

THE DRAINAGE PROMOTION ACT, 1917.

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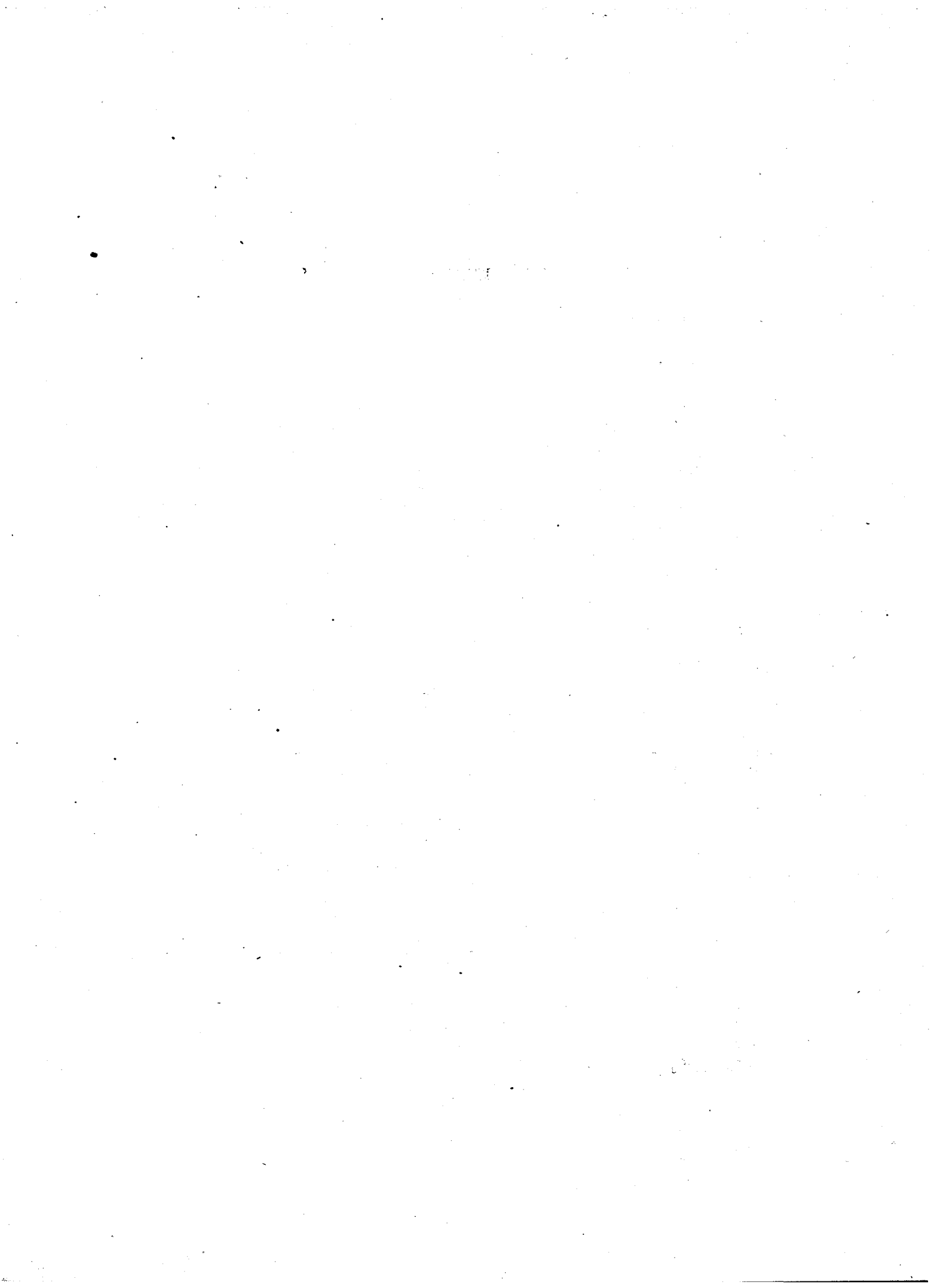
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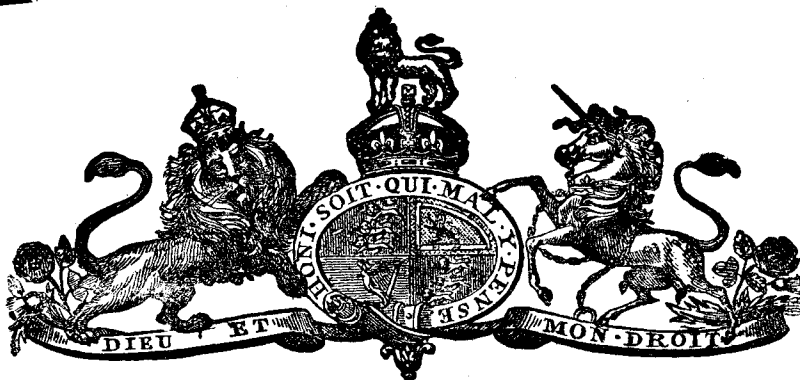
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T A S M A N I A



1917.

ANNO OCTAVO

GEORGI V. REGIS.

No. 55.

AN ACT for promoting the better Drainage of Lands. A.D. 1917.
[22 December, 1917.]

BE 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 :—

PART I.
PRELIMINARY.

1 This Act may be cited as "The Drainage Promotion Act, 1917," Short title. and is divided into parts as follows :—

- Part I.—Preliminary.
- Part II.—Establishment of Drainage Areas.
- Part III.—Election and Powers of Trustees.

2 In this Act, unless the context or subject matter otherwise Interpretation. indicates or requires—

"Advertised" means that the notice is advertised in some public daily newspaper generally circulating in the district comprising a drainage area :

"Assessment roll" means so much of any assessment roll in force for the time being under "The Annual Values Assessment Act, 1911," as comprises the properties situate in the district comprising a drainage area :

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“ District ” means any tract of land consisting respect of which a drainage area is or is so established :

“ Drain ” means any drain, channel, watercourse or artificial outlet for the purpose of draining any other waters :

N.S.W. 1901,
No. 31, s. 3.

“ Drainage area ” means drainage area established by this Act :

“ Elector ” means every person being a natural-born or a naturalised subject of His Majesty, and whether male or female, of or above the age of Twenty-one years whose name as the owner of any property within the district appears on the assessment roll :

“ Extraordinary vacancy ” means a vacancy occurring in any elective office otherwise than by retirement by effluxion of time :

Ib., N.S.W.

“ Flood ” means any flood, flush, fresh, watershed, fall, tide, or other cause of a rise in the level of any waters above the bottom of any drain :

Ib., N.S.W.

“ Owner ” means the owner, including the Crown, for the time being of any land, for any freehold estate, or any leasehold estate, whether such owner is or is not in actual occupation, or the agent of such owner :

“ Schedule ” means schedule to this Act :

“ This Act ” includes regulations made under this Act :

“ Tenant ” means the person in actual occupation of any land, not being the owner :

“ Trustees ” means and includes the trustees for the time being elected, appointed, or acting for the purposes of this Act :

“ Waters ” means any river, creek, stream, lagoon, lake or other running or standing water, the level of which is liable to variation, and the sea where the tide ebbs and flows :

“ Works ” means and includes such drains, excavations, bridges, training walls, and other works, or for the improvements to or on such drainage area, or for the maintenance of such drainage area as the Governor may authorise or approve.

PART II.

ESTABLISHMENT OF DRAINAGE AREAS.

Petition may be presented for compulsory drainage.
N.S.W., s. 3.

3 Wherever any tract of land is so circumstanced that from any permanent or occasional cause considerable quantities of water accumulate, and, for the default of sufficient natural or artificial drainage, lie thereon to the injury of such land, any owner or owners of lands, comprised within such tract, may present a signed petition to the Governor under his or their hand or hands—

1. Describing as accurately as may be the land so under water, or liable to be under water, and the locality and boundaries thereof :

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II. Stating therein—

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- (a) The facts as they exist;
- (b) The nature and cause of the accumulations;
- (c) The name and description of every other owner of lands comprised in such tract; and
- (d) The number of acres held by such owners respectively; and

III. Praying that all land comprising such tract, may be constituted a drainage area—by some name to be specified—for the purpose of compulsory drainage (and contribution) under this Act.

4 Upon receipt of any such petition the Governor may publish the same in the "Gazette."

Publication of petition.
Cf. N.S.W., s. 5.

5 Before the issuing of the proclamation hereinafter mentioned— if any other owners of lands comprised within such tract of land, being not less than One-third in number of holdings, present a counter-petition to the Governor, showing reasonable objections to constituting such drainage area, or if for any other reason the Governor thinks fit, he may employ some competent person—

Tract may be examined by Government.
Ib., s. 6.

- I. To examine such tract of land, and report respecting the statements contained in both petitions, and the sufficiency of the reasons alleged in the latter;
- II. To make a survey and levels if deemed necessary; and
- III. To report on the best mode of effecting the drainage of such tract—

and the person so employed shall for such purposes have full power to enter upon any land within the limits of the proposed drainage area.

6—(1) After the lapse of Two months from the day of the publication of the original petition, the Governor may, if he does not refuse the petition, publish in the "Gazette" a proclamation declaring such tract of land, or any part thereof, to be a "drainage area" under this Act.

Proclamation of drainage area.

PART III.

ELECTION AND POWERS OF TRUSTEES.

7 The number of trustees constituting a drainage area trust shall be not more than Seven in number, One of whom shall be chairman. Subject to the proviso of the next following section of this Act only owners of lands comprised within the proposed drainage area shall be eligible to be elected or appointed trustees.

Trustees.

8 At every election of trustees, and at every poll or a proposal submitted to the vote of electors held under this Act, every elector shall be entitled to and shall have a number of votes proportioned to the annual value as ascertained by the assessment roll of the property

Scale of votes.

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within the trust area of the district as owned and occupied by him, according to the scale mentioned and set forth in Section Forty-five of "The Local Government Act, 1906"; and the provisions of Division One, entitled "Electors," of Part Five of the lastmentioned Act shall apply to any election or poll held under this Act. Provided that if the Crown holds lands within the said area the Governor shall be entitled to appoint One of such trustees.

First election
of trustees.

9—(1) The Governor shall, by notice published in the "Gazette," direct that on a day, and at a place or places therein named in the district, between the hours therein named, an election of Seven duly qualified persons to be trustees shall be held. Provided that in cases where a trustee may be appointed under the last preceding section, such election shall be of Six only such qualified persons.

(2) Such notice shall be advertised Three times consecutively and gazetted. The First of such advertisements shall be published not more than Twenty days and not less than Fifteen days before the day appointed for the election.

(3) The returning officer at such election shall be appointed by the Governor in such notice.

(4) The returning officer and every deputy-returning officer shall, before the day of the poll, make and subscribe before a justice of the peace a declaration in the form in the Schedule (1), and any returning officer or deputy-returning officer who acts contrary to such declaration shall be liable to forfeit and pay a penalty not exceeding Fifty Pounds.

(5) Within Three days after the election the returning officer shall prepare, sign, and forward to the Minister a notification of the names of the persons, and places of residence of the persons, elected to be trustees.

(6) The Minister, upon receipt of such notification, shall cause to be gazetted the names of the persons so elected, and shall also cause written notice of his election to be sent by post to every trustee. Such publication in the "Gazette" shall be conclusive evidence of the facts therein stated.

(7) The First meeting of trustees shall be held at such time and place as the Minister shall appoint. The Minister is hereby directed forthwith to send by post to every trustee written notice of the time and place so appointed by him for such First meeting.

(8) The regulations set forth in Schedule (3) shall, save in so far as they are inconsistent with the express provisions of this section, be applied in the First election.

(9) The Governor may supplement the provisions of this section in any respect he may consider desirable to enable the First election under this Act to be carried out.

Regulations in
Schedule (3) to
apply to first
election of
trustees.Retirement of
trustees.

10—(1) On the First Wednesday in the month of July in the year next after the proclamation of a drainage area under this Act, certain of the trustees shall retire from office by rotation, as herein-

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after provided, and on the same day an election shall be held to supply their places. A.D. 1917.

(2) Every trustee going out of office shall, if qualified, be eligible for re-election. Retiring trustee eligible for re-election.

11--(1) The trustees shall go out of office in the following order, that is to say, the Three trustees who had the smallest number of votes at the First election shall be First to go out of office; and in the next year the Three or Four trustees, as the case may require, who have been longest in office without re-election shall retire, and afterwards the trustees to go out of office shall always be the Three who have been longest in office without re-election, save that in every Second year the Three or Four, as the case may require, who have been longest in office without re-election shall retire. Rotation in which trustees retire.

(2) In case at the First election of trustees any Two or more trustees are elected by an equality of votes, or the election is had without a poll, it shall be determined by lot within One week, and gazetted within One month after the election in what rotation, as between themselves, such trustees having an equality of votes shall retire, or in what rotation the whole body of trustees shall retire as aforesaid, as the case may be; and in any such case the trustees shall retire according to the rotation so determined.

(3) The retiring trustees shall hold office until their successors are duly elected.

(4) For the purpose of determining the time of his retirement as by rotation every trustee elected to fill an extraordinary vacancy shall be deemed to have been elected at the same time and in the same manner, and to have received the same number of votes (if any) as the last holder of the seat he was elected to fill who was elected, otherwise than to fill an extraordinary vacancy. Retirement of trustee elected to fill extraordinary vacancy.

12 Every person duly qualified and duly elected or appointed to the office of trustee shall accept office by making and subscribing before a justice a declaration in the form in the Schedule (2) within One month after notice of his election or appointment has been served on him personally, or left at his usual place of abode, or been transmitted to him by post, or shall in lieu thereof pay to the trustees a penalty of Twenty Pounds: Provided that, with the consent of the trustees, the penalty may be reduced to any sum not less than Five Pounds. And every declaration shall be delivered by the trustee who has made the same at the First meeting of the trustees thereafter at which he is present to the chairman of the trustees. Trustees to accept office or pay a fine.

13 No person—

- i. Who is a member of the Parliament of Tasmania : or
- ii. Who is disabled by deafness, blindness, or other permanent infirmity of body : or
- iii. Who is above the age of Sixty years : or
- iv. Whose usual place of abode is not situate within the district :

or

Certain persons exempted from fines on refusal to accept office.

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v. Who is absent from the State at the time of the election or appointment: or

vi. Who, in the unanimous opinion of the other members of the trust, ought to be excused—

shall be liable to any penalty for refusing or neglecting to accept the office of trustee.

Refusal or failure to accept office.

14 If any person elected or appointed a trustee under this Act refuses or fails to accept such office, the same shall thereupon be deemed vacant, and shall be filled up by a fresh election or appointment.

Trustee absent from three consecutive meetings to vacate office.

15 If any person holding the office of trustee, having had notice of the intention to hold such meetings, is absent from Three consecutive meetings of trustees, extending over a period of not less than Three months, without leave of absence granted by the trustees, unless in case of illness, such person shall cease to hold such office, and the trustees shall in any such case declare such office to be vacant, and the same shall be vacant accordingly.

Quorum of trustees.

16 All acts and proceedings relating to this Act which are directed to be had or done by trustees, and all the powers and authorities vested in them generally, shall and may be had, done, and exercised by the major part of the trustees present at any meeting of trustees, the whole number present not being less than Five, and any such Five trustees shall form a quorum.

Election of chairman of trustees.

17—(1) Trustees shall, at their First meeting held after each annual election of trustees, by a majority of votes of the trustees present, elect one of their body to be chairman for the ensuing year; and if at any such meeting there be an equality of votes in the election of chairman, it shall be decided by lot which of the trustees having an equal number of votes shall be chairman.

Such chairman shall preside at all meetings of the trustees at which he is present, and if at any meeting of trustees the chairman is not present, one of the trustees present shall be elected chairman of such meeting by the majority of votes of the trustees present thereat.

(2) In case the chairman shall die, or by writing under his hand delivered by him to the trustees at any meeting of trustees, or to the secretary of the trustees, resign his office, or cease to be a trustee, the trustees present at the meeting next after the occurrence of such vacancy shall choose One of their body to be chairman, and the chairman so chosen shall continue in office until the next annual meeting for the election of trustees.

Equal division of votes.

18 At all meetings of trustees all the trustees present shall vote, save where it is herein otherwise provided, and the questions there considered shall be decided by open voting and by the majority present; and if there is an equal division of votes upon any question it shall be considered lost.

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19 No trustee shall vote upon any matter in which such trustee directly, by himself or his partners, has any pecuniary interest; and any trustee who knowingly offends against this section shall on conviction in a summary way forfeit and pay for every such offence a sum not exceeding Fifty Pounds.

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Trustee not to vote where he is pecuniarily interested.

20 All orders and proceedings of trustees, together with the names of the trustees present at every meeting, shall be entered in a minute-book to be kept by such trustees for that purpose, and be signed by the chairman of the meeting at which such orders or proceedings are from time to time confirmed, and such orders and proceedings so entered and signed by the chairman of such meeting shall be deemed to be original orders and proceedings.

Orders and proceedings of trustees to be recorded.

21 Any elector may at all reasonable times, on payment of One Shilling, inspect the minute-book of trustees.

Elector may inspect minutes.

Borrowing Money.

22 It shall be lawful for trustees of a drainage area from time to time to borrow any sum or sums of money not exceeding the estimated revenue of the trustees for Five years on the security of all the rates, funds, revenues, and property of or at the disposal of the trustees, for the purpose of constructing, executing, and carrying out such works as the Governor may expressly authorise and approve, and any such sum so borrowed may be applied and expended by the trustees accordingly.

Power to trustees to borrow.

23 It shall be lawful for the Governor to grant, under and in accordance with the provisions of "The Local Public Works Loans Act, 1890," and the amendments thereof, except so far as hereby varied, any sum or sums of money upon the security of all the rates, funds, revenues, and property of or at the disposal of the trustees, as a loan to trustees of a drainage area for the purposes aforesaid; and any such sum or sums shall be defrayed out of moneys to be provided by Parliament for such purposes.

Power to Governor to grant loan. 54 Vict. No. 30.

Provided that before any loan shall be granted by the Governor under this section—

- i. An application in the prescribed form shall be lodged with the Treasurer of the State, containing the prescribed information and particulars: and
- ii. Such loan shall be approved by a resolution passed by both Houses of Parliament.

24 The proviso to Section Two of "The Local Public Works Loans Act, 1890," shall not apply to the loan authorised by this Act, but before any money is advanced under the provisions of this Act the plans and specifications of the proposed works, together with a report by the State Engineer-in-Chief upon such works and probable cost

Proviso. Section 2 of 54 Vict. No. 30 not to apply to loan, but plans and specifications and report to be submitted to and approved by the Governor.

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thereof, the sufficiency of the plans and specifications, and upon such other matters as the State Engineer-in-Chief may deem it desirable to refer to in the said report, and that in his opinion the works can be completed for the amount proposed to be borrowed, shall be submitted to and approved by the Governor.

Loan not to be used for work which should be charged to maintenance.

25 Moneys borrowed or granted under the authority of this Act shall not be used for or expended upon any work which in the opinion of the State Engineer-in-Chief should be charged to maintenance,

Poll to be taken.

26 Trustees shall not proceed to borrow any sum of money under the authority of this Act until a poll has been taken of the electors for the purpose of determining whether the trustees shall proceed to borrow such sum.

Two-thirds majority required. Subsequent poll may be held after Twelve months.

27 If at the taking of such poll the number of votes recorded in favour of trustees proceeding to borrow any such sum shall amount to Two-thirds or more of the total number of valid votes recorded at such poll, then the trustees may proceed to borrow such sum accordingly, but otherwise the trustees shall not proceed to borrow such sum: Provided that if at any such poll the number of votes recorded in favour of the trustees proceeding to borrow any such sum shall not be sufficient to authorise the trustees to borrow, the trustees may nevertheless, at any time after the expiration of Twelve calendar months from the taking of the poll, take another poll of the electors for the purpose of determining whether the trustees shall proceed to borrow, and so on from time to time, after the expiration of a like period; and if at any such poll Two-thirds or more of the total number of the valid votes recorded shall be in favour of the trustees borrowing, the trustees may proceed to borrow.

Trustees may arrange for carrying out poll.

28 Trustees may make all such arrangements and provisions as are necessary to carry out the poll.

Poll to be advertised.

29 Before trustees shall take any poll as aforesaid, they shall cause a notice thereof to be advertised Three times, and also gazetted, and the last of such advertisements shall be published not more than One week before the taking of such poll.

Notice of poll.

The notice shall contain the following particulars:—

- i. The hours during which, and the place at which, the poll will be taken :
- ii. The amount proposed to be borrowed :
- iii. The purposes for which the loan is to be applied.

Proceedings. Voting papers.

30 The proceedings generally at the taking of the poll shall, with any necessary changes, be the same as those prescribed in the case of an annual election of trustees so far as applicable. The poll shall be by ballot, and the voting-papers to be used in the taking of the poll shall be according to the following form or to the like effect:—

*Drainage Promotion.**Voting-paper.*

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If you are in favour of the Trustees of the Drainage Area borrowing moneys for drainage improvement purposes, you are to put a cross opposite the word "For." Form.

If you are opposed to the borrowing you are to put a cross opposite the word "Against."

FOR.	
AGAINST.	

31 "The Local Public Works Loans Act, 1890," and every Act amending the same, are hereby incorporate^d with this Act, and the trustees shall be deemed to be a public body within the meaning of the lastmentioned Acts, and the expression "rates" occurring therein shall include any rate the trustees are empowered to make under the next following section of this Act. "Local Public Works Loans Act" incorporated.

Rating.

32—(1) It shall be lawful for trustees of a drainage area from time to time to make and levy a rate not exceeding Sixpence in the Pound upon the unimproved value of all properties within the drainage area, whether Crown land or not, as shown by the assessment roll in force for the time being, for the purpose of providing for the payment of interest and any moneys required for a sinking fund in respect of any moneys which may be advanced by way of loan to such trustees, and for providing funds for the purposes of this Act. Trustees may levy rates.

(2) The trustees of a drainage area may from time to time subdivide such area into subdivisions for borrowing and rating purposes under this Act.

(3) All disputes with respect thereto shall be heard and determined before a police magistrate, whose decision shall be final and binding upon all parties thereto.

(4) The rates shall be made and levied on a graduated scale according to the classification of the land as hereinafter mentioned :—

- i. Land that will receive direct benefit from the construction of the works authorised by this Act :
- ii. Land that will receive less direct benefit therefrom :
- iii. Land that will only receive an indirect benefit therefrom.

The rates shall be made and levied upon the aforesaid classes of land in such proportions as the Trustees direct.

In respect of Crown land the Minister shall be deemed to be the occupier, and all rates payable in respect of such land shall from time to time be payable out of the Consolidated Revenue Fund without further appropriation than this Act.

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Amount of rate.

33 The amount of rate shall be from time to time determined by the trustees annually, and shall be made and levied annually, if required by them.

Mode of collection.
6 Ed. VII. No 31.

34 Every rate shall be made upon and be payable by the owners of properties within the drainage area and shall be made and recoverable by the trustees in the same manner as any general rate in respect of such properties under "The Local Government Act, 1906," and the provisions of such Act relating to rates shall, with the necessary alterations, accordingly apply.

Control of Works and Powers.

Trustees to control works.

35 Trustees of a drainage area shall have and take charge, management, and control of all works now or hereafter constructed within such areas, and shall have the sole control and management of the construction and maintenance of the works in and upon such area, and may—

Cf. No. 96 of 1908 (N.Z.), s. 17.

- i. Deepen, widen, straighten, divert or otherwise improve any existing drain or outfall for water, either within or beyond their drainage area, or remove obstructions to drains or outfalls for water, or raise, widen, or otherwise alter any existing defence against water :
- ii. Make any new drain, or new outfall for water, or erect any new defence against water, or erect any machinery or do any other act required for the drainage of the drainage area :
- iii. Make, maintain, alter or discontinue all such works of any kind or description, and erect such buildings and machinery within the drainage area as they think proper for the purposes of this Act.

Power to enter lands.

36—(1) It shall be lawful for trustees, after Fourteen days' notice to the owner or occupier, to enter upon any land within the drainage area, and to cut down, quarry, dig, and carry away all such indigenous timber, stone, clay, or the like material as may be required for the purpose of constructing or completing, repairing, or maintaining the works, making full compensation for such timber, stone, clay or material to the party entitled thereto : Provided that it shall not be lawful for trustees to cut down any such indigenous timber where it has been reserved and used by the owner or occupier of the land for the purpose of ornament or shelter.

Power to enter, &c, public road.
Cf. "Country Roads Act, 1915," (Vic.), s. 56.

(2) Trustees, or any person authorised by them, may in, through, or along any public road or highway make and open such ditches, gutters, tunnels, drains, or water-courses as such trustees think advisable for or in connection with their works under this Act, and may likewise scour, cleanse, and keep open all such ditches, gutters, tunnels, drains, or

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water-courses, making full compensation to the municipalities in whose municipal districts such public road or highway is for any damage sustained by them through the exercise of any of the powers conferred by this section. A.D. 1917.
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37 Every summons, notice, or other document and all contracts and agreements requiring to be signed or executed by trustees of a drainage area, may be signed by the chairman of the trustees, whose signature shall be sufficient for all purposes, and service of any summons, notice, or other proceeding upon the chairman of the trustees shall be deemed to be service upon all the trustees of a drainage area. Signature of documents.

38 In all proceedings, civil or criminal, it shall be sufficient to describe the property in any work as the property of the trustees of a drainage area, describing such work in general terms; and all proceedings at law or in equity may be had or taken by and against the trustees, and the trustees may be described in all contracts and agreements under the name of "Trustees of the Drainage Area;" and no action or suit shall abate by reason of any change in the persons constituting such trustees. Proceedings by or against the trustees.

Officers and their Accountability.

39 Trustees of each drainage area shall from time to time appoint a treasurer (who may be one of the trustees), and may from time to time appoint and employ collectors of rates, bankers, solicitors, and other officers as the trustees may think necessary and proper, and may from time to time remove all or any of such persons from office, and appoint others in their stead, or in the places of such as may resign or die, and may out of the moneys at their disposal pay such salaries and allowances to such persons respectively as the trustees think fit. Officers.

40 Nothing herein contained shall prevent the same person holding Two or more of such offices at the same time, save and except that the same person shall not hold at one and the same time the offices of treasurer to the trustees and collector of rates. Persons may hold two offices.

41 The chairman and secretary of the trustees of a drainage area shall be paid respectively such salary as such trustees (with the approval of the Governor) may from time to time determine. Salaries.

42 Except as last aforesaid, every person holding any office or place of profit in the gift or disposal of the trustees of a drainage area shall be disqualified from being a trustee, and if any trustee is appointed to any such office or place of profit, he shall thereupon cease to be a trustee. Any trustee who shall be appointed secretary shall be liable to all the provisions of this Act relating to such officer as if he were not a trustee. Officers may not be trustees.

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Security.

43 Before any person, whether secretary, clerk, collector, or other officer, who is entrusted by the trustees of any drainage area with the custody or control of moneys by virtue of his office enters upon his office, the chairman of the trustees shall take sufficient security for the faithful performance thereof.

Officers' books.

44 Every officer or person employed by trustees shall, in books to be kept for that purpose, enter true accounts of all sums of money by him received and paid, and of the several matters for which such sums have been received and paid, and all acts done by him by direction of the trustees ; and such books shall at all times be open to the inspection of any trustees and any trustee may take extracts therefrom.

Officers to pay over moneys.

45 Every collector or other officer shall, within Seven days after he shall have received any money on behalf of trustees, pay the same to the bankers of the trustees to their credit, and the receipt of such bankers for the money so paid shall be a sufficient discharge to such collector or officer ; and every such collector or officer shall, in such time and in such manner as the trustees direct, deliver to the trustees true and perfect accounts, in writing under his hand, of all moneys paid by him to the said bankers, and also a list of all persons who have neglected or refused to pay any moneys owing by them, with a statement of the moneys due from them respectively.

Officers to make out accounts.

46 Every collector and other officer appointed or employed by trustees shall from time to time, when required by the trustees, make out and deliver to them, or to any person appointed by the trustees for that purpose a true and perfect account in writing under his hand of all moneys received by him on account of the trustees ; and such account shall state how, and to whom, and for what purpose such moneys have been disposed of, and, together with such account, such collector or officer shall deliver the vouchers and receipts for such payments ; and every such collector or officer shall pay to the trustees, or to any person appointed by the trustees to receive the same, all moneys which appear to be owing from him upon the balance of such accounts.

Failure to render accounts.

47 If any such collector, treasurer, or other officer fails to render such accounts as aforesaid, or to produce and deliver up all vouchers and receipts relating to the same in his possession and power, or to pay the balance thereof when thereunto required, or if for Three days after being thereunto required he fails to deliver up to trustees, or to any person appointed by trustees to receive the same, all books, papers, writings, property, effects, matters, and things in his possession or power relating to the execution of his office or belonging to trustees, then, on complaint thereof being made to a justice, such justice shall forthwith summon such collector, secretary, or other officer to appear before a police magistrate, or any Two or more justices of the peace, at a time and place to be set forth in such summons, to answer such complaint ; and upon the appearance of such collector, secretary, or other officer, or upon proof by affidavit or otherwise that such summons was personally

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served upon him or left at his last known place of abode in Tasmania, A.D. 1917. such police magistrate or justices may hear and determine the matter in a summary way, and may adjust and declare the balance owing by such collector, secretary, or other officer, and if it appears either upon confession of such collector, secretary, or officer, or upon evidence, or upon inspection of the accounts, that any moneys of the trustees are in the hands of such collector, secretary, or officer, or owing by him to the trustees, such justices of the peace may order such collector, secretary, or officer to pay the same. And if such collector, secretary, or officer fail to pay the amount so ordered forthwith, it shall be lawful for such justices to issue their warrant, to levy the same by distress, and in default of sufficient distress, to commit such collector, secretary, or officer to gaol, there to remain without bail for a period not exceeding Three months, unless the same is sooner paid.

48 If any such collector, secretary, or officer summoned as aforesaid refuses to make out such account in writing, or to produce and deliver to the police magistrate or justices 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 the trustees, such police magistrate or justices may commit such collector, secretary, or officer to gaol, there to remain till he shall have delivered up all the vouchers and receipts in his possession or power relating to such account, and all the books, papers, writings, effects, matters, and things in his possession or power belonging to the trustees. Refusal to make out accounts.

49 If any trustee, or any person acting on behalf of a trustee, makes oath that he has good reasons to believe, upon grounds to be stated in his deposition, and he does believe, that it is the intention of any such collector, secretary, or officer of any trustees to abscond, the justice taking such depositions, may, instead of issuing his summons as aforesaid, issue his warrant for bringing such collector, secretary, or officer before such police magistrate or Two or more justices as aforesaid; but no person executing such warrant shall keep such collector, secretary, or officer in custody longer than Twenty-four hours without bringing him before a police magistrate or a justice; and the magistrate or justice before whom such collector, secretary, or officer is brought may either discharge such collector, secretary, or officer if he thinks there is no sufficient ground for his detention, or order such collector, secretary, or officer to be detained in custody, so as to be brought before a police magistrate or Two or more justices, at a time and place to be named in such order, unless such collector, secretary, or officer gives bail to the satisfaction of such magistrate or justice for his appearance before such police magistrate or justices to answer the complaint of the trustees. Arrest of officer.

50 No proceeding against or dealing with any such collector, secretary, or officer as aforesaid shall deprive trustees of any remedy Saving of remedies.

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which they otherwise would have had against such collector, secretary, or officer, or any surety for him.

Books.

51 Trustees 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 under the authority of this Act, and of the several purposes for which sums of money have been received and paid, which books shall at all reasonable times be open to the inspection of any trustee or any creditor of trustees without fee or reward, and the persons aforesaid, or any of them, may take copies of or extracts from any of the said books without paying for the same, and any person having the custody of the said books who does not, on the reasonable demand of any person as aforesaid, permit him to inspect the said books and to take copies of or extracts from the same, or any of them, shall for every such offence incur a penalty not exceeding Five Pounds.

Officers and accounts to be subject to 1 Ed. VII. No. 15.

52—(1) The officers and the accounts of trustees shall be subject and liable to all the provisions of "The Audit Act, 1901," and any amendment thereof, in the same manner in all respects as if such officers and accounts had been specifically mentioned therein, and such officers shall at all times comply with the requirements of the Auditor-General in respect to such accounts.

Accounts to be gazetted.

(2) The accounts of trustees shall be published in the "Gazette" by the Auditor-General as soon as may be after such accounts have been audited.

Regulations for election of trustees.

53—(1) The Governor may at any time, and from time to time make, alter, or repeal regulations for regulating generally the mode, manner, and time of election of trustees; and the appointment of returning officers, deputy-returning officers, and other officers for carrying out any such election, and the mode in which, and the time within which, nominations of persons for election shall be made and received, and generally for the management and conduct of such elections, and to provide for the payment out of the funds at the disposal of trustees of the expenses of and attending upon any such election.

(2) The regulations set forth in Schedule (3) shall be deemed to have been made by the Governor under the power conferred upon him by this section.

(3) The application to the First election of trustees of the regulations for the time being in force under this section shall be limited as mentioned in Subsection (8) of Section Nine of this Act.

Expenses of Act and election.

54 The expenses of and attending the taking of every such poll as aforesaid, of the preparation of the plans, specification, and estimates of the works, and the report thereon, and of the First election of trustees hereunder, in the first instance shall be borne by the Council of the municipality in which the drainage area is situated, and shall be repaid by the drainage area trustees to such Council out of the moneys at the disposal of the trustees within Six months after the election of such trustees.

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SCHEDULES.**(1)**

I, A.B., do solemnly and sincerely declare that I will faithfully perform the duties devolving upon me in ascertaining the decision of the electors within the drainage area as to the election of trustees mentioned in the notice of the Governor in the "Gazette," dated the day of 19 , and I will not in any manner interfere with any voter when filling-up his ballot-paper, or attempt to ascertain the manner in which he votes; and in case I should become acquainted with the manner in which any voter has voted, then that I will not disclose my knowledge to any person or persons, nor aid, directly or indirectly, in discovering the same, and will conduct such election in a regular and proper manner.

(2)

I, A.B., having been elected [or appointed] a trustee of the drainage area, do hereby solemnly declare that I take the said office upon myself, and will duly and faithfully fulfil the duties thereof according to the best of my judgment and ability.

A.B.

Taken and declared before me, at
in Tasmania, this day of , 19 .
J.P.

(3)**(REGULATIONS.)***Returning Officers.*

1. The Chairman shall be the Returning Officer at all elections and polls. If there is no Chairman, or if, in the case of an election, the Chairman is a candidate thereat, then such other Trustee or person as the Trustees appoint, or, in their default, as the Minister may appoint, shall be Returning Officer.

2. The Returning Officer shall, with respect to every election or poll, have all the powers possessed by a returning officer under the law for the time being in force for regulating the conduct of annual elections of Councillors of a municipality.

3.—(1) If from any cause the Returning Officer is unable to fulfil the duties of his office at any election or poll, he shall by writing under his hand appoint a substitute, who, for all the purposes of that election or poll, shall be deemed to be the Returning Officer.

(2) If at any time, either before or during an election or poll, a Returning Officer who is unable to act fails to appoint a substitute as aforesaid, the Minister or any Two Trustees may appoint a substitute, who, for the purposes of that election or poll, shall be deemed to be the Returning Officer.

4.—(1) The Returning Officer may appoint as many deputies and poll-clerks as he deems necessary for the effective taking of the poll at every polling-booth.

(2) Every such deputy shall have and may exercise in and about the polling-booth for which he is appointed all the powers and duties of the Returning Officer.

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Notice of Election. Mode of Nomination Form (1).

5.—(1) Fifteen days before the day appointed for any election the Returning Officer shall cause notice of such election to be advertised.

(2) The notice shall require all candidates at such election to be nominated at some place to be named in the notice in manner and within the time hereinafter mentioned.

(3) On and after the Tenth day and until the hour of Four o'clock in the afternoon of the Seventh day next before any election, Two electors duly qualified to vote at the election may, by writing, stating their respective names and residences, nominate to the Returning Officer for election as a Trustee or Trustees according to Form (1) in this schedule, One or more other qualified electors resident within the district, not exceeding the number then to be elected, whose consent to be nominated, duly signed, shall be appended, as in the same form is prescribed.

Declaration of Election, where Uncontested.

6. If at the expiration of the time limited for the nomination of candidates the number of candidates does not exceed the number of Trustees to be elected, the Returning Officer shall at once, without any poll being had, publish, at or near the door of the place of nomination as aforesaid, a notice under his hand declaring such person or persons to be duly elected; and he or they shall be elected accordingly to the office or offices to be filled at the election then being held.

Appointment of Polling-places.

7. The Returning Officer may from time to time appoint and abolish such and so many polling-places for taking the poll as he may see fit.

Contested Elections, Form (2); Notice of Time and Place of Poll.

8.—(1) If at the expiration of the time limited for the nomination of candidates the number of candidates exceeds the number of Trustees to be elected, a Poll shall be taken in manner hereinafter provided.

(2) The Returning Officer shall, at Four o'clock on the last day of nomination, at the place appointed for the delivery of nomination papers, publicly announce the names of the persons who have become candidates, and the places at which a poll will be taken.

(3) And shall also forthwith cause a notice to be advertised, stating the names of the candidates and the day on which, and the hours during which, the poll will be taken, and naming also the polling-places.

(4) And shall cause a copy of such lastmentioned notice to be posted on or near the door of each polling-place in the district.

(5) The Returning Officer shall forthwith cause ballot-papers to be printed, with the surnames and Christian names of all the candidates in full, according to Form (2) of this schedule.

(6) The time for taking any poll shall be from Nine o'clock in the forenoon till Five o'clock in the afternoon.

Candidates may Retire within certain Time (Form 3).

9.—(1) If a candidate desires to retire from his candidature, he may, not later than Four clear days before the polling-day, sign and deliver to the Returning Officer a notice in the Form (3) in this schedule, or to the like effect.

(2) The Returning Officer, on receipt of such notice, shall omit the name of the candidate so retiring from the ballot-papers to be used at the election; or if such papers have been printed, shall erase his name therefrom, and shall make known as publicly as possible, by advertisement or otherwise, the fact of his retirement.

(3) The person so retiring shall not be capable of being elected at the election; and if the number of candidates is by his retirement reduced to the number of Trustees to be elected at the election, the Returning Officer shall at once declare the remaining candidate or candidates to be duly elected, and cause notice thereof to be advertised; but if the said number is not so reduced, the poll shall proceed.

*Drainage Promotion.**Booths, Ballot-boxes, &c.*

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10. The Returning Officer shall provide the following for taking the poll:—

- (a) One or more rooms for polling-booths, and in each booth One or more inner compartments, separated from, but opening into, the booth, and having no other opening:
- (b) In each booth a ballot-box, having a lock and key, and a slit in the upper side by which the ballot-papers may be put into the box:
- (c) In each booth one or more copies of the Assessment Roll for the district, and a sufficient number of ballot-papers:
- (d) In each inner compartment, pencils for the use of the voters:
- (e) All other necessary materials.

11. The Returning Officer or his deputy shall, before the opening of the poll, and in the sight of any scrutineers present, see that the ballot-box is empty, and shall close and lock it, and retain the key in his possession, and the ballot-box shall not again be opened till after the close of the poll.

Scrutineers.

12. Each candidate may, by writing under his hand, appoint One scrutineer for each polling-booth.

Not more than One voter shall be allowed in any inner compartment at one and the same time.

Voters entering the polling-booth to vote shall record their votes without unreasonable delay, and shall then at once quit the booth.

No person shall be allowed to remain in any polling-booth except the Returning Officer, his deputies, poll-clerks, electoral officials, scrutineers, and as many constables as the Returning Officer thinks necessary to keep the peace.

Returning Officer to give Ballot-papers to Voter.

13. Every person proposing to vote shall inform the Returning Officer of his name, and the Returning Officer having satisfied himself, by reference to the roll, that such person is entitled to vote, and has not already voted, shall deliver to him One ballot paper for every vote he is entitled to give.

Questions may be put to Voter.

14.—(1) The Returning Officer may, and if so required by any scrutineer shall, before giving any ballot-paper, put the following questions to any person proposing to vote:—

- (a) "Are you the person whose name appears as A.B. in the roll now in force for this district, being enrolled in respect of [*Here read the description in the roll*]?"
- (b) "Are you Twenty-one years of age?"
- (c) "Are you still possessed of the qualification in respect of which you are enrolled?"
- (d) "Have you already voted at this election?"

(2) Any person to whom such questions are put who does not answer the same, or does not answer the first Three in the affirmative and the fourth in the negative, shall not be permitted to vote.

Before given. Ballot-paper to be Marked.

15.—(1) Before giving any ballot-paper the Returning Officer shall write or stamp his initials on the back thereof, and shall draw, or cause to be drawn, a line in pencil or ink through the number and name of such voter on the roll, as evidence that he has proposed to vote; and shall also write, or cause to be written, against the name of the voter a number denoting the number of ballot-papers given to him.

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Voter, how to Vote.

16.—(1) The voter, having received the ballot-paper or papers, shall immediately retire into one of the inner compartments provided, and shall there, alone and secretly, on each ballot-paper indicate the candidate or candidates for whom he desires to vote by marking a cross in a square set opposite to the name of each such candidate:

Provided that no ballot-paper shall be rejected as informal that clearly indicates the candidate or candidates for whom the voter intended to vote, whether such indication is made in the manner prescribed by this regulation or by striking out the names of the candidate or candidates for whom the voter did not intend to vote.

(2) Every voter shall, before leaving the inner compartment, fold the paper so that the contents cannot be seen, and shall then deposit it so folded in the ballot-box.

Provision where Voter Blind, &c.

17. If any voter is blind, or is unable to read or write, or is physically incapacitated from voting, and so desires, the Returning Officer shall openly in the ballot-room, and in the presence and sight of the poll-clerks and scrutineers, or such of them as please to be present, make up his ballot-papers according to the instructions of the voter, and such Returning Officer shall sign his own name at the foot thereof.

Ascertaining Result of Polling. Declaration. Casting vote.

18. Immediately on the close of the poll the Returning Officer or his deputy at each polling-place shall proceed, in the presence of the poll-clerks, and of so many of the scrutineers as may be present, to ascertain the number of votes for each candidate.

If there is more than One polling-place, each deputy shall immediately forward the ballot-papers sealed up, together with a list of the total number of votes for each candidate, to the Returning Officer.

The Returning Officer shall in like manner seal up the ballot-papers deposited in the polling place in which he shall have presided, and shall, as soon as conveniently may be on or after the day of the poll, give public notice of the number of votes given to each candidate, and shall declare the candidates (not exceeding the number of vacancies to be filled up) who have received at all the polling places taken together the greatest number of votes to be duly elected as Trustees, and shall forthwith cause to be advertised the names of the Trustees so elected.

If Two or more candidates shall have received an equal number of votes, the Returning Officer shall in such case determine by lot which candidate shall be elected.

Disposal of Ballot-papers.

19. The Returning Officer shall forthwith, after the declaration of the poll, cause all the parcels of ballot-papers to be sealed up in a packet endorsed with a description of the contents thereof signed by him, and shall safely keep them for Six months, and after the expiration of such period of Six months such ballot-papers shall be destroyed.

If no Candidate Returned, to be an Extraordinary Vacancy.

20. If at any election to fill any vacancy in any office no person is nominated or returned, or a less number of persons are returned than there are vacancies to be filled, any vacancy remaining unfilled shall be deemed to be an extraordinary vacancy occurring on the day appointed for the election.

Extraordinary Vacancies.

21.—(1) In the event of an extraordinary vacancy occurring in the office of a Trustee, the continuing Trustee shall appoint some elector eligible to be elected to fill such vacancy; and the Trustee so appointed shall hold office until the next annual election, when he shall submit himself for election.

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(2) A Trustee elected to fill any extraordinary vacancy shall hold office only for the remainder of the period for which the Trustee whose place he takes was elected. A.D. 1917.

(3) When any extraordinary vacancy has to be filled up at the same time as the annual election, then the candidate who, if there is a poll, is elected by the fewest votes shall be deemed elected to fill such vacancy. If there is no poll the candidate to be deemed elected to fill such vacancy shall be determined by lot.

(4) Whenever any vacancy shall arise in the office of Trustee which cannot otherwise be filled, it shall be lawful for the Governor to appoint any elector eligible to be elected to be a Trustee or Trustees as the case may require.

Poll to be Adjourned when Riot takes place.

22. If the proceedings at any polling-booth are interrupted or obstructed by riot or violence, the Returning Officer or Deputy Returning Officer may adjourn the polling at such booth to the following day, and if necessary may so adjourn the polling from day to day till the riot ceases, when he shall again proceed with the polling.

Provisions in event of Delay in electing.

23. In the event of any delay occurring in the election of the successor of any Trustee who would otherwise retire from office in consequence of the expiration of the period for which he was elected, such Trustee shall continue in office until his successor has been duly elected.

Provision if Annual Election not held.

24. If from any cause any annual election of Trustees is not held in pursuance of this Act, the Minister may, in every such case from time to time, by notice in the "Gazette," appoint a place and fix a day and hour for holding an election of Trustees, and may make such provisions as he may consider desirable to enable the election to be carried out.

Application of "The Local Government Act."

25. Subject to this Act and the regulations, the provisions of any law for the time being in force regulating the conduct of annual elections of Councillors of a municipality and polling thereat shall, so far as they can be made applicable, *mutatis mutandis*, apply to the elections and polls under this Act.

Expenses at Elections and Polls.

26. No money shall be paid by the Trustee for refreshments in connection with the conduct of an election or poll, and the only fees or expenses which shall be allowed or paid out of the funds of the Trustees shall be a fee of Two Pounds Two Shillings to the Returning Officer, and a fee of One Pound One Shilling to each deputy-returning officer, and a fee of One Pound One Shilling to each poll-clerk employed at such election or poll; and the expenses of providing polling-places when public buildings cannot be had free of expense, and the expenses of any printing and advertising required to comply with these regulations, and actual expenses incurred in travelling.

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(1)—NOMINATION OF CANDIDATES.

The _____ day of _____ 19
 WE, the undersigned Electors, duly qualified to vote at the Election, do hereby
 nominate [*stating Christian and Surname*] of _____ [*state occupation*] as
 a fit and proper person for election to represent the Drainage Area as a Trustee
 thereof.

[*Here are to follow the signatures in the following form.*]

Christian and Surname of Elector.	Place of Residence.

I, the abovementioned _____ consent to become a candidate at the
 abovementioned election.

(Signed) A.B

(2)—NOTICE OF RETIREMENT.

I, A.B., hereby retire from being a candidate at the election of Trustees of the
 drainage Area, to be held on the _____ day

Dated this _____ day of _____ 19

(Signed) A.B

Witness—

C.D

(3)—BALLOT-PAPER AT AN ELECTION

Drainage Area.

ELECTION OF TRUSTEES.

BALLOT-PAPER.

DRY, Vere E., Brickmaker	
DUNN, Neil E., Grocer	
MEDES, Archie	
NEARLE, John, Cabinetmaker	
SARK, Noah	
WATERS, Adye, Dairyman	

Directions.

The voter is to mark a cross in the square set opposite to the name or names
 of the candidate or candidates for whom he desires to vote.

The voting-paper is to be folded up so that its contents cannot be seen, and
 to official mark on the back having been shown to the Returning Officer, the
 voting-paper is to be put into the ballot-box by the voter.

This voting-paper is not to be taken out of the polling-booth