
pastoral leases

198. The capital unimproved value of land held under lease from the Crown for pastoral purposes, and used exclusively for pastoral purposes, shall be a sum equal to twenty times the annual rent reserved by the lease.

Provided that where such annual rent is reduced under the provisions of the Land Act, 1898, on the ground of possession by the lessee of stock, the valuation shall nevertheless be made on the annual rent originally reserved by the lease.

Valuation of timber
leases and other
concessions.

199. The capital unimproved value of land held under lease, license, or concession from the Crown for cutting and removing timber, or with the right of taking any other profit from the land, shall be a sum equal to twenty times the annual rent (including royalties, license fees, and other similar payments) reserved by the lease, license, or concession.

Timber and fire-
wood lines, etc.
See 1909, No. 52,
s. 3.

200. All tramways or railways for the carriage of timber, firewood, or for any other purpose whatsoever, whether constructed

on unalienated Crown land or private land or on land held under or the subject of any other lease, license, or concession, shall be rateable under this Act, and may be rated on an annual valuation of not exceeding five pounds per centum of the cost of construction less depreciation.

Provided that, in arriving at such capital cost, machinery and rolling stock shall not be taken into consideration.

Provided also that any dispute as to such capital cost or percentage for depreciation shall be referred to and finally decided by the Minister.

Provided that if any such tramway or railway is within the district of more than one Board or other local authority the amount of the payment to the Roads Boards or other local authorities concerned shall be proportionate to the mileage of such route within such district.

201. In estimating the annual or capital value of mines no regard shall be had to the minerals therein or the mining machinery, whether fixed to the soil or not, but subject thereto the valuation shall be made on the assumption (if necessary to be made) that the subletting of the land is authorised by law.

Valuation of
mining holdings.

202. (1.) Subject to any agreement made between the Board and the promoters of any tramway under the provisions of section forty-six of the Tramways Act, 1885, the following provisions shall have effect with respect to the valuation and rating of tramways constructed in any road under the said Act, or under any special or private Act, in lieu of the provisions of this Act relating to the valuation of land and the making of rates in respect thereof.

Valuation of tram-
ways.
See 1906, No. 32,
s. 380.

(2.) In full satisfaction and discharge of all rates due and payable by the tramway company in respect of all lines of tramway constructed in any road, and in respect of all lands, buildings, and works used by the company for tramway purposes only, such lines of tramway, land, buildings, and works being deemed for the purposes of this Act rateable land and the tramway company the owner thereof, a payment of three pounds per centum for the gross earnings of the vehicles of the company running upon such lines shall be made in every financial year, and such payment shall be distributed as follows:—

- (a.) If a car route is wholly within one district, the entire amount of the payment shall be made to the Board thereof;
- (b.) If a car route is within the district of more than one Board or other local authority, the amount of the payment to the Boards or Board and council concerned shall be proportionate to the mileage of such route within such district:

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 Board, be exempted from the provisions of this section if the rate charged per passenger does not exceed one halfpenny per mile.

(3.) The company shall keep proper books of record, in which shall be shown the gross earnings from the vehicles running upon each route, and such books shall be open to the inspection of any officers appointed by the Minister or any Board or council concerned.

(4.) In the month of July in every year the tramway company shall deliver to the Board a return showing the gross earnings of the vehicles running upon each route during the year ending the thirtieth day of June next preceding, or any part thereof, verified by statutory declaration.

(5.) All moneys payable under this section shall be recoverable in like manner as rates are recoverable under this Act.

(6.) In this section the term " car route " means the road (being a road on which a tramway is constructed) traversed by a tram-car or tram-wagon on its journey between the points of departure and destination.

(7.) The provisions of this section shall not be deemed to exempt from liability to rating any other land owned or occupied by the tramway company which may be or become rateable.

(8.) In this section " tramway company " and " company " includes any person, corporation, or company by whom any tramway is held, maintained, or worked.

(9.) Any company making default in the delivery of the annual return required to be made by this section shall be liable to a penalty not exceeding five pounds for every day during which such default shall continue.

203. (1.) If any person, company, or corporation shall have undertaken, or shall hereafter undertake, the business of the supply of gas within a district, and for that purpose shall have laid down, or shall hereafter lay down, pipes in or under any road within the district, or if any person, company, or corporation shall have constructed, or shall hereafter construct, 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, and such person, company, or corporation shall be deemed the owner thereof:

Valuation of gas
mains and electric
lines.
See 1906, No. 32,
s. 381.

But in lieu of the provisions of this Act relating to the valuation of land and the making of rates in respect thereof, the following provisions shall have effect:—

(2.) On or before the fourteenth of July in every year every such person, company, or corporation shall deliver to the Board a return showing the amount actually received by such person, company, or corporation for the sale of gas and electricity within the district during the year ending the thirtieth day of June next preceeding, verified by statutory declaration.

(3.) Every such person, company, or corporation shall keep proper books of account which shall disclose the said receipts, and such books shall be open to the inspection of any officer appointed by the Minister or the Board.

(4.) In full satisfaction and discharge of all rates payable in respect of such pipes and electric lines, and of all lands, buildings, and works used by such person, company, or corporation exclusively in connection with the manufacture and supply of gas or electricity, or gas and electricity within the district, a payment of not more than one pound five shillings per centum of such gross receipts shall be made by such person, company, or corporation to the Board in every financial year, by equal half-yearly payments, on or before the first day of August and the first day of February in every such year.

Provided that where any such gas or electricity is supplied for power purposes at a rate lower than that charged for lighting purposes the payment to the Board, in respect to such gas or electricity supplied for power purposes at such reduced rate, shall be five shillings per centum of the gross receipts from the supply of such power.

(5.) All moneys payable under this section shall be recoverable in like manner as rates are recoverable under this Act.

(6.) In this section "electric line" means 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 tramway, telegraph, or telephone line.

(7.) Any person, company, or corporation making default in the delivery of the annual return required to be made by this section shall be liable to a penalty not exceeding five pounds for every day during which such default shall continue.

204. Where any rateable land held by any person liable to be rated in respect thereof is divided into lots, the Board may either value such land as a whole or may value each lot separately:

Valuation of subdivided lots.
See 1902, No. 48, s. 148.

Provided that so far as any lots are unimproved, the total valuation of such lots separately valued shall not exceed the valuation of the land taken as a whole.

Rating of persons
residing on mining
leases.

See 1902, No. 48,
s. 127.

205. Any person in occupation of any portion of the surface of a mining tenement within the meaning of the Mining Act, 1904, shall be liable to be rated in respect of such occupation, notwithstanding any want of title to occupy the same, or that the mining tenement is rated under this Act.

Valuers.

See 1906, No. 32,
s. 383.

206. (1.) For the purpose of making valuations, the Board may make the valuation itself, or may appoint a valuer or valuers, not being a member or members of the Board, who shall make and return a valuation in a form to be prescribed by the Board from time to time.

(2.) The valuation so returned may be adopted by the Board with or without alteration, and when adopted shall be the valuation of the Board, subject to alteration as provided by this Act.

(3.) The Board may cause a valuation to be made whenever necessary for the purposes of section two hundred and nineteen or two hundred and forty-one, and may adopt the same with or without alteration.

Entry on premises
by valuer.

See 1906, No. 32,
s. 384.

207. (1.) The Board and its officers and every valuer shall, for the purpose of making the valuation and return as aforesaid, have power to enter into and upon any rateable land without being liable to any legal proceedings on account thereof, and shall also have power to search in the Office of Titles and Registry of Deeds, or any office of the Department of Lands and Surveys, or of the Department of Mines, and to inspect all plans, grants, transfers, certificates of title, and memorials free of charge.

Valuer empowered
to make inquiries.

(2.) Any valuer may put to the owner, or agent of the owner, or any person in occupation or charge of any rateable lands which such valuer is authorised to value, any question necessary to enable such valuer to state correctly the several particulars required to be stated in his valuation with regard to the land.

Penalty for false
answers.

(3.) Every person who, after being informed by the valuer of the purpose in putting such questions, and of his authority to put the same, refuses or omits to answer the same to the best of his knowledge or belief, or makes any false answer or statement in reply to any questions, shall, for every such offence, be liable to a penalty not exceeding ten pounds.

Penalty for wilfully
incorrect valuation.
1906, No 32,
s. 385.

(4.) A valuer who makes a wilfully incorrect valuation shall be guilty of an offence against this Act, and liable for every such offence to a penalty not exceeding twenty pounds.

208. The Minister may, from time to time, direct a fresh valuation to be made by the valuer or valuers appointed by the Minister, and such valuation shall be deemed to have been made by the Board.

Minister may order new valuation.

Division (4.)—Rates.

209. (1.) The Board shall cause a book to be kept called "The Rate Book," according to the prescribed form, and shall enter therein—

Rate-book.
See 1902, No. 48,
s. 125.
1906, No. 32,
s. 386.
Ninth Schedule.

(a.) All rateable land within the district, and in the appropriate columns the capital unimproved value of the same, and the annual rateable value where the system of valuation on the annual rateable value is adopted.

(b.) The name of the owner and other particulars indicated by the said form.

(2.) Such book shall be made up and completed not later than thirty days after the expiration of each financial year, and the chairman shall then initial in his hand-writing the bottom of each page therein, and any alteration or erasure therein, and the said rate-book shall at all times thereafter be open to inspection.

(3.) As soon as practicable after making up any rate book the Board shall cause to be served upon every owner a notice in the prescribed form. Two or more properties may be included in the one notice.

(4.) Provided always, that the Board may, in its discretion, instead of causing to be prepared and entered in the rate-book fresh valuations in any year, use the valuations of the last or any previous year, with such alterations and additions as appear necessary.

(5.) No rate-book and no notice of assessment or other notice regarding any rate shall be deemed incomplete or invalid by reason only of accidental errors or omissions therein or therefrom.

210. Whenever the name of any owner liable to be rated or charged with payment of a rate is not known to the Board, it shall be sufficient to rate, or serve notice, or to make demand upon such owner by the designation of "the owner," without stating his name.

Owner where name not known to be rated as owner.
See 1906, No. 32,
s. 387.

211. The rate book shall, at all reasonable times, be open to inspection by ratepayers.

Rate book to be open to inspection.

212. It shall not be necessary to have a separate rate book and notice of assessment for each rate which a Board makes, whether under the authority of this or any other Act; but the Board may from time to time in its discretion utilise one rate book and one notice of assessment for all or any such rates.

One rate-book and notice of assessment may be used for several rates.

Alteration or
amendment of rate-
book.
See 1906, No. 32,
s. 90.

213. (1.) The Board may from time to time alter or amend any rate book made or to be made by—

- (a.) Inserting therein the name of any person claiming and entitled to have his name therein as owner or occupier; or
- (b.) Inserting the name of any person who ought to have been rated; or who has, since the making of the rate, become liable to be rated; or
- (c.) Striking out the name of any person who ought not to have been rated; or
- (d.) Raising or reducing the sum at which any person has been rated, if it appears to the Board that owing to any error in entering the rate in the rate-book such person has been underrated or overrated; or
- (e.) Making any alteration or addition which, in the opinion of the Board, is necessary in consequence of the exercise by the Board of the power conferred by section two hundred and nineteen or two hundred and forty-one; or
- (f.) Making such other additions, alterations, or amendments thereto or therein as will make such rate conformable to any Act under which the same became payable; or
- (g.) Correcting or supplying any accidental error or omission.

(2.) No such alteration, addition, or amendment shall be held to avoid the rate.

(3.) No alteration, addition, or amendment in or to the rate-book shall be valid unless the same is initialled by the chairman, and the date of such alteration, addition, or amendment is also inserted.

(4.) Every person whose rates are altered or amended, or who by any such alteration, addition, or amendment has become rated in respect of any rateable property, shall be entitled to receive fourteen days' notice of such alteration, addition, or amendment, and no proceeding for the recovery of any such rates from any such person shall be taken till after the expiration of one month from the making of such alteration, addition, or amendment.

(5.) Every person aggrieved by any such alteration, addition, or amendment shall, on the receipt of such notice and within the prescribed time therefrom, have the same right to appeal therefrom as he would have had if his name had been originally inserted and no such alteration had been made; and as respects such person the rate shall be considered to have been made at the time when he received notice of such alteration or amendment, and for the purposes of such appeal every notice given under subsection four shall be deemed a notice of assessment.

214. If from any cause the rate-book has not been made up within the time prescribed as aforesaid, the Minister, if reasons satisfactory to the Minister are advanced for such delay, may, by an order in writing, extend the time appointed for that purpose. All rate books hitherto made up, and all rates hitherto levied, are hereby declared to be valid, notwithstanding that the rate-book may not have been made up within the appointed time, or any failure on the part of the Board to otherwise comply with the provisions of any Act hereby repealed.

Minister may extend time for making up rate book.
1904, No. 24, s. 19.

215. (1.) The Board shall, in July in every year, prepare two statements in writing, in such form as may be prescribed by the Minister, signed by the chairman, the one showing the expenditure of the Board during the past financial year, and the other showing the proposed expenditure of the Board during the current financial year.

Board to prepare annual estimate.
See 1906, No. 32, s. 391.

(2.) The Board shall also, in the course of the said month, estimate as nearly as may be—

- (a.) The amount which will be required to meet the several liabilities of the Board and the proposed expenditure for the current financial year determined on as aforesaid, and otherwise to carry into effect the provisions of this Act;
- (b.) How far the several sources of ordinary revenue, independent of rates, will be sufficient for that purpose; and
- (c.) What sum will be required to make up the deficiency, if any, found to exist on comparing the sum required with the estimated revenue of the Board independently of rates.

216. (1.) The Board, after making such estimate and statement and ascertaining the sum that will be required to make up the deficiency found to exist on comparing the sum required with the estimated revenue of the Board independently of rates, shall forthwith make and levy rates, to be called "general rates," in respect of all rateable land within the district.

Board authorised to strike rates.
See 1902, No. 48, s. 141.
1906, No. 32, s. 392.

(2.) No such rates made in any one year shall—

- (a.) Exceed threepence, or be less than one penny, in the pound on the capital unimproved value of rateable land.
- (b.) Exceed two shillings, or be less than ninepence, in the pound upon the annual value of rateable land where the system of valuation on annual value is adopted; or

Local rates.

(3.) All such rates shall be uniform throughout the district except in so far as the Board may (as it is hereby empowered to do), by special order, with the consent of the Minister, fix the rates for any townsite or for any special area defined for that purpose at a higher figure, within the limits aforesaid.

Provided that the excess thereby raised in any townsite or special area shall be expended in works or services in such townsite or special area, and not otherwise.

Loan rates.

See 1902, No. 48,
s. 166.
1906, No. 32,
ss. 450, 451.

217. (1.) The Board shall from time to time make and levy in every year such loan rate on the capital unimproved value or, where adopted, the annual value of all rateable land in the district as may be necessary to enable the Board to pay the interest on money lawfully borrowed by the Board, or for the payment of which the Board is liable, and also such percentage of the principal sum as is named in the debentures issued to raise such money for the purposes of a sinking fund.

Provided that where a loan is raised for any works or services which in the opinion of the Board would be of special benefit to a portion only of the district, the loan rate applicable thereto may at the discretion of the Board be levied only on the rateable land within such portion of the district.

Provided also that so far as the Board is liable for the principal and interest of any loan raised by any dissolved municipality the district of which has been included in the road district, the loan rate to provide interest and sinking fund in respect of such loan shall be levied only on the rateable land in the district of such dissolved municipality.

(2.) A separate account shall be kept of such loan rate, which shall be applicable solely to the payment of the interest secured by the said debentures and the formation of a sinking fund.

(3.) If in any year the proceeds of such loan rate are in excess of the sum required for those purposes, such excess shall be kept in hand towards the payment of the next year's interest.

(4.) If in any year the proceeds of such loan rate are insufficient for the purposes aforesaid, the Board shall make good such deficiency out of its ordinary revenue, but may, in any succeeding year, when the proceeds of the said rate are in excess of the requirements, repay itself the amount so paid out of the ordinary revenue.

Minimum rate.

See 1904, No. 24,
s. 15.

218. A minimum rate of two shillings and sixpence may be levied on any rateable land, or, if the Board thinks fit, on each of the several lots into which any rateable land may be subdivided

for sale, leasing, or partition, the annual rates in respect of which on the capital unimproved value or the annual rateable value, as the case may be, would not amount to two shillings and sixpence.

219. Every rate shall be made and levied for the current year ending the thirtieth day of June next following (in this Part of this Act referred to as "the financial year"), and every financial year shall end on that date:

Rates to be made for the financial year.

But the Board may at any time make supplemental rates for the unexpired portion of the current financial year, and may for the purposes of, and when making, such rates or any other rates which may happen to be made (under this or any other Act) after the general rates for the year, make any such alterations in, and additions to, the rate book (but without obliterating existing entries) as may be deemed necessary to complete the rate book for such supplemental or other rates, and to show therein all matters and facts which, if the rate book were being then compiled, would appear therein. Provided that no Board shall exceed its rating limits as by law defined.

220. Whenever any rate has been made and levied by the Board, the chairman shall, on a vacant page or pages of the rate-book, to be left blank for such purpose, enter a memorandum thereof, and shall sign the same, and publish a copy of the same in a newspaper; and thereupon, subject to any by-law as to the time and mode of payment, the said rate shall become due and payable.

Manner of making rate.

See 1902, No. 48, s. 144.
1906, No. 32, s. 393.

But no proceedings to recover, or enforce payment of, the same shall be taken till after the expiration of one month from the making of the rate.

The said memorandum signed as aforesaid shall, in the absence of fraud, be conclusive evidence of the due making of the rate.

221. (1.) The Board shall as soon as practicable after the making of any rate cause the amount payable in respect of the rate to be entered in the rate-book in respect of each assessment, and a notice of the assessment in the prescribed form to be served upon every owner whose name is inserted in the rate-book or his attorney or agent.

Notice of assessment.

See 1906, No. 32, s. 388.

(2.) Notices in accordance with section two hundred and nine, and notices under this section may be served on one form.

(3.) Two or more properties may be included in one notice.

222. (1.) The Board of any newly constituted district may exercise the powers and carry out the duties and obligations granted to and imposed upon a Board by this Part of this Act as soon

Provisions in case of new districts.

See 1906, No. 32, s. 395.

after its election as may be practicable, having regard to the intervals of time respectively assigned for the doing of any act under the provisions of this Act;

(2.) For the purposes of this section the Board of any such newly constituted district may prepare a statement and estimate in respect of the remaining period of the then current financial year from the date of the constitution of the district, and any rate made and levied by such Board shall be only in proportion to the unexpired period of such year, and shall become due and payable at such time or times as the Board directs.

Exemption.

223. The Governor may exempt any district from the operation of this Division of this Act for such time as the Governor may think fit, but particulars in writing of every exemption granted and the grounds thereof shall be placed before both Houses of Parliament.

Division (5).—Appeals.

Grounds of appeal.
See 1902, No. 48,
s. 135.

224. Any person may appeal against any entry in the rate book on any of the grounds following, that is to say,—

- (1.) That any property for which he stands rated is valued above its full and fair rateable value at the time of the completion of the rate-book;
- (2.) That any property included, for which he stands rated, was not, at the time of the completion of the rate book, rateable.
- (3.) That such person was not at such time liable to be rated in respect of land for which he stands rated.

Appeals, how made.
1902, No. 48,
s. 136.

225. Appeals shall be made to the Board, and from the decision of the Board there may be a further appeal to the Local Court held nearest to the office of the Board, as hereinafter provided.

Appeals to the Board.
1902, No. 48,
s. 137.

226. (1.) Every appeal to the Board shall be by notice setting out the grounds of appeal in the prescribed form.

(2.) The notice of appeal shall, in the case of an appeal under section two hundred and twenty-four, be given to the secretary to the Board within one month after the receipt by the appellant of the notice of assessment.

(3.) No appeal under section two hundred and twenty-four shall be entertained unless the appellant deposits in the hands of the secretary, with the notice of appeal, the amount of the first moiety of the rate payable in respect of the valuation appealed against.

(4.) Notice of the day appointed by the Board for the hearing of the appeal shall be given to the appellant six days at least before the day of hearing, and notice shall also be posted outside the office of the Board in the prescribed form.

227. (1.) Every appeal to the Local Court from the decision of the Board shall be commenced by notice setting out the grounds of the appeal, in the prescribed form.

Appeal to the Local Court.
1902, No. 48,
s. 138.

(2.) The notice shall, within ten days after the decision appealed from, be served on the secretary to the Board and the clerk of the Local Court.

(3.) The appeal shall come on for hearing at the sitting of the Local Court next after ten days from the service of such notice on the clerk of the Local Court, and all other persons (if any) required to be served therewith.

228. (1.) On the hearing of all appeals, the rate book shall be produced; and the Board, or the Local Court on appeal from the Board, on the day of hearing, or at any adjournment thereof, may make such order as shall be just, and shall cause any alterations or additions occasioned by such order to be made in the rate book by the chairman or secretary of the Board if the appeal is to the Board, or by the clerk of the court if the appeal is to the Local Court.

Court may order costs.
1902, No. 48,
s. 139.

(2.) On any appeal to the Local Court, the court may make such order as may seem just for the payment of the costs of the appeal, and may determine the amount of such costs; and payment of the same may be enforced in the same manner as a judgment of the Local Court.

(3.) The obligation to pay, and the right to receive and recover, any rates shall not be suspended by any appeal; but, if the appellant succeeds, any amount received from him by the Board which, according to the decision on such appeal, was not properly payable by him shall be forthwith refunded by the Board. Provided that the Court in which any proceeding for recovery of rates is taken may order a stay of proceedings, pending appeal, on such terms (if any) as shall seem just.

229. The decision of the Local Court on any appeal shall be final and conclusive.

Decision of Court final.
1902, No. 48,
s. 140.

Provided as follows:—

(1.) The Magistrate of the Local Court may, in his discretion, before pronouncing his decision, state and sign a case setting forth the facts and any question of law arising thereon on which he desires direction, and transmit the same to the Registrar of the Supreme Court.

Power to state case.

- (2.) Any party to the appeal may thereafter set the case down for hearing before the Full Court, and shall give to every other party, or the attorney or agent by whom he was represented in the Local Court, at least ten days' notice of the hearing.
- (3.) The Full Court shall hear and determine such question as aforesaid, and remit the case with its opinion thereon to the Local Court, and the Local Court's decision on such question shall be given in accordance with such opinion.
- (4.) The Full Court may at any time cause a case to be sent back for amendment, and thereupon the same shall be amended accordingly, and judgment shall be delivered after it has been amended.
- (5.) The Full Court may make such order as to the costs of and incidental to the case and of all proceedings in or before the Supreme Court as it shall think just.

Division (6).—Liability for and Recovery of Rates.

(1.)—*Generally.*

Who is liable for rates.

See 1902, No. 48, s. 143.
1906, No. 32, s. 407.

230. The amount of any rates made and levied under this Act, together with interest thereon at the rate of five pounds per centum per annum from the thirtieth day of June next following the time when the same became payable, shall be payable by the rateable owner of the land rated.

Payment of rates by mortgagee.

See 1906, No. 32, s. 408.

231. If a mortgagee of rateable land pays any rates accrued thereon under this Act or any of the Acts hereby repealed, including any interest due upon such rates, 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.

Apportionment of rates on change of ownership.

See 1906, No. 32, s. 409.

232. (1.) The rateable owner for the period for which any rates are made on any land is the person who, at the time of the completion of the rate-book for such rates, is the owner of the land.

(2.) For the purposes of this section rates shall be considered as accruing due from day to day during the period for which they are made, and shall be apportionable in respect of time accordingly, and rates on lands included in one assessment shall for such purposes be divisible between the several portions of such lands according to the respective rateable values of such portions.

(3.) Every owner of land shall be liable to pay the amount of rates thereon apportionable to any time during which he was such owner and interest thereon at five pounds per centum per

annum to the Board, in case the Board has not received payment thereof, or, in case the Board has received such payment, to any person who, not being the actual owner at such time, has directly or indirectly paid the same.

Provided that nothing in this section shall affect the liability to the Board of any rateable owner, which shall continue notwithstanding any change of ownership.

233. An unsatisfied judgment or order of any court for the recovery of any rates (with or without interest) from any person shall not be a bar to the recovery thereof from any other person liable under the provisions of this Act to the payment thereof.

Persons liable to be
resorted to in
succession.
1902, No. 48,
s. 151.

234. The amount payable in respect of any rate made and levied under this Act shall be recoverable either by complaint or action, as hereinafter mentioned, and such amount, with interest thereon at the rate of five pounds per centum per annum, and the amount of all costs, charges, and expenses of any proceedings to recover the same shall constitute a charge and have priority to every security or claim of any description against the land on which such rate has been made and levied.

How rates may be
recovered.
1902, No. 48,
s. 145.
1906, No. 32,
s. 413.

235. (1.) The Board may recover any rates in arrear and interest, and the costs of any proceedings for the recovery thereof, from any person liable to pay the same either by complaint of the secretary before any two justices, or by action at the suit of the Board in any court of competent jurisdiction:

Complaint or action
for rates.
See 1902, No. 48,
s. 147.
1906, No. 32,
s. 416.

Provided that no person against whom an order has been made by justices on any such complaint shall be liable to be imprisoned for the non-payment thereof, except under the provisions of the Debtors Act, 1871, and proceedings under that Act may be taken in respect of any such order as if it were a judgment within the meaning of that Act.

(2.) For the purposes of any such complaint or action all rates shall be deemed to be payable at the office of the Board.

236. (1.) All rates due by the same person to the Board, whether under this Act or any other Act, may be included in one writ, summons, or other process.

All rates may be
included in one
summons.
See Viet., 1903,
No. 18 s. 317.

(2.) In any action, suit, or other proceeding for the recovery of any rate from any person the invalidity or badness of the rate, as a whole or in respect to any part thereof, shall not avail to prevent such recovery, if the making or levying of the rate or such part thereof has in fact been assented to by the requisite majority of the Board, and such Board had power to make or levy the same.

Rate-book to be evidence.

See 1906, No. 32, s. 417.

237. (1.) In any proceeding to recover, or consequent on the recovering of the amount due in respect of any rate, the rate-book, duly signed or initialled by the chairman, and all entries made or purporting to be made therein, or certified copies thereof or extracts therefrom, shall be *prima facie* evidence of the contents of such book and of the due striking of such rate, and of the obligation of the person charged with the amount payable in respect of such 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.

(2.) In any such proceeding it shall be competent for the party sued to rely on the defence that he was not at any material time the owner or occupier of the land rated, but subject hereto he shall not raise by way of defence any objection which might have been raised on an appeal, and such first-mentioned defence shall not be raised by any party who has already unsuccessfully raised it as an objection on an appeal.

(3.) No jurisdiction otherwise competent to entertain such a proceeding or to hear any appeal shall be ousted on the ground that a question of title to land is raised therein. But no order or judgment in any such proceeding or appeal shall be admissible in any Court as evidence of title.

Refusal to give name of person liable.

See 1906, No. 32, s. 418.

238. If, on the request of the Board or the secretary or any collector of rates duly authorised by the Council—

(a.) The occupier of any land refuses or wilfully omits to disclose, or wilfully misstates to the Board or secretary or collector making such request, the name of the owner of such land, or of the person receiving or authorised to receive the rents of the same; or

(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 his principal,

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

List of defaulters may be published.

See 1906, No. 32, s. 419.

239. The Board may from time to time cause to be published in a newspaper a list of all persons who are in arrear in the payment of the amount due in respect of any rate, whether made under this or any other Act or under any Act hereby repealed, and of the amounts due by them respectively, and in respect of what rateable lands.

240. The Board may, with the approval of the Minister, write off arrears of rates due in respect of any rateable land. Arrears may be written off.

241. When a municipal or road district or portion of such a district has become transferred to a road district in any financial year after the completion of the rate-book for any rate, then the Board may declare that all rateable land within such transferred area shall be subject to such rate. And the Board shall make such additions to the rate-book as may be necessary to complete the same for the purposes of this section, and to show therein all such matters and facts in respect of such land as are required to be inserted concerning rateable land, and such rate shall then and thereupon be deemed to have been duly made on and in respect of such land: Application of this Part to annexed areas. See 1906, No. 32, s. 420.

Provided that the Board shall be entitled to such proportion only of such rate as would (if the rate accrued due from day to day) accrue due in respect of such land during the balance (unexpired at the date of the transfer) of the period for which the rate was made.

(II.) *Power to Lease.*

242. When in respect of any rateable land any rates accrued thereon under this Act, or any Act hereby repealed, or any Act thereby repealed, have, whether before or after, or partly before and partly after, the commencement of this Act been unpaid for three years, or longer, the Board may, subject to the conditions hereinafter prescribed, and notwithstanding anything to the contrary contained in the Transfer of Land Act, 1893, and notwithstanding any change that may have taken place in the meantime in the ownership of the land— Power to lease land on which arrears of rates are due. See 1906, No. 32, s. 421.

- (a.) Take possession of such land;
- (b.) Hold the same as against any person interested therein;
and
- (c.) From time to time grant leases of the same.

Land so taken possession of, held, or leased by the Board shall continue to be rateable land.

243. (1.) The Board shall not take possession of any such land until the expiration of three months after a notice has been given to every person in Western Australia appearing, on search in the Office of Titles or the Registry of Deeds, to have any estate or interest in the land. Procedure. See 1906, No. 32, s. 422.

(2.) The notice shall be in the prescribed form.

(3.) A notice shall also be fixed upon some conspicuous part of the land, which notice shall be in the prescribed form.

(4.) On taking possession of any land as aforesaid, the Board shall cause to be affixed upon some conspicuous part thereof a notice, in the prescribed form.

(5.) Every such lease shall—

(a.) Be for such term, not exceeding seven years, as to the Board seems fit;

(b.) Reserve the best rent which can be reasonably obtained for the property; and

(c.) Contain such other reservations and such exceptions, covenants, and conditions as to the Board seems fit.

(6.) The lessee shall be entitled, during the term of the lease, to possession of the land as against all persons interested therein.

(7.) The Registrar of Titles, upon the production to him of any such lease of land which is subject to the provisions of the Transfer of Land Act, 1893, shall register the same, and for that purpose shall, if necessary, make such orders and publish such advertisements as are provided for in the case of dealings with land when the certificate of title is lost or not produced.

Release of property
after demand and
payment of arrears.
See 1906, No. 32,
s. 423.

244. (1.) Upon demand made by any person who but for the provisions of this Act would be entitled to the possession of any such land, such demand being made within twenty-five years after the taking possession thereof by the Board, and upon payment of all rates due in respect thereof, and interest upon all arrears of such rates at the rate of five pounds per centum per annum, calculated at simple interest, the Board shall, within three months, execute under its seal a release of such land from all rates due in respect thereof.

(2.) If the Board makes default in executing such release, the Supreme Court may, at the suit of any person interested in that behalf, order it to execute the same.

(3.) Upon the execution of the release such person shall, subject to any lease theretofore lawfully granted by the Board under the provisions of this Act, be entitled to such land and the possession thereof as would have been so entitled if this Act had not been passed; and the tenant of such land under any such lease shall attorn to such person accordingly.

Appropriation of
rents received.
See 1906, No. 32,
s. 424.

245. All rent and other moneys payable under any such lease shall, until the execution of a release as hereinbefore mentioned, or the expiration of twenty-five years from the taking possession thereof by the Board, whichever first happens, upon receipt thereof by the Board, be applicable—

Firstly—In defraying the expenses of and incidental to the giving of the notices hereinbefore mentioned, and the execution of the lease, and the collection of the rents;

Secondly—In payment to the Board of all arrears of rates and other payments due in respect of such land, together with interest on all arrears of rates calculated as hereinbefore provided, from the time when such rates became due respectively, and in payment of all rates and other payments accruing due thereon.

The residue of any such moneys shall belong to such person as would, when the same respectively were received, have been entitled to receive the rents and profits of the land if this Act had not been passed.

246. Unless within twenty-five years after possession is taken of land under the foregoing provisions of this Act some person entitled in that behalf performs the conditions entitling him to demand a release of the land, such land and all accumulations of rent and other moneys recovered on account thereof shall vest absolutely in the Board.

Land, when vested in the Board.
See 1906, No. 32, s. 425.

(II.) *Power of Sale.*

247. (1.) When in respect of any rateable land any rates accrued thereon under this Act, or any Act hereby repealed, or any Act thereby repealed have, whether before or after, or partly before and partly after, the commencement of this Act, been unpaid for five years or longer, the Board may direct the secretary to send to the clerk of the Local Court held nearest to the office of the Board a certificate of the total amount of rates and interest thereon due and in arrear at the date of the certificate in the prescribed form.

When land may be sold.
See 1906, No. 32, s. 426.

(2.) Upon receipt of the certificate such clerk of the Local Court shall, at the cost of the Board, forthwith publish once in the "Government Gazette," and in some newspaper a notice in the prescribed form, and shall serve personally or by registered letter a like notice upon every person in Western Australia who, upon search in the Office of Titles and Registry of Deeds, appears to have any estate or interest in the land.

248. (1.) At the expiration of the time limited by such notice the clerk of the Local Court shall issue a warrant of execution against the land, unless all such rates, together with interest thereon, calculated as hereinbefore provided, at the rate of eight pounds per centum per annum, and all rates and other payments accrued due on the land in the meantime, and all expenses incurred have been paid.

Warrant of execution.
See 1906, No. 32, s. 427.

(2.) The warrant of execution shall be directed to the bailiff of such court and shall be executed by him against the land rated, notwithstanding any change that may have taken place in the meantime in the ownership of the land, for the recovery of the moneys above mentioned, in the same manner as warrants of execution against land are executed under the laws in force for the time being relating to Local Courts.

(3.) The warrant of execution shall be in the prescribed form.

Certificates to be
conclusive.

See 1906, No. 32,
s. 428.

249. A certificate of rates unpaid sent by the secretary to a clerk of a Local Court in the form and containing the particulars hereinbefore prescribed shall be sufficient authority to such clerk of the Local Court for the doing of the acts therein required to be done by him, and shall not be questioned by him on any ground whatsoever.

Application of
proceeds.

See 1906, No. 32,
s. 429.

250. The moneys arising from the sale of the land shall in priority to every mortgage, encumbrance, lien, caveat, judgment, writ, warrant, or other charge, agreement, or process registered against or in any way affecting the land, and notwithstanding the disability of any person or any statute of limitations, be applied—

Firstly—In payment of the costs and expenses of the clerk of the Local Court of and in connection with the prescribed notices and the warrant of execution and the sale thereunder : Provided that, if the moneys arising from the sale of the land are insufficient to pay such costs and expenses, the same or the balance unpaid shall be a debt due by the Board to the clerk of the Local Court, and may be recovered by him accordingly;

Secondly—In payment of all rates and interest due to and expenses incurred by the Board;

Thirdly—In payment of all costs and expenses of and in connection with conferring upon the purchaser a clear title to the land; and

Fourthly—In or towards the discharge of all or any mortgages or mortgage or encumbrances or encumbrance proved to the satisfaction of the Magistrate of the Local Court to exist over the land, due regard being had to the respective priorities of any such mortgages or encumbrances.

Application of
residue.

See 1906, No. 32,
s. 430.

251. 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 before any such residue is paid over by the clerk of the Local Court he receives a certificate under the hand of the chairman of any water authority or other local body charged with the management and control of waterworks that a certain specified amount is due to such water authority or other body for arrears of water rates in respect of such land, the clerk of the Local Court shall forthwith pay over to such water authority or other body such residue or so much thereof as is sufficient to meet such claim for water rates, and the balance only, if any, of such residue shall belong to such person as would, if no sale had taken place, have been entitled to receive the rents and profits of the land.

252. The clerk of the Local Court shall execute a proper conveyance or transfer of the land to the purchaser, and the purchaser shall thereupon be entitled to be registered for an estate in fee simple in the land free of any encumbrance, or (if such land has not been alienated from the Crown in fee simple) for all the estate and interest therein of every person (other than the Crown), and all the estate and interest which any such person is entitled or able to transfer, assign, convey, or dispose of therein, free of any encumbrance.

Duty of clerk to convey.
See 1906, No. 32, s. 431.

253. The Registrar of Titles, upon the production to him of any transfer as aforesaid, or any certificate of sale, and a copy of the order for such sale under Part VI. of the Roads Act, 1902, of land which is subject to the provisions of the Transfer of Land Act, 1893, shall register the same, and notwithstanding any provision of the said Act to the contrary, production of the certificate of title shall not be required, but for the purpose of registration the registrar shall, if necessary, make such orders and publish such advertisements as are provided for in the case of dealings with land when the certificate of title is lost or not produced.

Registration of purchaser.
See 1906, No. 32, s. 432.

Division (7).—Overdraft.

254. The Board, pending the collection of any rates, or the receipt of any subsidies in aid of rates or grants payable by the Government, may, for the purpose of commencing, carrying on, or completing works, obtain advances from any bank by overdraft of the current account; but no such overdraft shall at any time exceed one-third of the ordinary revenue of the Board for the year then last preceding: Provided that the bank making such advances shall not be concerned to inquire whether the same have been obtained for the purposes set forth in this section, nor be required to see to the application of such advances.

Overdraft.
See 1902, No. 48, s. 156.
1906, No. 32, s. 433.

PART VII.—BORROWING AND SPECIAL POWERS.

255. Subject to the provisions and for the purposes hereinafter mentioned the Board may borrow money as hereinafter provided.

Power to borrow money.
See 1902, No. 48, s. 159.

256. Money may be borrowed for works or undertakings, or to liquidate the principal moneys owing by the Board on account of any previous loan.

Purposes for which money to be borrowed.
See 1906, No. 32, s. 435.

257. (1.) The amount of money so borrowed at any time for works or undertakings shall not exceed—

Amount to be borrowed.
See 1902, No. 48, s. 160.
1906, No. 32, s. 436.

- (a.) Seven times the average ordinary revenue of the Board for two years terminating with the yearly balancing of accounts next preceding the notice in the "Government Gazette" of such loan hereinafter mentioned; or

(b.) In the case of any Board already indebted, the difference obtained by subtracting from ten times such average revenue the balance remaining unpaid of any previous loans.

(2.) The amount of moneys borrowed to liquidate any loan shall not exceed the balance of principal moneys owing on account of such loan:

Provided that, in the case of any new district, money may be borrowed by the Board for the purposes aforesaid at any time during the two years terminating with the balancing of the second year's accounts, to an amount not exceeding the net revenue of the Board for the said two years as estimated by the Board.

Permanent works
and undertakings.

See 1902, No. 48,
s. 159.

1906, No. 32,
s. 438.

258. The works and undertakings hereinafter specified shall be deemed works and undertakings within the meaning of this Part of this Act(that is to say):—

- (1.) The opening, making, paving, or partial paving of roads and footways, the diverting, altering, or increasing the width of any road or footways or the kerbing thereof.
- (2.) The raising, lowering, or altering of the ground or soil of any road.
- (3.) The construction, purchase, and establishment of bridges, culverts, ferries, wharves, and jetties.
- (4.) The construction, enlargement, and alteration of sewers and drains and works connected with sewerage and drainage under the powers conferred on the Board by any Act relating to public health, and the purchase or erection of machinery for the treatment of refuse.
- (5.) The purchase of lands and materials, and the making of compensation to the owner of any land purchased for any of the foregoing purposes.
- (6.) Any other works whatsoever approved by the Governor.

Loans to be raised
on debentures.

See 1902, No. 48,
s. 165.

Form of De-
bentures.

See 1902, No. 48,
s. 165.

1906, No. 32,
s. 440.

259. All moneys borrowed by the Board for the purposes aforesaid shall be raised by the sale of debentures.

260. Debentures issued by the Board shall be in the prescribed form, and shall be numbered consecutively, and, except in the case of debentures issued to the Colonial Treasurer in a specially prescribed form, shall have annexed for every payment of interest, which becomes payable after the day on which such debenture is sold, a coupon bearing the same number as the debenture.

261. (1.) Every debenture issued shall entitle the bearer thereof to receive payment of the principal sum named therein, on presenting such debenture on or after the day on which such debenture becomes payable, at the place at which such debenture is payable.

Debentures to be payable to bearer. See 1906, No. 32, s. 441.

(2.) Coupons annexed to debentures issued may be separated from the debentures to which they belong, and every such coupon shall entitle the person presenting the same, on or after the day on which the interest mentioned in such coupon is payable, at the place at which such interest is payable, to receive payment of such interest.

262. Every debenture and every such coupon, whether separated or not from the debenture to which it belongs, shall pass by delivery only, without any assignment or indorsement.

Debentures and coupons to pass by delivery. See 1906, No. 32, s. 442.

263. The principal moneys secured by every debenture issued shall be made payable on some day not more than thirty years after the date of such debenture.

When debentures to be made payable. See 1906, No. 32, s. 443.

264. Before proceeding to borrow any money for the construction of works and undertakings, the Board shall cause to be prepared—

Plans, specifications, and estimates to be prepared before borrowing.

(a.) Plans and specifications and an estimate of the cost thereof; and

See 1902, No. 48, s. 161.
1906, No. 32, s. 444.

(b.) A statement showing the proposed expenditure of the money to be borrowed,

which shall be open to the inspection of the ratepayers for one month after the publication of the notice next hereinafter mentioned, at all reasonable times.

265. No proposition for borrowing money shall be adopted by the Board unless a notice thereof has been published in the "Government Gazette" and three times at least in a newspaper circulating in the district, not less than one month nor more than three months before such proposition is adopted, stating the amount proposed to be raised and the rate of interest to be paid on the debentures, the times and places at which any moneys due on such debentures are to be payable, and the purposes for which the loan is to be applied; and in case such loan is to be expended in the purchase of any works or undertakings, specifying such works or undertakings; and in case the loan is to be expended in the construction of works or undertakings, stating that the plans and specifications and estimate of such works or undertakings, and the statement hereinbefore mentioned, are open for inspection at the office of the Board.

Notice to be published. See 1902, No. 48, s. 161.
1906, No. 32, s. 445.

Power to demand
vote of owners.

See 1902, No. 48,
s. 162.

1906, No. 32,
s. 446.

266. Within one month after the last publication of such notice of any proposition to borrow money (not being a proposition to borrow money to liquidate any loan lawfully incurred), any twenty resident owners of rateable land situated within the district may, in writing under their respective hands delivered to the secretary, demand that the question, whether or not such loan be incurred, be submitted to the vote of the resident owners of rateable land situated within the district.

Provided that at any time before taking the poll any such resident owner of rateable land who has signed the demand may, by writing under his hand delivered or sent by post to the chairman, withdraw his name therefrom, and any such owner of rateable land may in like manner accede thereto.

For the purposes of this and the three next following sections the term "resident owner" means any person residing in the district and entitled to a legal or equitable estate or interest in rateable land in fee simple, or for a term of years having at least seven years unexpired.

Vote of owners,
how taken.

See 1902, No. 48,
s. 163.

1906, No. 32,
s. 447.

267. (1.) When any demand has been made, the votes of such resident owners shall be taken on a day to be fixed by the chairman, not less than twenty-one days nor more than one month after the delivery of such demand, and such day shall be notified in some newspaper; and on such day a poll shall be taken of all such resident owners for and against the proposed loan.

(2.) For the taking of such poll, a special roll shall be prepared by the secretary, and corrected, completed, and authenticated in the time, manner, and form prescribed by by-laws made under this Act:

Provided that where a loan is proposed to be raised for any works or services which in the opinion of the Board would be of special benefit to a portion only of the district, and the loan rate in respect thereof is to be levied only on the rateable land within such portion of the district, only resident owners of rateable land within such portion of the district shall be qualified to vote at such poll.

(3.) At the taking of such poll, voting papers in the prescribed form shall be used; and all the provisions hereinbefore contained with reference to the taking of the poll at the election of members of the Board shall apply as nearly as may be.

(4.) The Board may make by-laws for the carrying into effect of the provisions of this section.

Power to Board
under certain
circumstances to
proceed to raise
money.

See 1906, No. 32,
s. 448.

268. If no demand is made that the question whether or not such loan be incurred be submitted to the vote of the resident owners, or if, on a poll being taken, a majority of the resident

owners vote in favour of such loan being incurred, the Board may proceed to make a special order for borrowing money for the purposes mentioned in such notice.

269. Notwithstanding anything hereinbefore contained, if the Board publish a notice of their intention to borrow money and are not forbidden by the resident owners from proceeding further with such loan, the Board may issue debentures, and such debentures shall be good and valid as against such Board.

All debentures valid under certain circumstances.
See 1906, No. 32, s. 449.

270. When a Board has incurred a loan or is liable for the repayment of any loan under the provisions of this Act, a sinking fund shall be formed to liquidate the same in manner following:—

Sinking fund.
See 1906, No. 32, s. 453.

The Board shall, in every year after the issue of the debentures for such loan, cause a sum (being such percentage of the principal sum secured by such debentures as is named therein, not being at any time less than two pounds per centum of such principal sum) to be invested by the Colonial Treasurer in Western Australian Local Inscribed Stock or other Government securities (if available), in the joint names of the Colonial Treasurer and the Board, and to accumulate at compound interest for the redemption of such debentures.

271. (1.) Any moneys directed to be invested in the formation of a sinking fund to liquidate any loan may, in lieu thereof, be invested in the purchase of any debentures by the sale of which the loan was raised: Provided always, that any debentures so purchased, and all coupons belonging thereto, shall be forthwith cancelled and forwarded to the Colonial Treasurer with a memorandum of the moneys expended in their purchase, and it shall be the duty of the Board to see that the same is done.

Power to purchase debentures instead of contributing to sinking fund.
See 1906, No. 32, s. 454.

(2.) During the period for which such cancelled debentures would have been current if they had not been so purchased, a sum equal to the annual interest and contribution to sinking fund which such cancelled debentures would have carried or entailed if not so purchased shall be provided by the Board annually, and invested by the Colonial Treasurer in the manner prescribed by the last preceding section, and placed to the credit of the sinking fund.

272. (1.) Every Board may purchase any debentures issued by the Board under the provisions of this Act or any of the Acts hereby repealed, and the ordinary revenue of the Board shall be applicable to such purposes.

Power to purchase debentures.
See 1906, No. 32, s. 455.

(2.) Upon the purchase of any such debentures, the same and all unpaid coupons belonging thereto shall be forthwith cancelled, and it shall be the duty of the Board to see that the same is done.

Sinking fund may be placed at fixed deposit.

See 1906, No. 32, s. 456.

273. Until such time as the Board can purchase debentures, inscribed stock, or other Government securities of the State as aforesaid, the Colonial Treasurer may place the moneys of the sinking fund at fixed deposit in any of the banks doing business in the State, in the joint names of the Colonial Treasurer and of the Board.

Investment of interest on sinking fund.

See 1906, No. 32, s. 457.

274. All interest on any inscribed stock or other securities, or fixed deposit for the time being standing to the credit of any sinking fund, shall be invested in the purchase of inscribed stock or other securities as aforesaid, or until such investment placed upon fixed deposit as aforesaid in the names and to the account as aforesaid.

Application of sinking fund to meet debentures.

See 1906, No. 32, s. 458.

275. When debentures are about to fall due, any inscribed stock or other securities comprised in any sinking fund formed to liquidate the same may be sold out, and the proceeds paid into such bank to the account of such person or persons as the Colonial Treasurer and the Board may determine, and the money so paid into such bank shall be paid out to the bearers or registered holders of such debentures on presentation and delivery up of the same.

Power to Treasurer to transfer sinking-fund after repurchase of debentures.

See 1906, No. 32, s. 459.

276. On the presentation at the Treasury on behalf of the Board of any debentures, and all unpaid coupons belonging thereto, together with a certificate signed by the Auditor General, stating what amount of inscribed stock or other securities and deposits comprised in any such sinking fund as aforesaid will be sufficient to secure the holders of all debentures (other than the first-mentioned debentures) secured by such sinking fund, and upon the cancellation of such first-mentioned debentures and coupons, the Colonial Treasurer may join in transferring to the Board any balance of such sinking fund over and above the amount mentioned in such certificate.

When Treasurer may transfer.

See 1906, No. 32, s. 460.

277. Except for the purposes and subject to the conditions herein provided, or if ordered so to do by the Supreme Court, the Colonial Treasurer shall not join in transferring any inscribed stock or other securities, or deposits forming part of any such sinking fund as aforesaid.

Priorities of debenture holder.

See 1906, No. 32, s. 461.

278. If any Board has incurred more loans than one, every sinking fund formed under the provisions hereof shall be applicable in the first instance in liquidation of the debentures which such fund was formed to liquidate.

Save as aforesaid, both as to principal and interest, the holders of debentures, by the sale of which different loans were raised, shall have priority according to the notices of such loans published as aforesaid, and the holders of debentures, by the sale of which the same loan was raised, shall stand as between themselves on an equal footing.

279. If any Board makes default in payment of any principal money or interest secured by any debenture or coupon, or in forming a sinking fund to liquidate any debentures as hereinbefore directed, the Supreme Court or a Judge thereof may, on the petition of the holder of any debenture, appoint some person or persons, not exceeding three, to be a receiver or receivers of the whole annual ordinary revenue of such Board and of the special rate levied in respect of any loan as aforesaid.

Power to appoint receiver.
See 1906, No. 32, s. 462.

Every such receiver shall be deemed an officer of and shall act under the direction of the Supreme Court or a Judge thereof.

280. The Supreme Court or a Judge thereof may from time to time remove any receiver appointed, and on the death or removal of any such receiver may appoint some other person in his place.

Power to remove receiver.
1906, No. 32, s. 463.

281. The receiver or receivers appointed shall be entitled—

Powers of receiver.
See 1906, No. 32, s. 464.

(a.) To receive and recover any part of the revenue (whether such part forms portion of the annual ordinary revenue of such Board or of any special rate levied in respect of any loan as aforesaid) of the Board that is outstanding at the time of his or their appointment;

(b.) To receive and recover any part of such revenue that becomes due and payable as fully and effectually as the Board might have done; and shall have and exercise all the powers of the Board as to striking rates.

For the purposes aforesaid, such receiver or receivers shall be deemed to be the Board, and may exercise all the powers thereof.

282. Every such receiver shall be entitled to such commission as remuneration for his services as the Supreme Court directs.

Commission to receiver.
1906, No. 32, s. 465.

283. The Supreme Court may order the Colonial Treasurer and the Board to transfer all inscribed stock and other securities and fixed deposits standing in their names, and forming any such sinking fund, into the name or names of the receiver or receivers.

Transfer of sinking fund to receiver.
1906, No. 32, s. 466.

Purposes for which receiver is to hold moneys.

1906, No. 32,
s. 467.

284. Such receiver or receivers shall hold all moneys received and recovered, and the proceeds of all inscribed stock and other securities and all fixed deposits forming any sinking fund received by him or them, after payment of costs and expenses, for the benefit of all holders of debentures of the Board, according to their respective priorities and subject thereto for the Board.

Separate account to be kept of every loan

1906, No. 32,
s. 468.

285. The Board shall cause a separate account to be kept in some bank for each separate loan, and if there is any surplus the Board may apply the same in the repurchase of any debentures, or in the purchase of consols or stock or other securities, or may place the same upon fixed deposit, or expend the same on other works:

Provided that if at any time it shall be found inadvisable, inexpedient, or unnecessary to expend any such moneys for any of the purposes for which the same were borrowed, it shall be lawful for the Board, by resolution to be passed by an absolute majority of the Board, and confirmed at a meeting of ratepayers called for the purpose, to expend such moneys on other works and undertakings.

Balance of loan, how applicable.

1906, No. 32,
s. 469.

286. If after the liquidation of any loan there is any balance of stock to the credit of the sinking fund, or of the proceeds thereof, the same shall be applicable as part of the revenue of the Board.

PART VIII.—ACCOUNTS AND AUDIT.

Financial year.

1902, No. 48,
s. 170.

287. (1.) The financial year of every Board shall end on the thirtieth day of June in every year.

(2.) If at any time hereafter the Government financial year shall end on a day other than the thirtieth day of June, the financial year of every Board shall end on such other day.

(3.) In such case the Governor may, by notice in the "Government Gazette," make any necessary consequential change in the dates prescribed by this Act for giving any notice or doing any act or thing.

Books of account, and inspection by persons interested.

See 1902, No. 48,
s. 171.

288. (1.) Every Board shall cause books to be provided and kept, and true and regular accounts to be entered therein of all sums of money received and paid on account of and for the Board, and of the several purposes for which such sums of money have been received and paid; and the said books shall at all reasonable times be open to the inspection of any member of the Board, ratepayer, or creditor of the Board, and any such person may take copies of or extracts from the said books without payment of any fee.

(2.) The Minister may from time to time prescribe the manner and form in which the books and accounts of the Board shall be kept, and the same shall be kept accordingly.

(3.) All books, accounts, and vouchers of the Board shall at all times be open to the inspection of any person nominated by the Minister.

(4.) Any person having the custody of the said books who shall not, on any reasonable demand of any such member, rate-payer, or creditor, or person nominated by the Minister, permit him to inspect the said books, or to take copies or extracts as aforesaid, shall be liable to a penalty not exceeding five pounds for every such offence.

(5.) All moneys of the Board shall be paid into such bank, and in such manner as the Board shall from time to time appoint and direct for that purpose, and no sum exceeding five pounds shall be held in the hands of any member, or any officer, servant, or clerk of the Board, for any period exceeding seven days.

(6.) No such money shall be drawn out of such bank excepting by a cheque signed by the chairman and countersigned by another member of the Board and by the secretary, and the authority for payment shall be a resolution of the Board duly entered in the minute book.

(7.) If in any district the absence of banking facilities renders a strict compliance with subsections five and six of this section impracticable, the Minister may permit such modification thereof as he thinks fit.

(8.) The Minister may remove any member or summarily dismiss any clerk or other officer of the Board who fails or neglects to observe the provisions of this section.

289. Every secretary shall, once in every three months, prepare and place before the Board a true statement of the financial position of the Board, including ordinary revenue and grants, which shall be entered on the minutes; and such statement shall be examined and compared with the vouchers and the minutes signed by the secretary and the chairman.

Quarterly financial statement.
1902, No. 48,
s. 172.

290. All moneys in hand on the last day of the financial year shall be paid to the credit of the banking account of the Board, and shall be included in the banker's certificate of the amount standing to the credit of the Board on that day, which certificate the Board shall obtain and produce to the auditors.

Money in hand at end of each year to be paid into bank.
1902, No. 48,
s. 173.

291. (1.) Every officer appointed or employed by the Board shall from time to time, when required by the Board, make out and deliver to them, or to any person appointed by them for that purpose, a true and perfect account, in writing under his hand, of all moneys received by him on behalf of the Board.

Officers to deliver accounts, etc.

(2.) Such account shall state how, and to whom, and for what purpose such moneys have been disposed of, and, together with such accounts, such officer shall deliver the vouchers and receipts for such payments.

(3.) Every such officer shall pay to the Board, or to any person appointed by them to receive the same, all moneys which appear to be owing by him upon the balance of such accounts.

Officers failing to
render accounts or
to pay balance, etc.

292. (1.) If any officer fails to render such account, or to produce and deliver up the vouchers and receipts relating to the same in his possession or power, or to pay the balance thereof when thereunto required, or if, for five days after being thereunto required, any officer of the Board fails to deliver up to the Board, or to any person appointed by it to receive the same, all papers and writings, property, matters, and things in his possession or power relating to the execution of this Act or belonging to the Board, any two justices may hear and determine the matter in a summary way, and may order such officer to render such accounts or to deliver up such voucher or receipts as aforesaid, or to pay over the balance owing by him, or to deliver up all such papers, writings, property, matters, and things.

(2.) Any officer who neglects or refuses to obey such order shall be guilty of an offence, and shall be liable on conviction to a fine of not exceeding fifty pounds, or to imprisonment for not exceeding six months.

Auditors.

See 1902, No. 48,
s. 174.

293. (1.) There shall be two auditors for every district, one to be appointed by the Minister and the other to be annually elected by the ratepayers.

(2.) The auditor appointed by the Minister shall be called the Government Inspector of Road Boards (hereinafter referred to as "an Inspector").

Duties of inspector.

294. (1.) It shall be the duty of an Inspector to inquire into valuations, elections, and general administration, and to inspect roads and other works undertaken by the Board on which Government funds are expended.

(2.) An Inspector shall, for the purpose of any inspection, have authority at all reasonable times and without notice to demand from the Board and the officers thereof the production of all valuations, books, accounts, vouchers, papers, documents, and cash in hand belonging to the Board in the custody of the Board or any of its officers.

(3.) Every Board or officer neglecting or refusing to comply with any such demand shall be liable to a penalty not exceeding ten pounds for every day during which such demand is not complied with.

295. The first election of auditor for a new district shall be held on such day as the Minister may appoint.

Election of auditor by rate-payers.

An annual election of auditor shall be held in every district on the second Wednesday in April in every year.

Provided that when the first election of auditor for a new district is held after the thirtieth day of June in any year, the next election shall not take place until the second Wednesday in the second following month of April, and such auditor shall be elected for the current and the succeeding financial year, and shall continue in office until the completion of the audit of the accounts for such financial year, and shall be eligible for re-election.

296. Subject to the foregoing provisions, the auditor elected by the ratepayers shall be elected for the financial year next following his election, and shall continue in office until the completion of the audit of the accounts for such financial year, and shall be eligible for re-election.

Duration of office.
1902, No. 48,
s. 176.

297. On any vacancy occurring in the office of an auditor elected by the ratepayers between one election and the next, the Board shall appoint an auditor to fill the vacancy.

Casual vacancies.
1902, No. 48,
s. 177.

298. If no auditor is elected or the Board fail to make an appointment on the occurrence of any such vacancy, or in the absence of an auditor, the Inspector may act alone.

Failure to elect.
See 1902, No. 48,
s. 178.

299. Subject to the foregoing provisions of this Part, the provisions of Divisions five to thirteen (both inclusive) of Part III. shall apply *mutatis mutandis* to and in relation to elections of auditors in the same manner, as far as may be, as they apply to and in relation to an election of a member of a Board.

Application of Part III.

300. (1.) The Board shall cause the accounts of the Board to be balanced annually on a date to be fixed by the Minister, up to the last day of each financial year; and as soon as conveniently may be after such balancing the auditors shall audit the said accounts.

Annual balance and audit.
See 1902, No. 46,
s. 179.

(2.) The Board shall, by their secretary or other proper officer, produce and lay before the auditors the accounts so balanced as aforesaid, with all vouchers in support of the same, and all books, papers, and writings in their custody or power relating thereto.

(3.) If the accounts are found correct, the auditors shall sign the same in token of their allowance thereof, but if they think there is just cause to disapprove of any part of the said accounts, they may disallow any part of the said accounts so disapproved of, and take such steps thereupon as are hereinafter provided.

(4.) The Minister may at any time direct a special audit to be made by such person and in such manner as he may think fit.

Annual financial
statement.
1902, No. 48,
s. 181.

301. (1.) An annual statement or summary, in the form prescribed by the Minister, showing the financial position of the Board at the end of every financial year, shall be prepared by the Board, showing, on the one side, the amount received from every source of income, and, on the other, the various matters and things on which the same has been expended; and

(2.) In the case of any Board that has borrowed any money during the year, or has brought forward any borrowed money from the preceding year, a statement shall be made, showing, on the one side, all moneys so received or brought forward, and, on the other, the application of all such moneys as have been expended, and the amount remaining unexpended and to be carried forward; in the case also of any such Board, a statement shall be made, showing, on the one side, the amount received from any special rate levied in respect of any loan as aforesaid, and, on the other, the application thereof, and also a statement with respect to the sinking fund, showing the amount standing to the credit of the Board.

(3.) Such statements shall be audited by the auditors, and, if found correct, shall be certified as correct under the hand of the auditors, and when so certified shall, within thirty clear days after the completion of such audit, be published in the "Government Gazette" and also published in a newspaper usually circulating in the district at a cost not to exceed two pounds ten shillings, or, at the option of the Board, brought to the notice of ratepayers by the transmission through the post to each ratepayer at his address appearing in the rate book of a copy of such statements.

Duty of auditors.
1902, No. 48,
s. 182.

302. It shall be the duty of the auditors, if they shall find any accounts or statements submitted to them for audit to be erroneous or deficient in any particular, unless such error or deficiency be at once made good by the person or persons liable to make it good, instead of signing such account or statement, to publish in the "Government Gazette," and in a newspaper usually circulating in the district, a statement showing in what respects they have found such accounts or statements erroneous or deficient, and to take the proper steps to have such error or deficiency made good by the person or persons liable to make it good.

Duty of auditors in
case of unauthorised
expenditure.
1902, No. 48,
s. 183.

303. (1.) In auditing the accounts of any Board, the auditors shall disallow any expenditure which is not authorised by or which contravenes any provision of this Act, and shall refer to the minutes of proceedings kept by the Board to ascertain by whom such expenditure was authorised.

(2.) The individual members of the Board who have sanctioned any such expenditure as may have been disallowed shall be personally liable, jointly and severally, to make good to the Board the amount or amounts so spent.

(3.) The auditors shall certify to the Board the amount of any such unauthorised expenditure, and the names of the members who are liable to make good the same as aforesaid; and in case the said sums are not made good to such Board to the satisfaction of the auditors within seven days after such certificate is given, the auditors shall, in the name and on behalf of the Board, sue for the same in any court of competent jurisdiction, and shall, if it appear to such Court that such expenditure was not authorised, or was in contravention of any provisions of this Act as aforesaid, be entitled to judgment for the sum or sums so spent by any person or persons sued who may appear to have concurred in such expenditure; and the amount so recovered by the auditors in any such action shall be forthwith paid over by them to the Board.

(4.) In any such action as aforesaid, the minutes of proceedings kept by the Board shall be *prima facie* evidence of any facts therein stated.

304. The auditors may, at the expense of the Board, take legal opinion on any question arising in the course of an audit.

Auditors may take legal advice.
1902, No. 48,
s. 184.

305. Any difference between the auditors shall be referred to and finally settled by the Minister.

Any difference between auditors to be settled by Minister.

306. The auditors elected by the ratepayers or appointed by the Board shall be paid, out of the funds of the Board, such remuneration as the Board from time to time recommends and the Minister approves.

1902, No. 48,
s. 185.
Remuneration.
1902, No. 48,
s. 186.

307. The Governor may at any time remove any auditor, whether appointed or elected, from his office.

Governor may remove auditor from his office.
1902, No. 48,
s. 187.

308. The Board may, in any year, expend a sum not exceeding three per cent. of its ordinary income for any purpose relating to the district or the credit thereof, although such disbursements may not be otherwise authorised by this Act.

Provision for repayment of disbursements of Board.
1902, No. 48,
s. 188.

PART IX.—OFFENCES AND MISCELLANEOUS.

309. Every person who wilfully obstructs the Board, or any member, or any person employed by the Board in the performance of any act or thing which they are respectively authorised or required to do in the execution of this Act or any by-law made thereunder, shall be liable to a penalty not exceeding twenty pounds.

Obstructing Board or officers in performance of duty.
1902, No. 48,
s. 190.

Penalty for obstructing road, etc.
See 1902, No. 48,
s. 191.

310. Every person who—

- (1.) wilfully obstructs any road ; or
- (2.) having obstructed a road, neglects to remove the obstruction when required so to do by the Board,

shall be liable to a penalty not exceeding twenty pounds, together with the costs incurred by the Board in removing such obstruction.

Injury to property of Board.
See 1902, No. 48,
s. 192.

311. Any person who shall deface, damage, or injure in any way, or without lawful authority use or occupy any land, work, or property whatsoever owned by, vested in, or under the care, control, or management of the Board shall be liable to a penalty not exceeding twenty pounds, and may be ordered by the convicting Justices to pay to the Board, in addition to such penalty, the cost and expense of making good any damage or replacing any property destroyed: Provided that this section shall not protect or exempt any such person from the provisions of any law in force relating to injuries to property.

Neglect to keep in repair fence adjoining road.
1902, No. 48,
s. 193.

312. Any person who neglects to keep in repair any fence or gate separating the land owned or occupied by such person from any road shall be guilty of an offence against this Act.

Leaving open gate.
1902, No. 48,
s. 194.

313. Any person leaving open any gate which has been placed across a road with the authority of the Board shall be guilty of an offence against this Act.

Offences.
1902, No. 48,
s. 195.

314. When by this Act, or by any by-law thereunder, any act is directed to be done, or forbidden to be done, or where any authority is given to the Board, or any officer of the Board, to direct any act to be done, or to forbid any act to be done, and such act shall remain undone, or having been forbidden shall be done, in every such case the person making default as to any such direction or prohibition, as the case may be, shall be deemed guilty of an offence against this Act.

Penalties.
1902, No. 48,
s. 196.

315. Every person guilty of an offence against this Act, or of any by-law or regulation made thereunder, shall, for every such offence, if no other penalty is imposed, be liable to a penalty not exceeding twenty pounds.

Recovery of Penalties.
1902, No. 48,
s. 197.

316. Every penalty imposed by this Act or any by-law thereunder, and any other moneys made payable therewith, may be recovered in a summary way before any two Justices of the Peace in Petty Sessions.

Procedure.
1902, No. 48,
s. 198.

317. (1.) All informations and proceedings in respect of offences against this Act or any by-law shall be commenced within six months after the offences thereby respectively charged have

been committed, and shall be heard and determined, and the penalties in respect of the same may be enforced, subject to and in accordance with the provisions of the Justices Act, 1902.

(2.) Sections F, G, and H of the Second Schedule of the Interpretation Act, 1898, are incorporated with this Act.

318. All penalties recovered for offences against this Act, or any by-law thereunder, shall be paid to the Board of the district in which the offence was committed.

Penalties recovered to be paid to Board. 1902, No. 48, s. 199.

319. In all proceedings in any Court of Petty Sessions or before any justice, the secretary or any other officer of the Board appointed by the chairman in writing under his hand may represent the Board in all respects as if he were the party concerned.

Board may be represented by secretary or other officer. 1902, No. 48, s. 200.

320. In any proceedings to be instituted in relation to any land, property, or thing belonging to, vested in, or under the care, control, or management of a Board, it shall be sufficient to state generally the land, property, or thing in respect of which such proceedings shall be instituted to be the property of such Board; and for the purpose of all legal proceedings, all roads, bridges, reserves, and other property and things whatsoever vested in or placed under the care, control, or management of a Board shall be deemed to be the property of the Board.

Property may be stated in indictment, etc., to be the property of the Board. 1902, No. 48, s. 201.

321. (1.) All legal proceedings against a Board or any member, officer, or servant of a Board for anything done, or omitted to be done, in pursuance of this Act, shall be commenced within six calendar months after the happening of the cause of action, and not otherwise; and

Proceedings against officers, when to be commenced. 1902, No. 48, s. 202.

(2.) Notice in writing of any action, and of the cause thereof, shall be given to the defendant one calendar month at least before the commencement of the action.

322. All notices and demands under this Act may be in writing or in print, or partly in writing and partly in print.

Notices. 1902, No. 48, s. 203.

323. (1.) Any notice or demand required by this Act to be given to or made upon any person may be served—

Notices and demands, how served. 1902, No. 48, s. 204.

(a.) By delivering the same to such person;

(b.) By leaving the same at his usual or last-known place of abode;

(c.) By forwarding the same by post in a prepaid letter addressed to such person at his usual or last-known place of abode.

(2.) A notice or demand forwarded by post shall be deemed to have been given or made, and to have been received at the time when, by ordinary course of post, the letter would be delivered.

When deemed to have been given.

When name of owner or occupier unknown.

(3.) When a notice or demand under this Act is required to be given or made to any owner or occupier whose name or address is unknown to the Board, it shall not be necessary to name such owner or occupier, and such notice or demand may be served by placing it on some conspicuous part of the land of such owner or occupier, and by publishing it three times at intervals of not less than a week between any two publications in the "Government Gazette" and a newspaper usually circulating in the district.

Services on corporation.

(4.) A notice or demand may be served on a corporation, or incorporated company, or the members of a partnership, by being delivered, left, or posted in a prepaid letter; the notice or demand being addressed in each case to the corporation, company, or partnership at the principal office or place of business thereof in the State.

Notices binding on persons claiming under owner or occupier.
1902, No. 48, s. 205.

324. All notices and demands duly given to or made upon any owner or occupier shall be binding upon all persons claiming by, from, or under such owner or occupier.

Notices may be authenticated by signature of chairman without seal.
1902, No. 48, s. 206.

325. Every order, summons, notice, or other document requiring authentication by the Board may be sufficiently authenticated without the common seal of the Board, if signed by the chairman or secretary.

Service on Board.
1902, No. 48, s. 207.

326. Any summons or notice, or any writ or other proceeding requiring to be served upon the Board, may be served upon the secretary of the Board.

Saving of civil remedy.
1902, No. 48, s. 208.

327. The institution of any proceedings, or the conviction of any person for an offence against this Act, shall not affect any remedy which the Board or any person aggrieved may be entitled to in any civil proceedings.

Subdivisional plans to be approved by Board.

328. (1.) No subdivisional plan of any land shall be registered by the Department of Lands, or in the Office of Titles or Registry of Deeds, until such plan has been submitted to and approved by the Board, unless the Minister, on an appeal from the decision of the Board, otherwise directs.

(2.) Any person who sells or disposes of land set out, after the commencement of this Act, in a subdivisional plan which has not been submitted to and approved by the Board, or registered by direction of the Minister on appeal from the Board as aforesaid, shall be guilty of an offence against this Act, and liable to a penalty not exceeding fifty pounds.

(3.) Every person submitting any such plan to the Board, shall deposit therewith the sum of three pounds for each chain of road shown on such plan, and the money so deposited shall be applied by the Board towards the clearing and construction of such roads.

329. Any person appointed under the hand of the Minister or the chairman of the Board may, for the purposes of this Act, search the public registers of the office of Land Titles and Registry of Deeds, or any office of the Department of Lands or of Mines without payment of any fee.

Books of Land Titles and other offices may be searched without fee.

1902, No. 48,
s. 209.

330. (1.) In any legal proceedings under this Act, in addition to any other method of proof available:—

Proof of ownership or occupancy.

1902, No. 48
s. 210.

- (a.) Evidence that the person proceeded against is rated as owner or occupier in respect of any land to any rate for the district within which such land is situated; or
- (b.) Evidence by the certificate of—
 - (i.) The Registrar of Deeds, or his deputy, that any person appears from any memorial of registration of any deed, conveyance, or other instrument to be the owner of any land; or
 - (ii.) The Registrar of Titles, or any assistant or deputy registrar, and that any person's name appears in any registry book kept under the Transfer of Land Act, 1893, as owner of any land; or
 - (iii.) The Under Secretary for Lands or the Secretary for Mines, that any person is registered in the Department of Lands and Surveys, or the Department of Mines, as the lessee or occupier of any land,

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

(2.) All courts and all persons having by law, or by consent of parties, authority to hear, receive, and examine evidence shall, for the purposes of this Act, take judicial notice of the signature attached to such certificate, and on the written application of any Board signed by the secretary, a certificate giving the name and address of such owner, lessee, or occupier, the situation and description of such land, and date of registration of title, shall be furnished on payment of two shillings for each certificate.

331. The Boards of two or more districts may at their joint expense construct and maintain in any district any work which a Board is authorised by this Act to construct, and may apportion the expenditure and revenue between the respective Boards.

Works may be constructed by several Boards jointly.

1902, No. 48,
s. 211.

Every such work shall be and continue under the control of the Board of the district in which it is situated, but the by-laws relating to the same shall, before confirmation or enactment by the Governor, be submitted to the several Boards.

Statistics.

332. The Board shall, as often as required by the Registrar General, furnish such statistics and returns relating to the operations of the Board in such forms and in such a manner as directed.

Regulations and Forms.

333. (1.) The Governor may make regulations for giving effect to this Act, and prescribing the forms for use under this Act.

(2.) Strict compliance with the prescribed forms shall not be required, and substantial compliance therewith shall suffice for the purposes of this Act.

(3.) Any prescribed form may be varied to suit the circumstances of the case, and no variation in any form used shall invalidate such form, provided that the substance and effect thereof is not altered.

Act not to affect rights of the Crown.
1902, No. 48,
s. 211.

334. Nothing in this Act contained shall be deemed in any way to affect any right as to any land heretofore or hereafter to be alienated by the Crown reserved to His Majesty, his heirs and successors, or to any person or persons acting in that behalf by his or their authority, to do any act or thing by this Act authorised to be done in pursuance and by virtue of the powers of this Act, which, if this Act had not been passed, might lawfully have been done by His Majesty, his heirs and successors, or any persons acting in that behalf by his or their authority, under any such reservation as aforesaid.

Governmental inquiry.

335. The Governor or Minister may appoint any person to make inquiry as to any matter arising in the administration of this Act, or touching any official act, omission, or neglect of any Board, member of a Board, or the secretary or other officer of a Board, or in regard to the operation or effect of any provision herein contained. And every such person so appointed shall for the purposes of such inquiry have the powers of a Royal Commission and the chairman thereof under the Royal Commissioners' Powers Act, 1902.

Judicial notice of Board.

336. Every Court and Magistrate shall take judicial notice of the existence and incorporation of every Board.

Period from which Act in force.

337. This Act shall continue in force until the thirty-first day of December, One thousand nine hundred and twelve, and no longer.

SCHEDULES.

THE FIRST SCHEDULE.

Date.	Short Title.	Extent of Repeal.
2 Edwd. VII., No. 48	The Roads Act, 1902	The whole.
3 Edwd. VII., No. 39 (No. 24 of 1904)	The Roads Act Amendment Act, 1904	The whole.
4 Edwd. VII., No. 22 (No. 47 of 1904)	The Roads Act Amendment Act, 1904 (No. 2)	The whole.
9 Edwd. VII., No. 48 (No. 52 of 1909)	The Roads Act Amendment Act, 1909	The whole.
55 Vict., No. 32 ...	The Bankruptcy Act, 1892	The words "road board" in section thirty.

Section 4.

Sec. 185.

THE SECOND SCHEDULE.

BUILDING REGULATIONS.

Surveyor.

1. After the coming into operation of these regulations in a district or any part thereof, the Board is to have a surveyor appointed and subject to dismissal by the Board, with the approval of the Minister.

Plans of buildings to be approved by Board.

2. No block of ground shall be laid out for building unless and until a plan showing clearly the number of houses or buildings proposed to be built thereon, and the area to be occupied by each house or building, and the position of every privy and drain, and a copy of the specification, have been laid before and approved by the Board; and it shall be unlawful for the Board to approve of any plan which does not show that every proposed building intended to be or capable of being used as a dwelling-house shall have in the rear or on one side thereof an open space, exclusively belonging thereto, of the following extent, namely, an area equal to the full width of that allotted to the building, and of a depth of at least twenty feet.

Notice to be given before commencing to build or alter a building.

3. No person shall commence to build, take down, alter, add to, or repair any building, or to make any excavation, or to do any act whereby any road or way may be obstructed or rendered dangerous or inconvenient to persons passing over or near thereto, unless he shall have given three clear days' previous notice in writing to the Board of his intention to commence such building or work, or do such act, and shall have put up a proper hoarding or fence, to the satisfaction of the Board or its surveyor, as a protection to passengers, and also a platform and handrail to serve as a footway for passengers if it shall be required by the Board or its surveyor, and in such place and in such manner as the Board or its surveyor directs.

No materials to be deposited on roads without license.

4. (1.) No person shall deposit any stones, bricks, lime, rubbish, timber, iron, or other materials, or erect any hoarding, fence, scaffold or other structure, in or on any road or way, or make any excavation on any land abutting on or adjoining or contiguous to any road or way, unless he shall first have obtained from the Board or its surveyor a license in writing for that purpose, or shall, in the case of an excavation as aforesaid, have securely fenced off the same from the said road or way.

(2.) Such license shall state the purpose for which and the conditions upon which it has been granted, and the licensee shall comply with all such conditions, and the Board may grant the license subject to the condition that the licensee shall erect, for the safety and convenience of the public, such hoardings or fences at such places, and of such form, character, and dimensions, and to be kept erected for such time, as to the Board shall seem fit.

(3.) The Board may fix, charge, and recover fees to be paid for such license.

(4.) The Board may, before granting such license, require the applicant to deposit a sum sufficient in the opinion of the Board or its surveyor to cover the cost of repairing any damage to the street, footpath, or kerb; such deposit to be retained by the Board until the damage (if any) is made good by the licensee, and if the work of repair is not done within such time as the Board may deem reasonable, the Board may do the work and deduct the cost from such deposit.

Maintenance and lighting of hoardings and fences.

5. (1.) Every person erecting any such hoarding or fence as aforesaid shall keep and maintain the same, with the platform and handrail (if any) thereto, standing and in good condition, to the satisfaction of the Board, during such time as the Board shall deem necessary for the public safety and convenience.

(2.) Every person erecting, or causing to be erected, any hoarding, fence, or obstruction of any kind whatever on any road or way, or at any excavation as aforesaid—

- (a) Shall cause the same to be well and sufficiently lighted every night from sunset to sunrise to prevent accidents; and
- (b) Shall remove the same and fill up any excavation, and shall repair any damage done to the road or way, within a reasonable time after being required in writing so to do by the Board.

Penalty for disobeying preceding regulations.

6. If any person does any act contrary to, or neglects or omits to do any act required to be done by any of the *four* last preceding regulations, such person shall incur a penalty not exceeding ten pounds for every such offence, and a further penalty not exceeding forty shillings for every day such offence continues.

Hoardings erected and materials deposited otherwise than as permitted by license may be removed and sold. Structure may be repaired.

7. (1.) If any person shall—

- (a) Contravene any provision of clause *one* or *two* of regulation *four*; or
- (b) Allow any such materials, structure, or excavation as is mentioned in the said regulation to remain beyond the time permitted by the license or required by the Board, as the case may be;

then the Board may, according to the requirements of the case,—

- (a) Pull down any structure erected and remove the component parts thereof;
- (b) Remove any materials deposited;
- (c) Fill in any excavation made;
- (d) Order all attendant expenses to be paid to the Board by such person and retain anything removed as aforesaid till any such expenses are paid.

(2.) If the said materials or component parts are not claimed and the attendant expenses paid within eight days after removal, the Board may order the same to be sold, and apply the net proceeds towards payment of such expenses.

(3.) If any person shall fail to keep any such structure as aforesaid, with the platform and handrail (if any) thereto in good repair, the Board may repair the same and order all attendant expenses to be paid by such person to the Board.

Damage done to footways, drains, etc., to be made good.

8. (1.) Any person erecting or setting up in any road or way any hoarding, or fence, or scaffolding, for any purpose whatever, and injuring or destroying any footway or roadway of any such road or way, or any kerbing, or water-tabling, or drain, shall make good the same to the satisfaction of the Board or its surveyor.

(2.) In case the person to whom such hoarding, fence, or scaffold belongs, or who shall have erected the same, neglects or fails to make good and repair to the satisfaction of the Board or its surveyor such footway, roadway, kerb, water-table, or drain, the Board may cause such repairs to be done, and, by order under the hand of the chairman or secretary, order the costs, charges, and expenses thereof, together with any such further costs, charges, and expenses as may have been incurred by reason of such neglect, to be paid by such owner or other person as aforesaid to the Board.

While building is in progress footway to be covered.

9. (1.) Whenever any builder or other person shall have erected the first storey of any building abutting on any footpath of any road, or whenever any plastering, painting, or decorating operations are in progress above the first storey of any building, such builder, or other person, or the plasterer, painter, or decorator shall cause the adjoining footway to be covered, and kept covered to the satisfaction of the surveyor, until the completion of the work then in progress, so that no danger from falling materials, or inconvenience to the public may arise.

(2.) Every builder, plasterer, or other person neglecting to comply with the written directions of the Board or its surveyor in any of the above respects shall be liable to a penalty not exceeding ten pounds.

Materials for roofs.

10. No roof of any house or other building shall be covered with any other material than slate, tiles, metal, glass, artificial stone, cement, or shingles, or other material approved of by the Board.

Ventilation of ground floors.

11. (1.) No building intended to be or capable of being used as a dwelling-house shall be allowed to be built higher than the floor level of the ground floor, unless and until the builder shall have satisfied the Board or its surveyor that such floor is so constructed or raised to such a height as to admit of a free current of air passing thereunder.

(2.) When any house, intended to be, or capable of being used as a dwelling-house or for offices, is built in a low or damp situation, the Board or its surveyor may require that the space between the ground and the ground floor level shall be filled up with sand, cement, or other suitable material to such height as the Board or its surveyor shall direct.

Party walls to be of brick or stone.

12. (1.) All partitions between separate houses or other buildings, whether such houses or other buildings shall belong to one or more owners, shall be of brick, stone, concrete, or other non-inflammable material approved by the Board, and shall be carried up above the roofs of such houses or buildings to such a height and in such a manner as may be directed by any by-laws.

(2.) If any house or other building not now partitioned by such a party-wall as aforesaid shall hereafter be partially rebuilt or have the front thereof taken down, or if the said house or building shall be raised in height, then in every such case a party-wall of brick, stone, concrete or other non-inflammable material approved by the Board between such houses or buildings, and carried up to the height and in the manner aforesaid, shall be built.

(3.) Every owner or builder neglecting to comply with any of the provisions of this or of the *two* last preceding regulations shall be liable to a penalty not exceeding twenty pounds; but the infliction of such penalty shall not discharge such owner or builder from his obligation to comply with such provisions.

Obligation of adjoining owners to underpin buildings.

13. (1.) Whenever the foundations of the basement of any building shall have been carried down to a depth of or exceeding twelve feet below the level of the adjoining footpath at the boundary of the allotment—

(a) The owner of such building shall be exempt from liability for any underpinning that may become necessary in case any adjoining owner shall build any structure which extends to a lower level: and

(b) It shall be the duty of the adjoining owner to protect and underpin the building of such first-mentioned owner, and such adjoining owner shall be liable to compensate the first-mentioned owner for and make good all damage that may result to him by reason of the building operations of such adjoining owner below the level of the foundations of the building of such first-mentioned owner.

(2.) Whenever the foundations of the basement of any building shall have been carried down to a depth of less than twelve feet below the level of the adjoining footpath, at the boundary of the allotment, and it becomes necessary to underpin the foundations of such building in consequence of building operations undertaken or intended to be undertaken by an adjoining owner, such adjoining owner shall give to the owner of such building and every person acting with his authority all reasonable facilities to enter upon the adjoining land for the purpose of securing such building.

(3.) Nothing in this regulation contained shall relieve the owner or adjoining owner from any liability to which he would otherwise be subject in case of injury caused by his building operations.

Buildings, partitions, ceilings, and verandahs of inflammable materials prohibited.

14. (1.) No building shall be erected the external walls of which building shall be wholly or in part of wood, canvas, thatch, or other inflammable material, or the internal partitions or ceilings whereof shall consist either wholly or in part of calico, canvas, paper, or other inflammable material, nor shall any verandah or balcony to any house or building be roofed with canvas or other inflammable material.

(2.) If any building, partition, ceiling, verandah, or balcony is erected or constructed of material contrary to the provisions of this regulation, the Board may at any time cause notice to be served upon the owner or occupier thereof, requiring the removal of the same within such time as the Board may deem proper.

(3.) In default of such removal any two or more justices, upon due proof of the service of such notice, and of non-compliance therewith, may order any such building, roof, verandah or balcony, ceiling or partition to be forthwith removed, either wholly or in part, as the case may require, by the Board, at the expense and charges of the owner thereof, which, upon the order of the Board in writing under the hand of the chairman or secretary, shall be paid by such owner to the Board.

(4.) Provided that, notwithstanding anything in this regulation contained, the Board may, in its discretion, permit by written license the erection of any such building under such restrictions or for such time as the license shall specify.

No building to project on any footway.

15. (1.) No building erected in any district or part thereof, after the coming into force of these regulations in such district or part, shall encroach or project on or over any road or way, nor shall any building whatever which may so encroach or project be rebuilt, either wholly or in part, except according to a plan, to be approved by the Board or its surveyor, whereby such building shall be placed clear of and without the distance defined for the breadth of such road or way.

(2.) But nothing herein contained shall prevent any person, with the consent of the Board, from placing an awning or verandah in front of his building, according to plans to be settled and approved by the Board, provided that such awning or verandah is eight feet, at the least, in height above the road or footway in front of such building, and, in case posts are used for the support thereof, that such posts are placed close to the kerbstone or outer edge of such footway, as the Board shall direct:

(3.) Provided also, that nothing herein contained shall prevent any person, with the consent of the Board (after plans have been submitted to and approved by the Board), from placing in front of his house a balcony, with a framework constructed of iron, and securely fixed with iron brackets or other supports, to the satisfaction of the Board or its surveyor; provided that such balcony is eight feet at least in height above the road or footway in front of such building, and, in case posts are used for the support thereof, that such posts are placed close to the kerbstone or outer edge of such footway, as the Board shall direct.

Justices may, after notice, cause encroachment to be removed.

16. If, within one month after notice by the Board to remove any building or part thereof which may encroach as aforesaid shall have been served on the owner or occupier thereof, the same shall not be accordingly removed, any two justices may grant a warrant under their hands to the Board, its surveyor and assistants, forthwith to cause the said building, so far as the same shall encroach upon the road, to be taken down, and the same may be taken down accordingly and removed, and the owner or occupier shall, upon the order in writing of the Board, under the hand of the chairman or secretary, pay the costs and expenses of such taking down and removal to the Board.

Notice by Board of required alterations.

17. The Board may at any time during or after the erection of any building give notice to the builder or owner thereof, of any matter or thing in the construction of such building which tends to render such building unsafe, or prejudicial to the public interest; and thereupon such builder or owner shall pull down or so alter or add to the said building as to remove the ground of objection, unless he, with due diligence, prosecutes an appeal or brings an action under the provisions of regulation *thirty-four*.

Chimneys of manufactories to be constructed and used so as not to be a nuisance.

18. Every chimney shaft of any mill, manufactory, or other similar building shall be of such a height, and constructed in such a manner, and shall be so used as not to cause any nuisance or annoyance to the persons dwelling in the neighbourhood thereof, and in accordance with the by-laws which may be made by the Board in that behalf.

Measures to be taken in case of ruinous or dangerous buildings.

19. (1.) If any building or anything thereon affixed shall be deemed by the Board or its surveyor to be in a ruinous or dangerous condition so as to render either the occupiers of adjoining buildings or any other persons liable to any injury in any way therefrom, the Board or its surveyor is hereby empowered to cause a hoarding or fence for preventing nearer approach thereto than may be safe to be forthwith put up, and to take any such other measure of protection as the exigency of the case may require.

If circumstances shall so admit, the Board or its surveyor shall cause notice in writing to be served on the owner or occupier of such ruinous or dangerous building, and if such owner or occupier cannot be found, to be fixed on the door or other conspicuous part thereof, requiring such ruinous or dangerous building or other thing to be taken down, repaired, or secured as the case may require.

(2.) If such taking down, repairing, or securing shall not be commenced within the time by such notice required, or being so commenced any delay shall take place in the completion thereof as speedily as the nature of the case may demand, the Board or its surveyor may cause complaint thereof to be made before any two justices of the peace, who are hereby empowered to order the owner, or, in his default, the occupier (if any) of such ruinous or dangerous building or other thing to take down, rebuild, repair, or otherwise secure the same, or such part thereof as shall appear to such justices to be ruinous or dangerous, within a time to be fixed by such justices, and to the satisfaction of the Board or its surveyor. The justices may hear such complaint *ex parte* if no owner or occupier can be found on whom to serve the summons.

(3.) In case such building or other thing is not so taken down, repaired, rebuilt, or otherwise secured, within the time so limited, or if no owner or occupier can be found on whom to serve such order, the Board shall with all convenient speed cause all or so much of such building or other thing as shall be in a ruinous condition, or dangerous as aforesaid, to be taken down, repaired, rebuilt, or otherwise secured in such manner as shall be requisite.

Expenses.

20. (1.) All costs and expenses incurred by the Board in relation to the putting up of such hoarding or fence and the obtaining of any order as to a dangerous building and carrying the same into effect shall be paid by the owner or occupier of the building, but without prejudice to his right to recover the same from any person liable to the expenses of repairs.

(2.) If the owner cannot be found, or if on demand he refuses or neglects to pay such expenses, the Board, after serving on him one month's notice of its intention so to do, may sell the materials of the building; but it shall, after deducting from the proceeds of the sale all costs and expenses incurred, and the amount of all rates then due in respect of the premises, pay the surplus (if any) to the owner on demand.

(3.) When any dangerous building is sold for payment of the costs and expenses incurred in respect thereof by the Board, the purchaser, his agents and servants, may enter upon the land whereon the building is situated for the purpose of taking down the same and of removing the materials of which it is constructed.

(4.) If the materials are not sold by the Board, or if the proceeds of the sale are insufficient to defray the costs and expenses, the Board may recover the expenses or the balance thereof from the owner of the building, together with all costs in respect thereof, in a summary manner by complaint before any two justices.

Power to remove inmates from dangerous building.

21. When a building has been certified by a surveyor to be dangerous to its inmates, any two justices may, if satisfied of the correctness of the certificate, upon the application of the Board, by order direct that any inmates of such structure shall be removed therefrom by an officer of police.

Removal of dilapidated and neglected buildings.

22. (1.) When a building is ruinous or so far dilapidated as thereby to have become and to be unfit for use or occupation, or is from neglect or otherwise in a structural condition prejudicial to the property in or the inhabitants of the neighbourhood, any two justices, on complaint by or on behalf of the Board, may order the owner to take down or repair or rebuild such building (herein referred to as a neglected building), or any part thereof, or to fence in the land upon which it stands, or any part thereof, or otherwise to put the same or any part thereof into a state of repair and good condition to the satisfaction of the Board within a reasonable time to be fixed by the order, and may also make an order for the costs incurred up to the time of the hearing.

(2.) If the order is not obeyed, the Board may enter upon the neglected building or such land and execute the order.

(3.) When the order directs the taking down of a neglected building, or any part thereof, the Board in executing the order may remove the materials to a convenient place, and, unless the expenses of the Board in relation to such building are paid to the Board within fourteen days after such removal, sell the same.

(4.) All costs and expenses incurred by the Board in relation to a neglected building, and also the amount of all rates then due in respect of the premises, may be deducted by the Board out of the proceeds of the sale, and the surplus (if any) shall be paid by the Board on demand to the owner of the building.

(5.) If such neglected building, or some part thereof, is not taken down, and such materials are not sold by the Board, or if the proceeds of the sale are insufficient to defray the costs and expenses, the Board may recover the expenses, or such insufficiency, from the owner of the building, together with all costs in respect thereof, in a summary manner by complaint before any two justices, but without prejudice to his right to recover the same from any lessee or other person liable to the expenses of repairs.

Fees part of expenses.

23. All fees prescribed to be paid in respect of any dilapidated or neglected building shall be deemed to be expenses incurred by the Board, and shall be recoverable as such.

Provision for enforcing repayment of expenses incurred by Board.

24. (1.) When the Board has incurred any costs or expenses in respect of any dangerous or neglected building, and has not been paid or has not recovered the same, any two justices, on complaint by the Board, may make an order fixing the amount of such costs and expenses and the cost of the proceedings before them, and declaring the amount already paid or recovered (if any), and directing that no part of the land upon which such dangerous or neglected building stands or stood shall be built upon, and that no part of such dangerous or neglected building, if repaired or rebuilt, shall be let for occupation, until after payment to the Board of the said amount of the balance thereof, as the case may be; and thereupon and until payment to the Board of the said amount or balance no part of such land shall be built upon, and no part of such dangerous or neglected building so repaired or rebuilt shall be let for occupation.

(2.) Every such order shall be made in duplicate; and one copy of such order shall be retained by the clerk of petty sessions and the other copy shall be kept at the office of the Board.

(3.) The Board shall keep a register of all orders made under the provisions of this regulation, and shall keep the same open to inspection. No property shall be affected by any such order unless and until such order is entered in such register, and any such order not entered in such register within ten days after the making thereof shall cease to be of any force.

When Board may demolish buildings and sell materials and recover expenses.

25. (1.) When any person has been convicted of an offence against any of the provisions of these regulations by constructing, erecting, adapting, extending, raising, altering, uniting, or separating any building, or any part of any building, in contravention of any provisions of these regulations, the Board may, after giving fourteen days' notice to such person to bring such building into conformity with the said provisions, and after default has been made in complying with such notice, and notwithstanding the imposition and recovery of any penalty, cause complaint thereof to be made before two justices.

(2.) Upon the hearing of such complaint, the justices may make an order authorising the Board to enter upon such building with a sufficient number of workmen, and to demolish or alter such building or any part thereof, so far as the same has been adjudged to be in contravention of these regulations, and to do whatever other acts may be necessary for such purpose, and to remove the materials to some convenient place, and, if the Board thinks fit, sell the same in such manner as they think fit.

(3.) All expenses incurred by the Board in demolishing or altering such building 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 Board think fit to sell the same, may be recovered from the person committing the offence.

(4.) If the proceeds of such sale are more than sufficient to defray such expenses and costs, the Board 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 building, to the owner of the building on demand.

Payment of surplus of proceeds into Treasury.

26. When by any provision of these regulations any surplus of the proceeds of the sale of any buildings 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 Board, then the same shall be paid into the Treasury, and shall be subject to the control of the Colonial Treasurer, and to be paid out to the owner on his proving his title thereto.

Removal of roof not to affect proceedings.

27. Proceedings with respect to a building shall not be affected by the removal or falling in of a roof or covering of such building, or by the fact that such building has not been completed.

Inflammatory buildings in public or other places rendered liable to removal.

28. (1.) If it is deemed by the Board to be expedient for the public safety, with a view to the prevention of fire, that any public or other place within any district shall be brought under the operation of the next following *three* regulations in order to remove all or any buildings therein, the external walls of which shall be wholly or partially of wood, or the coverings of the roofs of which shall be wholly or partially of thatch, canvas, or other inflammable material, the Board may, either separately or in conjunction with any insurance companies or other persons, cause any such public or other place to be surveyed by three competent surveyors or architects, of whom the surveyor to the Board shall be one, another of whom shall be nominated by the Minister, and the third by the fire insurance companies effecting insurance within such district, or any of such companies, or in default of such last appointment being made within seven days after the appointment of a surveyor by the Minister, the third surveyor or architect shall be appointed by the Board.

(2.) If such surveyors or architects shall unanimously report that it is desirable for the public safety that such public or other place, or any part thereof, shall be brought under the operation of the next following *three* regulations, the Governor, at the instance of the Board, and on the application of three or more ratepayers, being owners or occupiers of land in any such public or other place, may declare such public or other place, or any part thereof, by notice in the "Government Gazette," to be and the same shall thereupon become subject to the provisions of the next following *three* regulations.

Inflammatory buildings may be ordered to be removed.

29. When any building within any district is constructed wholly or the external walls thereof shall be constructed wholly or partially of wood, thatch, canvas, or other inflammable material, and the said building shall either internally or externally be in such a state as to be liable to immediate ignition in the event of contact with fire, the Board may cause immediate notice to be given, under the hand of the chairman or secretary, to the owner or occupier of such building that such building is dangerous by reason of its liability to ignite, and requiring such building, or the portion specified in such notice as dangerous, to be removed within such time as the Board shall in such notice specify.

Compensation to be ascertained by arbitration.

30. (1.) Within one month after any such notice shall have been given, or within such further time as the arbitrators or their umpire, or the arbitrator proceeding alone, as hereinafter mentioned, may, by any writing under their or his hand, appoint, the amount of compensation for the injury to be occasioned to the owner or occupier by such removal shall be ascertained by a reference to arbitration unless such amount shall be previously agreed upon.

(2.) One arbitrator shall be appointed by the Board and one by the owner or occupier or his authorised agent; and the arbitrators so appointed shall, before entering upon the reference, appoint an umpire, who shall inquire with the arbitrators into the matters referred, and the award of any two of such arbitrators and umpire shall be final.

(3.) In the event of either party neglecting or refusing to appoint an arbitrator within seven days after being thereunto required, or if either arbitrator, after

appointment, shall refuse or neglect to proceed with, or shall in any way hinder the reference, the other arbitrator may proceed alone, and his award shall be final and conclusive between the parties.

Justices may, in default of compliance with notice, order removal.

31. (1.) In default of compliance with the notice and requisition given under regulation *twenty-nine*, any two or more justices, on the complaint of the Board, its secretary or surveyor, and on proof of the service of such notice and requisition, may order the immediate removal by the surveyor, or other persons appointed by the Board, of the building or portion specified in such notice, and same shall be removed accordingly.

(2.) After such removal the parties entitled shall be paid by the Board, out of the ordinary revenue of the Board, the compensation ascertained as aforesaid, together with the costs of the inquiry, if awarded, and, if necessary, they may recover the amount thereof from the Board by action.

Buildings may be entered and inspected.

32. It shall be lawful for the Board or its surveyor and for any person authorised in writing by the Board or its surveyor, to enter and inspect, at all reasonable times, all houses, buildings, and premises, which are subject to these regulations, and as to which any duty is thereby imposed upon, or power vested in, them or either of them, and if any person refuses to admit them or either of them to any such house, building, or premises, or impedes or obstructs them or either of them in the exercise of his or their duty, such person shall be liable to a penalty not exceeding ten pounds.

Notices, etc., to be served.

33. A copy of every notice, complaint, or order under regulations *nineteen* to *thirty-one* (both inclusive) shall be served upon every person in Western Australia who, from the registers of the Office of Titles, the Registry of Deeds, or the office of the Department of Lands and Surveys, or the Department of Mines, appears to have any estate or interest in the lands.

Appeal.

34. Any builder, owner, or other person feeling aggrieved by any refusal to sanction, or any notice or order of the Board under these regulations, may appeal therefrom to the Supreme Court or the Local Court held nearest to the office of the Board district by motion on notice duly given, or may bring an action at law against the Board in respect of any refusal to sanction, or notice or order of the said Board, and the usual incidents of litigation shall apply to such motion or action.

Fees.

35. Subject to the approval of the Governor, the Board shall have power to frame a scale of fees to be paid by any owner or builder to the Board in respect of all buildings to be erected or altered, or of any order, license, matter, or thing required or permitted by these regulations.

By-laws.

36. (1.) The Board may make by-laws with respect to the following matters (that is to say):—

- (a) Regulating the plan and levels of sites for, and the foundations and sites of buildings.
- (b) The mode in which and the materials with which such foundations and sites are to be made, excavated, filled up, prepared, and completed.
- (c) The thickness and height and the description and quality of the substance of which walls and party walls may be constructed.
- (d) The construction and erection, size, and position of parapets, flues, and fireplaces in any building.

- (e) The height, size, and dimensions, and the lighting and ventilation of all rooms or parts of a building.
 - (f) The removal of any wall, party wall, parapet, flue, or fireplace erected or constructed contrary to any by-law.
 - (g) Requiring the deposit with and approval of the surveyor of the plans and specifications of all buildings, or alterations therein, before such construction or alteration is commenced.
 - (h) The construction and protection of staircases and lift wells.
 - (i) The method of draining yards and buildings, and the junction or connection of drains with other drains or sewers.
 - (j) Generally for the carrying out of these regulations.
- (2.) Such by-laws may be made to apply to the whole or any part of the district.
- (3.) Any by-law may impose a penalty or maximum and minimum penalties for any breach thereof, but no such maximum penalty shall exceed twenty pounds.

Regulations not to apply to Government buildings.

37. All houses and buildings the property of, or occupied by, or under the control or management of, His Majesty's Government or any department thereof, shall be exempt from the operation of these regulations.

Recovery of Expenses.

38. Any expenses or moneys payable to a Board hereunder or ordered by any Board to be paid to it hereunder may, wherever no method of recovering the same is prescribed, be recovered by the Board by complaint before two justices or in any court of competent jurisdiction.