

Short title  
and citation.

**1**—(1) This Act may be cited as the *Constitution Act 1961*.

(2) The *Constitution Act 1934*, as subsequently amended, is in this Act referred to as the Principal Act.

Council  
divisions.

**2** Section twenty-six of the Principal Act is amended by adding at the end thereof the following subsection:—

“(3) References in the third schedule to the boundaries of cities, municipalities, and wards refer to boundaries existing at the commencement of the *Constitution Act 1946*.”

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## LAWRENCE VALE LANDSLIP.

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No. 50 of 1961.

AN ACT to make provision for the acquisition and clearance of certain lands in the City of Launceston in which earth movements have occurred, for the transfer of the land so acquired to the Mayor, Aldermen, and Citizens of the City of Launceston, and for purposes incidental thereto.

[15 December 1961.]

**B**E it enacted by His Excellency the Governor of Tasmania, by and with the advice and consent of the Legislative Council and House of Assembly, in Parliament assembled, as follows:—

Short title.

**1** This Act may be cited as the *Lawrence Vale Landslip Act 1961*.

Interpre-  
tation.

**2** In this Act, unless the contrary intention appears—

“additional sum” means such an additional sum as is referred to in section nine;

“committee” means the Lawrence Vale Advisory Committee established under this Act;

“corporation” means the Mayor, Aldermen, and Citizens of the City of Launceston;

- “earth movement” includes a landslip, a subsidence, and any movement of the subsoil of the ground;  
 “prescribed lands” means the lands to which this Act applies.

**3—**(1) This Act applies to the lands described in the schedule and such other lands in the city of Launceston as the Governor may by a proclamation, made on the recommendation of the committee, declare to be lands to which this Act applies. Application of Act.

(2) Before making a recommendation for the purposes of this section in respect of any land the committee shall consult with the Launceston City Council, and the committee shall not make such a recommendation unless it is satisfied either—

- (a) that, as a consequence of earth movement, the improvements on the land, or the main portion of them, have been demolished or removed; or
- (b) that, by reason of damage or injury to any of the improvements on the land as a consequence of earth movement, they are not reasonably capable of being used for the purpose for which they were intended to be used.

**4—**(1) There shall be a Lawrence Vale Advisory Committee constituted in accordance with this section. Establishment of Lawrence Vale Advisory Committee.

(2) The committee shall consist of—

- (a) the Manager of the Agricultural Bank of Tasmania;
- (b) the city treasurer of the city of Launceston or a person nominated by him; and
- (c) the Under-Treasurer or a person nominated by him.

(3) The Manager of the Agricultural Bank of Tasmania shall be the chairman of the committee.

(4) References in this section to the holder of any office shall be deemed to include references to a person for the time being acting in that office.

(5) The members of the committee are not, as such, subject to the provisions of the *Public Service Act 1923*, and an officer of the Public Service may hold office as a member of the committee in conjunction with his office as an officer of the Public Service.

(6) The Treasurer may pay to any member of the committee such remuneration and such travelling or other allowances as the Governor may approve.

**5—**(1) It is the duty of the committee—

- (a) to advise the Treasurer on matters arising in connection with the administration of this Act and to report to him on such matters relating to the administration of this Act as he may refer to it; and General duties of committee.

(b) to assist in the finding of suitable alternative accommodation for those persons who, as a consequence or in anticipation of earth movement, have removed or are likely to be required to remove from any of the prescribed lands.

(2) The committee shall make such arrangements and do such other acts as the Treasurer may require for the purpose of enabling him to carry out his functions under this Act or for the purpose of facilitating the carrying out of those functions.

(3) For the purpose of carrying out its duties under this Act the committee may carry out, or secure the carrying out, of such inquiries or investigations as it considers necessary.

Proceedings,  
&c., of  
committee.

**6**—(1) The chairman of the committee, or, in his absence or if there is no person entitled to act as chairman of the committee, such of the other members as they may choose shall preside at meetings of the committee.

(2) The person presiding at a meeting of the committee has a deliberative vote only.

(3) In the event of an equality of votes on any matter before a meeting of the committee, the matter stands adjourned to the next meeting of the committee.

(4) Two members of the committee constitute a quorum at any meeting of the committee.

(5) The committee may act notwithstanding a vacancy in its membership so long as a quorum remains.

(6) No act or proceeding of the committee is invalidated by any defect or irregularity in its constitution.

(7) Subject to this Act, the committee may regulate its own proceedings.

Officers, &c.,  
of committee.

**7**—(1) The Treasurer, at the request of the committee, may appoint a person to be secretary of the committee and may make arrangements to render available to the committee such staff and accommodation as the committee may require in the carrying out of its functions.

(2) With the consent of the Public Service Commissioner, an officer of the Public Service may, in conjunction with his office as such, hold office as secretary of the committee or serve the committee in any other capacity.

Acquisition of  
prescribed  
lands.

**8**—(1) The Treasurer may, for the purposes of this Act, on the recommendation of the committee, purchase or acquire all or any of the prescribed lands.

(2) In its application for the purposes of this Act the *Lands Resumption Act 1957* has effect subject to the provisions of this Act.

9—(1) Where a person is entitled to compensation in respect of the acquisition under this Act of any land to which this section applies he shall, subject to this Act, be entitled, as a supplement to that compensation, to an additional sum equivalent to the amount by which that compensation (determined as if this section had not been enacted) is less than what it would have been if it had been assessed on the assumption that the value of the land acquired were three-quarters of the value that may be attributed to that land under subsection (2) of this section.

Entitlement to additional sum in respect of acquisition of land.

(2) For the purposes of subsection (1) of this section the value that may be attributed to any land is the value that would be the value of that land if it were assessed on the following assumptions, namely:—

- (a) That there is not and never at any time was a risk of any earth movement occurring in any of the prescribed lands;
- (b) That, where any improvement on the land has been demolished or removed as a consequence of earth movement, that improvement had not been so demolished or removed and existed in the state in which it actually existed immediately before it first suffered damage or injury as a consequence of earth movement or, if it was demolished or removed before suffering any such damage or injury, in the state in which it existed before it was demolished or removed; and
- (c) That, where any improvement on the land has suffered damage or injury as a consequence of earth movement, that improvement was in the state in which it actually existed immediately before it first suffered any such damage or injury.

(3) In assessing the value of any land for the purposes of subsection (2) of this section, regard shall be had to the value of land in localities (being localities where no earth movement has or is likely to take place) which have been developed in a similar manner to the prescribed lands in the vicinity of the land whose value is to be assessed and which contain a similar class of property to that contained in those prescribed lands.

(4) Where under this Act a person is entitled to an additional sum as a supplement to any compensation that additional sum shall, subject to this Act, be deemed to form part of the compensation to which that person is entitled in respect of the acquisition of the land in relation to which the entitlement arises.

(5) Notwithstanding anything in subsection (4) of this section or in the *Lands Resumption Act 1957* a police magistrate has jurisdiction to hear and determine any dispute, arising on a claim for compensation in respect of the acquisition of land under this Act, whether the claimant is or is not entitled to an additional sum.

(6) Subject to subsection (7) of this section, this section applies to any land comprised within premises the improvements on which comprise or include a private dwelling-house, either capable of being used as such or rendered incapable of being used as such as a consequence of earth movement, or on which there was a private dwelling-house that has been removed or demolished as a consequence of earth movement.

(7) Where a person acquires, otherwise than by devolution under a will or intestacy or by operation of law, an estate or interest in land and at the material time he knew, or, if he had inspected the land or made such inquiries and investigations as he would reasonably have been expected to have made, would have become aware, that the land was subject to a risk of earth movement or that damage or injury had occurred to any improvements on that land as a consequence of earth movement, that person and any person deriving title under him is not entitled to any additional sum in respect of the acquisition of that land.

(8) For the purposes of subsection (7) of this section "material time" means—

- (a) when used in relation to an estate or interest acquired in pursuance of a contract, the date on which the contract was entered into; and
- (b) in any other case, the date on which the estate or interest was acquired.

Application of additional sum in certain cases.

**10**—(1) Where the Treasurer is satisfied, on a recommendation made to him by the committee, that, in relation to any additional sum to which an owner has or may become entitled in respect of the acquisition of any land under this Act—

- (a) any dwelling-house that was erected on that land was used as a dwelling by the owner or his spouse;
- (b) it is just and reasonable that the additional sum should be applied in the provision of accommodation for a person referred to in paragraph (a) of this subsection (in this section referred to as "the selected person"); and
- (c) it is reasonable to expect that, if the additional sum is paid to the person who would otherwise be entitled to receive payment thereof, it will not or may not be applied in the provision of accommodation that will be reasonably available for the use of the selected person as a dwelling,

the Treasurer may make a direction under this section requiring the additional sum to be applied in the provision of accommodation for the selected person, and such a direction is referred to in this section as a direction in respect of that additional sum made in favour of that person.

(2) A direction made under this section may be revoked by the Treasurer on the recommendation of the committee, but the revocation of such a direction does not prejudice or affect anything done thereunder or prevent the making of a further direction under this section.

(3) Before making a recommendation to the Treasurer under this section with respect to an additional sum the committee shall serve notice on the owner, and, if the recommendation is for the revocation of a direction under this section, on the selected person in whose favour the direction was made, specifying the recommendation that it is intended to make and shall consider any representations that may be made to the committee by a person upon which such a notice is served within one month of the service thereof.

(4) A direction may be made under this section in respect of an additional sum, notwithstanding that the entitlement to that additional sum has not been admitted or established or that the amount of that additional sum has not been determined.

(5) A direction under this section may specify the additional sum to which it relates by reference to the owner who apart from this section has or may become entitled to that sum or to the estate or interest in respect of which the entitlement to the additional sum has arisen or may arise.

(6) Where a direction is made in favour of a selected person with respect to an additional sum and, by reason of a joint tenancy or otherwise, that person, apart from this section, has or is entitled to any share or interest in the compensation to which that additional sum is supplement, that share or interest shall, on application being made in writing to the Treasurer by the selected person, be treated for the purposes of this section (otherwise than for the purposes of subsection (12) thereof) as forming part of that additional sum, and the making of such an application shall be deemed to have the effect of severing any interest in that compensation held by the selected person jointly with any other person.

(7) Where a direction is made under this section in respect of an additional sum in favour of a selected person that sum shall be deposited in the Treasury and, at any time during which that direction remains in force, may be applied by the Treasurer, on the recommendation of the committee, in the provision of accommodation for that person.

(8) The application of any sum in or towards the discharge of a mortgage or other incumbrance subsisting in respect of any land in which a person has an estate or interest and which he uses as a dwelling shall be deemed for the purposes of this section (but without prejudice to the generality thereof) to be the application of that sum in the provision of accommodation for that person.

(9) Section forty-seven of the *Lands Resumption Act 1957* applies to any sum deposited in the Treasury under this section as if that sum were compensation to which the selected person was entitled.

(10) Subject to this section, while a direction in respect of an additional sum made in favour of a selected person is in force any entitlement of the owner to that sum shall be deemed to have been transferred to and to be vested in the selected person, and accordingly, that sum shall be deemed for the purposes of the *Lands Resumption Act 1957* to be compensa-

tion to which the selected person is entitled in respect of the acquisition of the land in relation to which the entitlement to the additional sum arises.

(11) For the purposes of subsection (10) of this section, where a direction with respect to an additional sum is made in favour of a selected person before the amount of that sum is determined, the *Lands Resumption Act 1957* has effect as if the selected person had made a claim for that sum which had become a disputed claim for compensation.

(12) Where an additional sum in respect of which a direction is in force under this section is charged with a mortgage or other incumbrance that is charged also upon any other compensation that mortgage or incumbrance shall only be satisfied out of the additional sum to the extent that that other compensation is insufficient to satisfy it.

(13) Nothing in this section prevents the Treasurer from acquiring by agreement any land, notwithstanding that a direction is in force in respect of any additional sum an entitlement to which has arisen or may arise in respect of the acquisition of that land, but the acquisition by agreement of any land does not prejudice or affect the rights of a selected person under this section.

(14) A direction under this section is deemed to be revoked on the death of the selected person in whose favour it was made.

(15) Except as otherwise expressly provided in this section, nothing in this section affects the rights of any person in or in respect of any land acquired under this Act.

(16) In this section "owner", when used in relation to an additional sum means a person who holds or held the estate or interest in respect of which the entitlement to that additional sum arises and includes, where that estate or interest is or was held by two or more persons, whether jointly or in common or otherwise, any one of those persons.

Limitation on  
rights of  
mortgagees.

**11**—(1) A mortgage to which this section applies has effect as if the principal secured by the mortgage were reduced by one-quarter of that portion of the principal that on the appropriate date still remains due to be repaid, and where any part of the principal secured by the mortgage falls due to be paid on or after the appropriate date the mortgage has effect as if that part were proportionately reduced.

(2) For the purpose of determining for the purposes of subsection (1) of this section the amount by which the principal secured by a mortgage, or any part thereof, is to be reduced it shall be assumed that all payments due under the mortgage before the appropriate date have been paid on the date on which they became due and that the covenants and other terms and conditions of the mortgage have been duly observed.

(3) Nothing in subsection (1) of this section affects the operation of a mortgage with respect to the payment of interest on the principal secured by the mortgage, or any part thereof, except that no interest otherwise required to be paid under the mortgage, shall be required to be paid or be regarded as

accruing, in respect of any period commencing on or after the appropriate date, on that part of the principal secured by the mortgage that by virtue of this section is not required to be repaid.

(4) The mortgagee of any mortgage to which this section applies is not entitled after the appropriate date to exercise any power of sale or leasing that he would otherwise be entitled to exercise by virtue of that mortgage and, after that date, no order or direction shall be made for the foreclosure or the sale of any land that is subject to the mortgage.

(5) Nothing in subsection (4) of this section affects any rights or obligations arising on or in respect of the acquisition of the land to which the mortgage relates.

(6) This section applies to a mortgage of an estate or interest in any land in respect of which an entitlement to an additional sum has arisen or would arise if a notice to treat were served for the acquisition of that land.

(7) If a mortgage ceases to be a mortgage to which this section applies, the fact of its so ceasing does not have the effect of requiring to be repaid any part of the principal secured by the mortgage that, apart from this section, would, while this section applied to that mortgage, have fallen due to be repaid, and that by virtue of this section has not been required to be repaid.

(8) In this section "appropriate date" means, when used in relation to a mortgage of any land, the date on which that land first becomes part of the prescribed lands.

**12**—(1) The Treasurer may cause to be demolished or removed any improvements on any of the prescribed lands, and for that purpose may enter into and carry out such contracts, agreements, or arrangements as he thinks fit.

Demolition, &c., of improvements on prescribed lands.

(2) Without prejudice to the generality of subsection (1) of this section, any contracts, agreements, or arrangements referred to in subsection (1) of this section may be entered into with the corporation, and the corporation may carry out any contract, agreement, or arrangement so entered into.

(3) Until it is purchased or acquired under this Act the Treasurer shall not exercise the powers conferred by this section in respect of any land except with the consent of the occupier of the land, or, if the land is unoccupied, the person who is entitled to occupy the land.

**13**—(1) The Governor, may in the name and on behalf of Her Majesty, by deed of grant convey and alienate to the corporation, any land acquired under this Act.

Transfer of land to Launceston Corporation.

(2) A deed of grant under subsection (1) of this section may contain such conditions as the Governor may think necessary for the prohibition of the erection or placing of buildings or other improvements on the land to which the deed relates and, except as may otherwise be approved by the Governor, the corporation shall secure that those conditions are complied with.



(3) Subject to subsection (2) of this section any land vested in the corporation under this section shall be deemed to be a reserve within the meaning of Part XIX of the *Launceston Corporation Act 1941* and shall be deemed to be so vested for the recreation, amusement, health, and enjoyment of the inhabitants of the city of Launceston and other persons therein.

Expenses  
of Act.

**14**—(1) The expenses incurred by the Treasurer under this Act in relation to the purchase or acquisition of land or in relation to the demolition or removal of any improvements shall be met from the Consolidated Revenue, which, to the necessary extent, is appropriated accordingly.

(2) Any other expenses incurred by the Treasurer or the committee under this Act shall be defrayed out of moneys provided by Parliament for the purpose.

Particulars of  
prescribed  
lands.

**15**—(1) The committee may by notice in writing served on a person who appears to it to have an estate or interest in any of the prescribed lands or appears to it to have resided or be residing on that land to furnish the committee, within such period as may be specified in the notice, with such particulars as it may require with respect to—

- (a) the estates or interests subsisting in that land and the date at which and manner in which they were acquired or created;
- (b) the persons who were or are residing on the land and the spouses of any such persons; and
- (c) the provision that has been made for the accommodation of any person who is or was residing on the land or the spouse of any such person.

(2) The committee may require a person on whom a notice has been served under this section to verify by a statutory declaration any particulars furnished by him to the committee, and any person who fails to comply with a requirement of the committee under this subsection is guilty of an offence.

(3) Any person on whom a notice has been served under this section who fails within the period specified in the notice to furnish the committee with such particulars as the committee requires is, unless those particulars are not within his knowledge, guilty of an offence.

(4) Any person on whom a notice has been served under this section who furnishes the committee with any particulars he knows to be false or does not believe to be true is guilty of an offence.

(5) Any person found guilty of an offence under this section is liable to a fine of fifty pounds.

Authentica-  
tion and  
service of  
notices and  
other  
documents.

**16**—(1) Any notice or other document required or authorized by this Act to be made, given, or served by the committee shall be signed by a member of the committee and the secretary of the committee.

(2) A notice or other document required or authorized by this Act to be given to, or served on, the committee may be

delivered to the secretary thereof or sent by post addressed to the committee, or the chairman or secretary thereof, at the ordinary place of business of the committee.

(3) A notice or other document required or authorized by this Act to be given to, or served on, any person by the committee may be—

- (a) delivered to him personally; or
- (b) sent by post addressed to him at his usual or last known place of abode or business.

## THE SCHEDULE.

(Section 3.)

### PART I.

The lands at the addresses specified in the first column of the following table, having or having approximately the areas respectively specified in the second column of that table and being more particularly described in the certificates of title respectively specified in the third column of that table.

Address.	Area.	Certificate of Title.
47 Meredith Crescent	27 3/10 perches	Vol. 515 Fol. 88
49 Meredith Crescent	34 8/10 perches	Vol. 681 Fol. 42
51 Meredith Crescent	28 9/10 perches	Vol. 452 Fol. 3
53 Meredith Crescent	26 5/10 perches	Vol. 757 Fol. 19
55 Meredith Crescent	27 3/10 perches	Vol. 452 Fol. 4
57 Meredith Crescent	26 7/10 perches	Vol. 452 Fol. 2
94 Lawrence Vale Rd.	35 8/10 perches	Vol. 515 Fol. 31
96 Lawrence Vale Rd.	23 3/10 perches	Vol. 452 Fol. 5
98 Lawrence Vale Rd.	28 1/10 perches	Vol. 452 Fol. 6
100 Lawrence Vale Rd.	30 2/10 perches	Vol. 452 Fol. 8
102 Lawrence Vale Rd.	24 6/10 perches	Vol. 452 Fol. 7
2 Legana Street	17 6/10 perches	Vol. 874 Fol. 56
3 Powena Street	38 1/10 perches	Vol. 903 Fol. 31

### PART II.

The lands at the addresses specified in the first column of the following table, having or having approximately the areas respectively specified in the second column of that table and being more particularly described or referred to in the conveyances registered under the *Registration of Deeds Act 1935* in pursuance of the memorials respectively specified in the third column of that table.

Address.	Area.	Memorial.
59 Meredith Crescent	1 rood 7/10 perches	Book 30 Page 5675
61 Meredith Crescent	24 3/10 perches	Book 22 Page 7907
		Book 22 Page 8124
63 Meredith Crescent	29 3/10 perches	Book 22 Page 7906
104 Lawrence Vale Rd.	1 rood	Book 28 Page 4829
28 Vernon Street	16 6/10 perches	Book 25 Page 8728
30 Vernon Street	34 perches	Book 29 Page 7919
32 Vernon Street	18 4/10 perches	Book 25 Page 8729

### PART III.

Land at No. 5 Powena Street, having an area of 22 6/10 perches or thereabouts, that was on the seventh day of October 1958 contracted to be sold to *Kenneth Albert Parry*, as the same is shown on Survey Diagram Volume 236 Folio 12 filed and registered in the office of the Surveyor-General and Secretary for Lands at Hobart.