



1852.

No. 16.

An Act to appoint District Councils and to define the powers thereof.

[Assented to 25th November, 1852.]

*Amended by
No 16 - 1854.*

WHEREAS, with a view to the efficient administration of the local affairs of the Province of South Australia, it is expedient to provide for the division of the said Province into convenient districts, and for the election of Councils, to be called District Councils, for the management of the affairs of such districts, with the rights, powers, and privileges hereinafter specified: And whereas by a certain Ordinance, No. 14 of one thousand eight hundred and forty-nine, "For the Making and Improving of Roads in South Australia," certain Boards were constituted, to be called the "District Board of Roads," and certain power and authorities were conferred upon and vested in such Boards:

Preamble.

Be it therefore Enacted, by the Lieutenant-Governor of South Australia, with the advice and consent of the Legislative Council thereof, That, from and after the passing of this Act, it shall be lawful for the Governor, subject to the provisions hereinafter contained, by Proclamation in the *South Australian Government Gazette*, to designate and constitute districts and define the boundaries thereof; and that from and after such Proclamation, any district therein designated shall be and continue a district for all the purposes of this Act.

Governor may constitute district.

2. And be it Enacted, That there shall be a Council in every District within the Province, to be called the "District Council" of such District; and that such Council shall consist of five Members, being ratepayers within the District, to be chosen and elected as hereinafter provided; and that the first District Council shall be appointed by the Governor, by Proclamation published in the *South Australian Government Gazette*; and the Members of such District Councils shall remain in office until the first day

District Councils.

day of January next following their election or appointment, and thereafter until the election of their successors, when three of such members shall go out of office.

3. And be it Enacted, That the Members who shall so go out of office shall be those Members who shall have been the longest time in office without being re-elected: Provided, that of those who have been in office for an equal time without re-election the Members who shall go out of office, shall be such as not being Chairman, may be determined by lot among the members.

Subsequent elections
of Councillors.

4. And be it Enacted, That, for the purpose of electing the District Councils for the following year, a meeting of the inhabitants of each respective District, qualified as aftermentioned, shall be held on the first day of January in every year, unless such day shall happen to fall upon a Sunday, and then on the day following, at some convenient place within such District, of the time and place of which meeting notice shall be given by the respective District Councils, or their Clerk, or authorized Officer, at least fourteen days previously, by advertisement in the *South Australian Government Gazette*, and also by affixing such notice on the doors of such public places within the District as such District Council may determine: Provided, that if such notice shall not have been duly given in any District, it shall be lawful for any Justice of the Peace, residing within such District, upon the request of three persons qualified to vote for such District to give notice of the time and place of such meeting.

Qualification of
voters.

5. And be it Enacted, That at such meeting for the election of Councillors all persons shall be admitted to vote, who are occupiers either as owners or tenants, within the District for which such election takes place of any property liable to be rated for the purposes of such District under the provisions of this Act: Provided, that no person shall be allowed to vote who has not paid to the person authorized to receive the same all sums at which he is rated under this Act.

Votes, how returned.

6. And be it Enacted, That a list of the persons rated for the District, showing which of such persons, if any, shall not have paid their rates, shall be produced at such meeting by the Clerk or other Officer appointed by the District Council; and at such meeting the Chairman of the District Council for the preceding year, if present, and if not, then such Member of the District Council as the meeting shall choose, and if no Member of such District Council be present, then such other qualified person as the meeting shall choose, being a ratepayer within the same District, shall preside at such election.

Mode of voting at
elections.

7. And be it Enacted, That at every such election the voting shall commence at ten of the clock in the forenoon of the day fixed for the election as aforesaid, and shall finally close at four of the clock in the afternoon of the same day (unless in case of
obstruction

obstruction or necessary hindrance, in which case it shall be lawful for the Chairman presiding at such meeting to adjourn the same to the following day at the same hour, when such election shall finally terminate), and shall be conducted in manner following, that is to say, every person entitled to vote may vote for any number of persons duly qualified (not exceeding the number of Councillors then to be chosen for the District), by delivering to the Chairman a voting paper containing a description of his qualification to vote, and also the names of the persons for whom he votes, such paper being signed with the name of the person voting, and the Clerk or authorized Officer shall, thereupon, openly record such vote in the poll-book, and the voting-paper shall be carefully preserved by the Chairman, and shall be open to public inspection for two months thereafter.

8. And be it Enacted, That after the close of the poll, the Chairman shall examine the poll-book, and, if necessary, compare the entries therein with the assessment-book, and with the voting-papers delivered as aforesaid, for the purpose of ascertaining the number of votes given for each person, and so many of such persons being duly qualified, and being not more than the number of District Councillors then to be chosen, as shall have the greatest number of votes shall be deemed to be elected; and in case of an equality in the number of votes for any two or more such persons, the Chairman shall, if necessary, to prevent an excess in the number of District Councillors, decide by lot which of such persons shall be elected; and the Chairman shall, not later than two of the clock in the afternoon of the day next but one following the day of such election, publish a list of the names of the persons so elected; and he shall also send by post a notice to such person so elected, informing him of his being elected a District Councillor.

Examination of poll-books, and declaration of the poll.

9. And be it Enacted, that if any person duly qualified, who shall have been duly elected a Member of any District Council, shall refuse or neglect to take upon himself such office, and to act in such capacity for and during the period for which he shall be so appointed, he shall forfeit and pay the sum of Twenty Pounds, to be recovered with costs of suit in any Court of competent jurisdiction, by the Chairman of such District Council, or by the Clerk, or by any other Officer appointed by such District Council in that behalf: Provided that any person not being a resident within the district for which he is elected shall not be liable to such penalty, if he shall signify his refusal to act in such capacity to the Chairman or Clerk of the District Council within fourteen days next after he shall have been so elected.

Penalty on refusal to act.

10. And be it Enacted, That no bankrupt or insolvent shall be capable of being or continuing a Member of any District Council.

No bankrupt or insolvent to be a District Councillor.

11. And be it Enacted, That any person who, at any time after his appointment or election as District Councillor, shall accept or continue

No person holding office, or concerned in a contract, to be a District Councillor.

Shareholders in Companies established by Royal Charter, Act of Parliament, or any Colonial Ordinance, not disqualified by reason of contracts.

continue to hold any office or place of profit under this Act, or be concerned or participate in any manner in any contract, or in the profit thereof, or in any work to be done under the authority of the District Council of which he is a member, shall thenceforth cease to be a District Councillor, and his office shall thereupon become vacant: Provided always, that no person, being a shareholder, or a member of any Joint Stock Company incorporated by Royal Charter, or established by any Act of Parliament, or any Act or Ordinance of the Colonial Legislature, shall be prevented from acting as a Councillor by reason of any contract entered into between such Company and the District Council; but no such District Councillor, being a member of such Company, shall vote on any question in which such Company is interested.

Election of Chairman of meetings.

12. And be it Enacted, That at the first meeting of each District Council respectively, such District Council shall, by the majority of the votes of the members present, elect one of their own body to be the Chairman for the ensuing year; and annually thereafter at the first meeting to be holden after the election of new members, each District Council shall, in like manner, elect a Chairman for the ensuing year; and, in case the Chairman shall die, or resign, or shall cease to be a member of such District Council, or shall otherwise become disqualified to act as such, the said District Council, at its next meeting after the occurrence of such vacancy, shall choose some other of its body to fill such vacancy; and the Chairman so elected shall continue in office so long only as the person in whose place he was elected would have been entitled to continue Chairman; and every such Chairman shall, for the period of his office, be a Justice of the Peace for the said Province: Provided that if such Chairman be not present at any meeting of the District Council, one of the Members of such Council present at such meeting shall be elected Chairman of such meeting by the majority of the votes of the Members then present.

New election in case of vacancy.

13. And be it Enacted, That in the event of any vacancy occurring in any District Council, by the death, incapacity, or refusal to act of any Member, the Chairman of such Council shall, within fourteen days next after such vacancy shall have occurred, give such notice, as is hereinbefore provided, of the time and place of holding a public meeting of the ratepayers of such District, for the election of another person as District Councillor, and such election shall be holden in the manner hereinbefore provided with regard to the annual election of District Councillors: Provided, that until a fresh election is had, the remaining or continuing Members shall constitute the District Council, and their acts shall not be invalidated by reason of any such vacancy.

Quorum of District Councillors.

14. And be it Enacted, That all powers vested in any District Council under this Act, except as hereinafter provided, may be exercised by any three or more Members of such District Council present at any meeting of such Council duly convened; and no business

business shall be transacted at any meeting of a District Council unless three Members be present.

15. And be it Enacted, That every District Council shall hold an annual meeting in the second week of January in each year, and shall also hold meetings twice in each month for the dispatch of business, at such times and subject to such regulations as to notice or otherwise as may be fixed by any by-law of such Council.

Annual and fortnightly meetings to be held.

16. And be it Enacted, That all public Roads within any District which shall not for the time being be Main Roads, shall be under the care and management, and subject to the direction and control of of the District Council for the District within which such roads are situate; and such District Council shall be Commissioners of roads within the District for which they are elected.

Roads within District to be under the control of District Council.

17. And be it Enacted, That every District Council shall, as soon as may be practicable, cause to be prepared a survey map or plan of all the roads of the said district, with the course, and bearings, and admeasurement of the same; and so often as any new roads, or any alteration in any existing line of road shall be made under any authority vested in such District Council, shall cause such new road or alteration to be delineated upon such map or plan, and one copy of such map or plan shall be deposited in the office of the Surveyor-General, and another copy thereof shall be kept in the office of the clerk of such District Council, and such copies shall be open to public inspection at all reasonable hours.

Survey maps of roads to be kept.

18. And be it Enacted, That every District Council shall have and exercise, within the District for which it is elected, all the powers and authorities which, by the Ordinance No. 3 of 1847, "To amend the Laws relating to the Impounding of Cattle," are conferred upon, and to be exercised by the Governor and the Justices of the Province, so far as such powers and authorities relate to the appointment and removal of Pounds and Poundkeepers, and the reducing or varying the scale of fees which under such Ordinance are to be taken and charged by any Poundkeeper, and the appropriation of such fees; and all the provisions of the said last-mentioned Ordinance relating to any appointment, removal, reduction, or variation, and every notification thereof shall apply to any act done by any District Council in the exercise of such powers and authorities; and all recognizances to be entered into by any Poundkeeper and sureties, may be taken by and before, and may be put in suit by the Chairman or Clerk of any District Council; and all fines, penalties, fees, and sums of money which, by virtue of such last-mentioned Ordinance, would go and be paid to the Colonial Treasurer on behalf of Her Majesty, shall, from and after the election or appointment of any District Council for the District wherein the same may arise, go and be paid to such District Council in aid of the funds of such District.

District Councils to license Pounds under Impounding Act.

District Council may issue slaughtering licences.

19. And be it Enacted, That it shall and may be lawful for any District Council to issue to any person residing within the District of such District Council, a licence to keep a slaughter-house for the slaughtering of cattle within such District; and every person to whom such licence shall be issued, shall be subject and liable to all the rules, penalties, and disabilities, and shall do and perform all things which, by an Ordinance passed in the fourth year of Her Majesty, entitled "An Act to regulate the Slaughtering and prevent the Stealing of Cattle," any persons licensed under the said last-mentioned Ordinance are required to do, and to which such persons are made subject and liable: Provided that no slaughter-house to be licensed as aforesaid shall be situate within one mile of the exterior boundary of the City of Adelaide.

May appoint Inspectors of Slaughter-houses and of Brands.

20. And be it Enacted, That any District Council may appoint one or more persons to be Inspector of Slaughter-houses and of Brands within the District of such District Council; and every such Inspector shall have all the powers and authorities, and be subject to the duties and obligations of the Inspector by such last-mentioned Ordinance authorized to be appointed: Provided, that where by the said Ordinance any Inspector is required to do any act before, or is made subject to the orders of any Bench of Justices, such act may be done before, and such Inspector shall be subject to the orders of the District Council by which he shall have been appointed.

Penalties, &c., under Slaughtering Act, to be paid to District Councils.

21. And be it Enacted, That all the powers and authorities which, by the said Act to regulate the slaughtering and prevent the stealing of cattle, are vested in, and to be exercised by any Bench of Justices, shall be enjoyed and exercised by every District Council within and for the District for which such Council is elected or appointed; and every fine, forfeiture, penalty, and licence fee, recovered or paid within any District, under such last-mentioned Ordinance, shall be paid to the District Council for such District, in aid of the funds thereof.

Penalties under Ordinance against the wilful burning of stubble, &c.

22. And be it Enacted, That all penalties and sums of money recovered by or through any information authorised to be laid by any District Council, under or by virtue of an Ordinance No. 19, of 1847, "To impose penalties on persons injuring or endangering the property of others, by wilful or negligent burning of stubble or other produce," shall be paid to the District Council of the District within which the offence, in respect of which such penalty is imposed shall have been committed, for the use of such District.

District Councils to have power of General Meetings of Justices to license public houses.

23. And be it Enacted, That every District Council shall, from and after the first day of January next following its appointment, have and exercise within its District all the powers which by an Ordinance passed in the second year of Her Majesty, entitled "An Act to regulate the retail of liquors and to preserve good order in licensed public houses," are given to General Meetings of Justices of the Peace with regard to the hearing of applications for licences, and for the transfer

transfer thereof, and the granting of certificates of approval, and authorizing the transfer of licences, or the removal of the business of a licensed person to other premises; and every notice which by the Ordinance last aforesaid is directed to be given to the Clerk of the Magistrates, shall in any District be given to the Clerk of the District Council thereof; and every act required to be done and performed by the Clerk of the Magistrates, shall in every District be done and performed by the Clerk of the District Council thereof; and all the regulations of the Ordinance last aforesaid, as to the meetings of Justices and proceedings thereat, shall apply to and regulate the meetings of the District Councils, for the hearing of applications for licences and the transfer thereof; and all fees made payable by such Ordinance to the Clerk of the Magistrates, shall be payable to the Clerk of the District Council, for the use of the District; and all penalties recoverable under the said last-mentioned Ordinance, shall, except as to the moiety thereof assigned to informers, be paid to the District Council of the District within which any offence is committed, for the use of such District.

24. And be it Enacted, That under and subject to any general rules which may, from time to time, be made by the Governor for the depasturing of the waste lands of the Crown within any Hundred, it shall be lawful for any District Council to issue licences to the owners or occupiers of land within such District, authorizing the holders of such licence to depasture cattle upon the waste and unsold common lands of the Crown within such District, in conformity with any by-laws to be made for such purpose by such District Council, under the power in that behalf herein contained; and all fees payable upon such licences shall be received by the District Council issuing the same, for the purposes of the District: Provided, that nothing herein contained shall affect any lease granted or to be granted by the Governor, under authority of any Act of Parliament or Order in Council.

Depasturing Licences.

25. And be it Enacted, That every District Council shall have authority, under and in accordance with regulations for that purpose to be from time to time issued by the Governor, to grant licences for the cutting of timber upon the waste and unsold common lands of the Crown within the District of such Council; and all fees payable in respect of such licences shall be received by the District Council issuing the same, for the purposes of the District.

District Councils may issue timber licences.

26. And be it Enacted, That it shall be lawful to and for the said District Councils or any of them to make, publish, alter, modify, amend, or repeal such by-laws and regulations as to them or any of them shall seem meet for regulating their proceedings, and, subject to any general rule to be made by the Governor as aforesaid, for regulating the depasturing of cattle upon the waste and unsold common lands of the Crown within each District, and the issue of certificates to license such depasturing, and the rate and manner of payment for the same, and to prevent any person not being so licensed

District Council may make by-laws.

licensed from depasturing cattle, and to restrain any persons being licensed from exceeding the number of cattle which they may be so licensed to depasture upon such waste and unsold common lands; and also for the inspection of weights and measures; and also, subject to such regulations as aforesaid, for the cutting of timber upon the waste and unsold common lands of the Crown; and also for the establishment, regulation, and support of schools within such District; and also for the management of any property vested in or belonging to any such District Councils for the use of the District; and also for assessing, imposing, levying, and collecting, and also for appropriating and expending any rates or assessments which such District Councils may be authorized to impose, collect, and levy within any District; and also for the regulation and control of any Poundkeepers, Inspectors, servants, or officers to be appointed by such District Boards, and the time and mode of payment of their salaries, and the securities to be taken from any Poundkeeper, Collector, or other officer; and also for the more effectually carrying out all and every of the powers and authorities herein given to such District Councils; and also to appoint by such by-laws such fines as they shall deem necessary for enforcing such by-laws: Provided, that no such by-law shall be repugnant to this Act, or to any Ordinance or Act in force for the time being within the said Province, and that no such by-law shall subject the party violating the same to imprisonment, and that no fine so to be appointed shall exceed the sum of Ten Pounds, and that no such by-law shall be made unless four Members at least of the said District Council shall be present: Provided also, that no such by-law shall be of any force until the expiration of forty days after the same, or a copy thereof under the hand of the Chairman for the time being of such District Council shall have been laid before the Lieutenant-Governor and Legislative Council at any Session of the said Council next ensuing the date of the by-law, nor until a copy of the same shall have been published in the *Government Gazette* for at least one week; and if at any time within the said period of forty days, the Lieutenant-Governor, with the advice and consent of the said Council shall disallow the said by-law, or any part thereof, such by-law or part thereof so disallowed, shall not come into operation: Provided likewise, that it shall be lawful for the said Lieutenant-Governor, by and with such advice as aforesaid, at any time within such period of forty days, to enlarge the period within which any by-law shall remain inoperative, and no such by-law shall come into operation until after such enlarged period; and every such by-law, published as aforesaid, so far as the same shall not be so as aforesaid disallowed by the Governor, shall, at the expiration of such period of forty days, or of such enlarged period as aforesaid, have the force of law within the district by the District Council whereof it shall have been made.

Assessments for District Roads.

27. And be it Enacted, That, for making, maintaining, and improving the District Roads, and for other the purposes of this Act, the several District Councils respectively shall cause an assessment to be made of all buildings, lands, tenements, and hereditaments within

within each District, not being the property of the Crown, nor any church, chapel, licensed school, or other public building, according to the full estimated annual value of the same, and shall cause such assessment with the names of the occupiers, or owners where there are no occupiers, of such buildings, lands, tenements, and hereditaments, and the nature of the property assessed to be entered in a book, and shall give public notice of the making of every such assessment, and of the time (not being less than fifteen days from the publication of such notice) and place of hearing, and determining objections thereto, and a true copy of every such book shall be kept in the custody of the Clerk of such District Council, and shall be open to inspection at all reasonable hours upon payment to such Clerk of a fee of One Shilling; and if any person shall object to any such assessment on the ground of any error, omission, irregularity, or overcharge therein, he shall give notice of such objection to the Clerk of the District Council, within fourteen days from the publication of the notice of such assessment, and every such objection shall be publicly heard and determined by two or more Justices of the Peace, whereof the Chairman of such District Council may be one, at a meeting to be held at the time and place fixed in such notice, or at some adjournment thereof, and it shall be lawful for such Justices to allow of such objection in whole or in part, and to alter any assessment in conformity with such allowance, or to overrule such objection, and the assessment so altered, or if no alteration is made, then the original assessment shall be signed by two Justices present at such meeting, and shall thenceforth be binding and conclusive upon all persons named therein, or affected thereby, and the production of any assessment purporting to be so signed shall be evidence in any legal proceeding to all intents and purposes, that such assessment has been duly made and confirmed according to the provisions hereof: Provided, that if two Justices shall not be present at the time and place so appointed for any such meeting, it shall be lawful for any one Justice present thereat to adjourn such meeting to any subsequent day not being at a greater interval of time than one week, and so from time to time until two Justices shall attend.

28. And be it Enacted, That as soon as conveniently may be after the confirmation of any assessment as aforesaid, a public meeting of the ratepayers of the District shall be held at some convenient place within the District, and at a time whereof public notice shall have been given as herein provided, and at such meeting the District Council shall cause to be produced a statement of the amount of the aggregate annual value of all property within the District according to such assessment, and shall propose a rate to be made upon all property included in such assessment not exceeding Two Shillings in the Pound upon the annual value thereof, and it shall be lawful for such meeting to adopt such rate, or to alter the same, and to adopt such altered rate, but so as that no rate to be so adopted shall exceed such amount of Two Shillings in the Pound upon such

Rate to be fixed at
public meeting of
ratepayers.

assessment; and from and after the adoption of any rate by such meeting, every person described in such assessment as the occupier of any buildings, lands, tenements, or hereditaments, or as the owner of any such buildings, lands, tenements, or hereditaments, where there shall be no occupier thereof, shall be liable to pay such rate according to the amount at which such buildings, lands, tenements, or hereditaments shall be valued in such assessment: Provided, that at any such meeting, every ratepayer shall be entitled to the number of votes following, that is to say—if the property in respect of which he votes, is not assessed at a greater annual value than Twenty-five Pounds to one vote, and to an additional vote for every additional Ten Pounds of annual value at which such property may be assessed: Provided that no ratepayer shall be entitled to more than six votes, whatever may be the annual value at which his property may be assessed.

29. And be it Enacted, That, as soon as conveniently may be, after the adoption of a rate at any such public meeting of the ratepayers of any district, a notice thereof, in the form or to the effect of Schedule A, to this Act annexed, shall be published in the *South Australian Government Gazette*; and in any proceeding for the recovery of such rate, the *Gazette*, containing such notice, shall be evidence, to all intents and purposes, that such meeting was duly held, and that the rate mentioned in such notice was duly adopted at such meeting.

Rates, how to be recovered.

30. And be it Enacted, That the amount of any rate so adopted as aforesaid, according to the assessment for any district, may be recovered from the party appearing in such assessment as the owner or occupier of any property assessed before two or more Justices of the Peace, and such matter may be heard and determined by such Justices in a summary way; or at the option of any District Council by action or suit in any Court of competent jurisdiction; and any such proceeding, action, or suit may be had in the name of the chairman of such District Council, or of the clerk thereof.

District Councils may give notice of their intention to raise loans.

31. And be it Enacted, That if it shall at any time appear expedient to any District Council to raise any sums by way of loan upon the security of the rates of such district, for any of the purposes of this Act, such District Council shall cause a notice of their intention to raise a loan, with the amount of such proposed loan, and the rate of interest to be paid in respect thereof, and the purposes to which it is intended to be applied, and also the amount of the rate which it will be necessary to impose in order to provide for the re-imburement of such loan, within the period hereinafter prescribed, to be published for four consecutive weeks in the *South Australian Government Gazette*, and shall also cause copies of such notice to be affixed upon the doors of all churches, chapels, and public places within the district, and at the expiration of such period of four weeks, shall cause a public meeting
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of the ratepayers of such district to be convened by such notice as herein provided, for the purpose of considering the expediency of raising such loan as aforesaid, and at such public meeting shall propose the raising of such loan and also a special rate to be made for the re-imbusement thereof with interest.

32. And be it Enacted, That it shall be lawful for the ratepayers of any district, at any public meeting convened as hereinbefore lastly provided, to authorise the District Council of such district to raise by way of loan, any sum of money not exceeding the amount mentioned in any such notice as aforesaid, and also to adopt any special rate to be so proposed to such meeting, upon all the property included in any assessment for the time being in force within such district, or to be in force during the existence of such rate, and any special rate so adopted shall continue in force until, but not after, the repayment of the amount so authorized to be raised, with interest thereon; and shall be payable yearly in respect of any property mentioned in such assessment for each year that it shall remain in force: Provided, that every such special rate shall be agreed to by two-thirds of the number of votes present, and be confirmed at a subsequent meeting to be held for that purpose not sooner than one month after the previous meeting, and shall be applied solely to the payment of such loan and interest and shall be of such an amount as to ensure the payment of any such loan and interest within fifteen years at the farthest from the time of raising such loan: And provided also, that the amount of such special rate, together with any other rate to be raised under the authority hereof, shall not exceed the amount of Two Shillings in the Pound hereinbefore authorized to be imposed: And provided, further, that at any such meeting the ratepayers shall vote according to the scale hereinbefore fixed with regard to meetings for the adoption of rates.

Meeting of ratepayers, specially convened, may sanction loans and impose rate for repayment.

33. And be it Enacted, That after any such public meeting shall have authorized the raising of any loan as aforesaid, it shall be lawful for the District Council of such District to issue Bonds under the hand and seal of the Chairman of such District Council, for such sums not exceeding in the whole the amount of the loan so authorized to be raised, as such District Council may deem expedient, and at such rate of interest as may have been authorized as aforesaid, and upon such terms as to the periodical repayment thereof as such Council may think fit, and also to assign such special rate to the person or persons advancing money upon such bonds, or to any person or persons in trust for him or them, and after any such assignment, any special rate so assigned shall be recoverable by and in the name of the person or persons to whom any such assignment thereof may have been made, or in the name of the Chairman of such District Council, or the Clerk thereof, from the same person and in the same manner as is hereinbefore provided with regard to rates adopted by any public meeting of ratepayers.

District Councils may issue bonds and assign rates.

34. And

Notice of special rate
to be published.

34. And be it Enacted, That as soon as conveniently may be after the adoption of any such special rate as aforesaid, and in every succeeding year on or immediately after the day upon which such special rate shall become payable, a notice thereof in the form or to the effect of Schedule B to this Act annexed, shall be published in the *South Australian Government Gazette*, and shall be affixed at the Post Offices and such other public places within the district as may be thought necessary, and in any proceeding for the recovery of such special rate, the *Gazette*, containing such notice, shall be evidence to all intents and purposes that such special rate was duly adopted at a meeting duly summoned and held for that purpose; and shall also be evidence, until the contrary shall be shewn, that such special rate was in force and payable in respect of the assessment for such year.

District Councils may
appoint officers.

35. And be it Enacted, That it shall be lawful for such District Councils to appoint such clerks, servants, inspectors, rangers, collectors, surveyors, and other officers, as they shall judge necessary for the purpose of carrying into effect all or any of the powers vested in them by virtue of this Act, and, from time to time, to remove them, or any of them, and to appoint others in the place of such as shall be removed, or as shall die, resign, or discontinue to act in such office, and may pay such reasonable salary or allowance to any such officer as to such District Council may seem proper.

Officers to account.

36. And be it Enacted, That every Collector or other officer appointed or employed by any District Council under the authority hereof, shall from time to time, when and in such manner and form, and to such person as shall be required by such District Council, or by any by-law thereof, make out and deliver a true and perfect account, in writing, under his hand, of all moneys received by him on behalf of such District Council, and such account shall state how, and to whom, and for what purpose such moneys shall have been disposed of; and, together with such account, such officer shall deliver the vouchers and receipts for all payments, and every such officer shall pay to such District Council or to any person authorised to receive the same, all moneys which appear to be owing from him upon the balance of such accounts.

Summary recovery
against persons failing
to account.

37. And be it Enacted, That all claims, by or on the part of any District Council to any moneys due and owing from, or to any vouchers, receipts, papers, writings, property, and effects whatsoever, retained or not duly accounted for, by any such Collector or other officer, may be heard and determined by any two or more Justices of the Peace in a summary way, and such Justices may order the delivery of any account, and the payment of any sum of money appearing due from, and the delivery of any vouchers, receipts, papers, property and effects retained or not accounted for by such Collector or other officer, or the payment of any sum of money upon the non-delivery thereof, and such order shall be enforced in
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the same manner as a summary conviction by any two or more Justices, and any moneys, vouchers, receipts, property and effects, mentioned in any order, shall, when received or recovered, be paid and delivered to such District Council.

38. And be it Enacted, That if any such Collector or other officer shall, when ordered by any Justice, as aforesaid, refuse to make out such account in writing, or to produce and deliver up the several vouchers and receipts relating thereto, or to deliver up any books, papers, or writings, property, effects, matters, or things in his possession or power, belonging to any District Council, it shall be lawful for such Justices, at their discretion, to commit such offender to gaol, there to remain until he shall have made out such account, and delivered up all the vouchers and receipts in his possession or power relating to such accounts, and the books, papers, writings, property, effects, matters, and things in his possession or power belonging to the District Council.

Officers refusing to make out account and deliver up documents, &c., may be committed to prison.

39. And be it Enacted, That every District Council shall keep true and regular accounts of all sums of money received and paid by such District Council, and of the several purposes for which such sums of money shall have been received and paid, and shall cause such accounts to be balanced twice at least in every year; and every Member of such District Council, and every ratepayer for the District shall and may, at all reasonable times, without fee or reward, inspect and take copies of, or extracts from such accounts.

Accounts to be kept of receipts and disbursements which shall be open for inspection.

40. And be it Enacted, That, at the Annual Meeting to be held for the Election of District Councils, two or more persons not being District Councillors shall be chosen to be auditors of the accounts of the District Council, and the persons so to be appointed auditors shall have the like qualification, and shall be subject to the like disqualification or disability as the Members of District Councils, and the auditors so appointed shall receive such reasonable remuneration for their time and trouble, as the District Council may allow, and all expenses which they shall be put to in attending the auditing of the said accounts.

Auditors to be appointed.

Qualification of auditors.

41. And be it Enacted, That the auditors so nominated shall, as soon as conveniently may be after the half-yearly balancing of accounts, proceed to audit the accounts of the District Council for the half-year preceding the said half-yearly balance, and the District Council shall cause to be produced and laid before such auditors the said accounts, together with proper vouchers in support of the same, and all books, papers, and writings in their custody, or power relating thereto, and any person interested in the said accounts as a rate-payer, or otherwise, may be present at the audit of the said accounts by himself or his agent, and may make any objection to any part of such account, and if the said

Auditors to inspect accounts, and may appeal against any part of the same if they think fit.

accounts be found correct such auditors shall sign the same in token of their allowance thereof.

Annual accounts to be made up and to be open to inspection.

42. And be it Enacted, That every District Council shall, every year, cause an annual account in abstract to be prepared showing the total receipt and expenditure of all funds levied or received by virtue of this Act for the year ending on the day down to which their accounts shall be made up previously to such Annual Meeting as aforesaid under the several distinct heads of Receipt and Expenditure with a statement of the balance of such account duly audited and certified by the Chairman of the District Council, and also by the auditors thereof, and shall produce a copy of the said account at such Annual Meeting for the inspection of every ratepayer attending thereat.

Punishment for embezzlement of moneys received under this Act.

43. And be it Enacted, That if any person entrusted with the receipt or disposal of money under this Act shall fraudulently dispose of, or retain in his own possession, or apply to his own use, any money with the receipt or disposal of which he shall have been so entrusted as aforesaid, such person shall be deemed and taken to have stolen the same, and shall be guilty of larceny.

District Councils may contract, sue, &c., by name of officer.

44. And be it Enacted, That every District Council may purchase, take, receive, accept, acquire, sell, demise, and dispose of any lands, tenements, hereditaments, goods, chattels, and things, and contract and agree for the same, and become a party to any deed, conveyance, agreement, or instrument for giving effect to such purchase, acquisition, sale, demise, or disposition, or for the performance or construction of any work or the delivery or removal of any materials by the description of the District Council of the district for which the same is elected, and may take security by way of bond, obligation, or otherwise, by such name as aforesaid, and by such name may sue and be sued, implead and be impleaded, defend and be defended, answer and be answered, and the land, tenements, and hereditaments, goods and chattels so purchased and acquired, and every such deed, conveyance, agreement, bond, and instrument, and all moneys to arise from any such sale, demise, or disposition, shall and may vest in and accrue to the benefit of, and be enforced by, the District Council of such district for the time being, for the use of the said district.

Deeds, contracts, &c., to be executed by Chairman.

45. And be it Enacted, That every deed, conveyance, agreement, or instrument to which any District Council is a party, shall and may be executed by the Chairman of such District Council, in the name and on behalf of the same.

District Councillors not to be personally liable for acts done in the capacity of a District Councillor.

46. And be it Enacted, That no District Councillor shall be subject to be sued or prosecuted by any person whomsoever, and the bodies, goods, or lands of the several District Councillors shall

shall not be liable to execution of any legal process, by reason of any contract or other instrument entered into by any District Council, or by reason of any other lawful act done by them in the execution of any of their powers as District Councillors, and the District Councillors respectively, their heirs, executors, and administrators shall be indemnified out of the rates and other moneys coming to the hands of the District Council by virtue of this Act, for all payments made, or liability incurred, in respect of any acts done by them, and of all losses, costs, and damages which they may incur in the execution of the powers granted to them.

District Councillors to be indemnified for acts done in the execution of their office.

47. And be it Enacted, That execution upon every judgment or decree against any District Council, in any action or suit, to be brought or instituted by or against such District Council shall be levied on the goods, chattels, or personal effects belonging to the District Council for the use of the District, and shall not in any manner extend to charge or make liable the person, or private lauds, or goods of any of the District Councillors, or of the heirs, executors, or administrators, of any of them.

Executions to be levied on the goods belonging to District Councillors, by virtue of their office only.

48. And be it Enacted. That in any indictment to be preferred by any District Council against any person who shall steal, or wilfully injure, and in any proceedings to be instituted in relation to, any property or thing belonging to such District Council, or under their management, it shall be sufficient to state generally the property or thing, in respect of which such indictment shall be preferred or proceeding instituted, to be the property of such District Council.

How indictments to be preferred.

49. And be it Enacted, That any summons, or notice, or writ, or other proceeding at law, or in equity, requiring to be served upon any District Council, may be served by the same being left for, or sent through the Post Office directed to such District Council, at their principal office or usual place of meeting, or by being given personally to the Clerk, or, in case there be no Clerk, then by being given to any one Councillor.

Service of notice upon any District Councillors.

50. And be it Enacted, That every order, summons, notice, or other such document, requiring authentication by any District Council, shall be sufficiently authenticated if signed by the Chairman or by the Clerk of the Council, and the same may be in writing or in print, or partly in writing and partly in print.

Authentication of notice and orders.

51. And be it Enacted, That, with respect to the proof of debts in insolvency, if any person, against whom any District Council have any claim or demand, become insolvent, according to the provisions of any Ordinance relating to insolvents, the Clerk or other officer in that behalf, appointed by such District Council, in all proceedings against the estates of such insolvent, or under any fiat or act of insolvency against such insolvent, may represent the District Council; and

Proof of debts in bankruptcy.

and act in their behalf in all respects as if such claim or demand had been the claim or demand of such Clerk or officer and not of the District Council.

Public notice how to be given.

52. And be it Enacted, That whenever by this Act public notice is required to be given by any District Council of any act, matter, or thing, and no particular mode of giving such notice is prescribed, such notice shall be given by advertisement in the *South Australian Government Gazette*, and by affixing the same upon such public places within the district as such District Council may think fit.

53. And be it Enacted, That every district to be constituted under the authority of this Act, shall be of a compact form, and shall contain not less than ten square miles of land, and fifty inhabited houses, the inhabitants whereof shall be the owners or occupiers of five hundred acres within such district.

No district to be constituted except upon petition duly published in *Gazette*.

54. And be it Enacted, That no Proclamation for the constituting a district for the purposes of this Act shall be issued by the Governor until after a petition shall have been presented to him by two-fifths, or by not less than one hundred, of the rateable inhabitants of such proposed district, praying that such Proclamation may issue, and which petition shall contain a description of the boundaries of such proposed district and the name of five persons recommended to the Governor for the first Council thereof, nor until after such petition shall have been published for three consecutive weeks in the *South Australian Government Gazette* within which period it shall be lawful for any person interested therein to show cause against such petition, or any part thereof; and after the expiration of such three weeks, it shall be lawful for the Governor, with the advice of the Executive Council, to issue a Proclamation designating and constituting a district, and appointing the first Council thereof, either according to the prayer of such petition, or with such modification and alteration as upon any cause so shown as aforesaid may appear expedient.

New districts to be constituted.

55. And be it Enacted, That it shall be lawful for the Governor, at any time, upon the petition of any number of ratepayers within any district, not being less than twenty, by proclamation in the *South Australian Government Gazette*, to separate any part of any district from the residue thereof, and to constitute such part a district, either alone or in conjunction with any other district, or with a part of any other district, or with land not theretofore included in any district; and that, from and after such proclamation, such newly-constituted district shall, for all the purposes of this Act, be separate from the district of which it formerly was a part, and shall be, and be deemed and taken to be, a district: Provided, that

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no such newly-constituted district shall divide one part of any district from the residue thereof ; and provided also, that any petition for the constitution of such new district shall be published in the *South Australian Government Gazette* thirty days at the least before such new district shall be constituted; and that it shall be lawful for the Governor to refuse to constitute such new district, upon sufficient cause to him shewn against the same.

JOHN MORPHETT, Speaker.

*Passed the Legislative Council this eighteenth day
of November, one thousand eight hundred
and fifty-two.* }

F. C. SINGLETON,
Clerk of Legislative Council.

In the name and on the behalf of Her Majesty I assent to this Act.

H. E. F. YOUNG,
Lieutenant-Governor.

Government House, Adelaide,
25th November, 1852.

SCHEDULES REFERRED TO

A.

District of } NOTICE is hereby given, that at a public meeting of the
of } ratepayers of the said district, duly held on the day
at , it was resolved to adopt a rate of
in the pound, upon the assessment for the said district, and
all persons whose names appear in such assessment are hereby required,
within fourteen days from the publication hereof, to pay the amount of such
rate according to the sum at which they appear to be assessed in such assess-
ment, to the Clerk (or Collector, or other officer), at his residence, at

Dated

(Signed)

Chairman.

B.

District of } NOTICE is hereby given, that at a public meeting of the rate-
} payers of the said district, duly held on the day of
at it was resolved to adopt a special rate of in
the pound, upon the assessment of the said district; and that such rate should
remain in force for the period of fifteen years from the making thereof, or
until the repayment of the loan by the said meeting authorized to be raised;
and all persons whose names appear in the assessment for such district for
the current year are hereby required within fourteen days after the publi-
cation hereof, to pay the amount of such rate, according to the sum at which
they appear to be assessed in such assessment, to the Clerk, (Collector or
other officer or assignee of such rates as the case may be) at his residence at

Dated

(Signed)

Chairman.