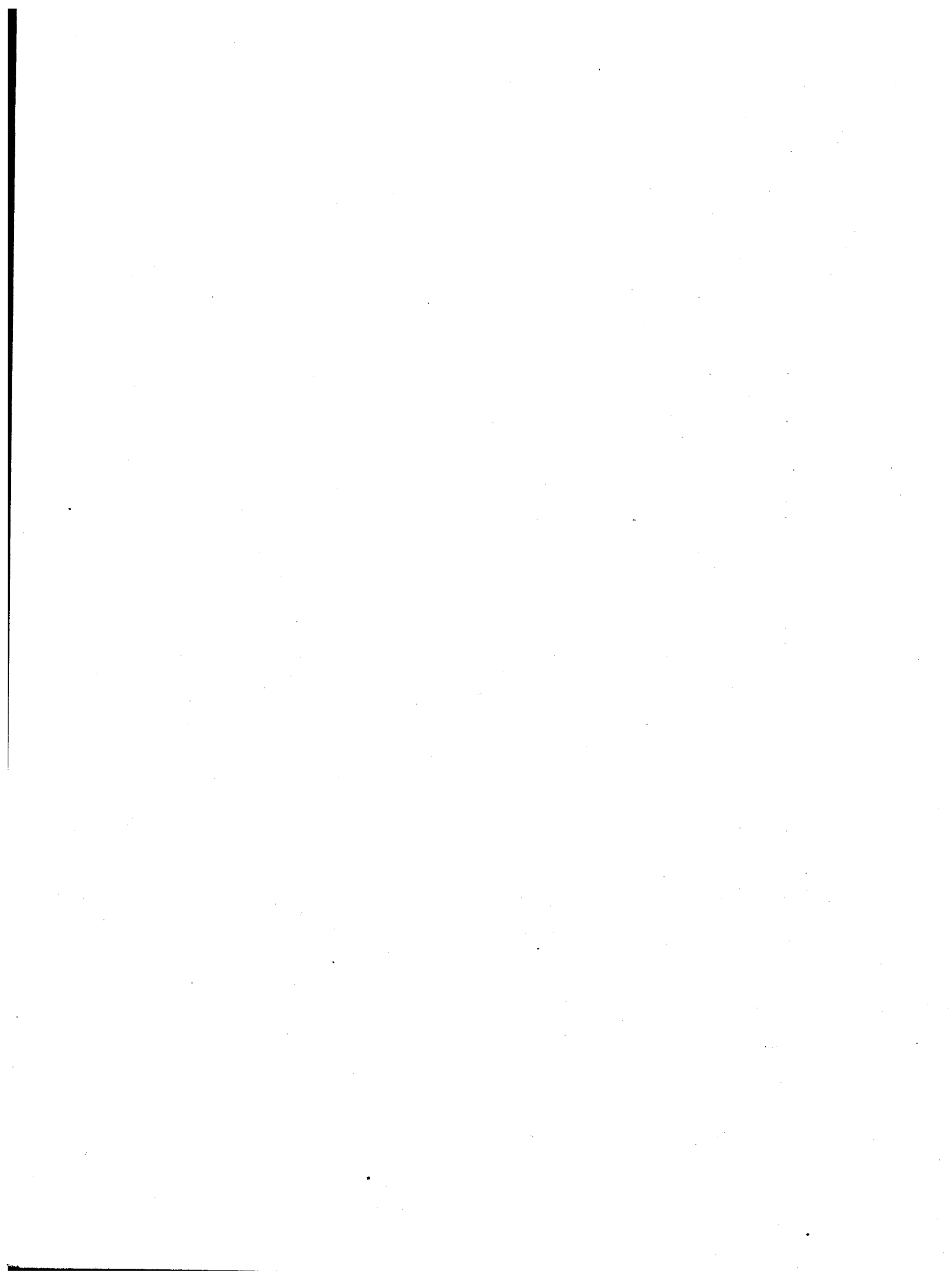


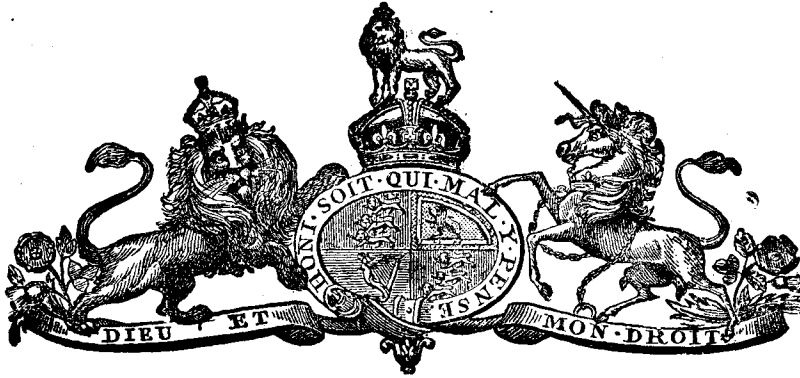
THE SMITHTON HARBOUR TRUST ACT, 1913.

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T A S M A N I A.



1913.

ANNO QUARTO

GEORGII V. REGIS.

No. 29.

AN ACT to consolidate and amend "The Smithton Harbour Trust Act," to authorise a Loan of Two thousand Pounds to the Smithton Harbour Trustees for Harbour Works, and for other purposes.

A.D.
1913.

[24 December, 1913.]

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 :—

1 This Act may be cited as "The Smithton Harbour Trust Act, Short title. 1913."

2 "The Smithton Harbour Trust Act" and "The Smithton Harbour Trust Act, 1911," are hereby repealed.

Repeal of 9 Ed.
VII. No. 38 and
2 Geo. V. No. 56.
Schedule.
Savings.

Provided that the following provisions shall apply :—

- 1. All proclamations, orders-in-council, orders, by-laws, regulations, warrants, securities, offices, appointments, requisitions, notifications, records, instruments, and generally all acts of authority which originated under any Act hereby repealed, or any enactment incorporated therewith, and are subsisting or in force on the coming into operation of this Act, shall enure for the purposes of this Act as fully

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and effectually as if they had originated under the corresponding provisions of this Act, or any enactment incorporated with this Act, and accordingly shall, where necessary, be deemed to have so originated :

- ii. All matters and proceedings commenced under any Act hereby repealed, and pending or in progress on the coming into operation of this Act, may be continued, completed, and enforced under this Act.

Existing district
and trustees
continued.

3—(1) “The Smithton Harbour District,” defined by “The Smithton Harbour Trust Act,” is continued as the harbour district for the purposes of this Act, and is described in Schedule (1).

(2) The trustees elected under the provisions of “The Smithton Harbour Trust Act” as the trustees of the Smithton Harbour District are declared to be trustees of such district under this Act without any fresh elections being had.

Interpretation.

4 In this Act, unless inconsistent with the context—

- “Advertised” means that the notice is advertised in some public newspaper generally circulating in the district :
- “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 Smithton Harbour District :
- “District” means the Smithton Harbour District, as described in Schedule (1) :
- “Elector” means every person being a natural-born or naturalised subject of His Majesty, and whether male or female, of or above the age of Twenty-one years, whose name as the owner or occupier 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 :
- “Harbour” means the port or harbour of Duck River and the entrance thereto :
- “Minister” means the Minister of the Crown for the time being administering this Act :
- “Schedule” means schedule to this Act :
- “This Act” includes regulations made under this Act :
- “Trustees” means and includes the trustees for the time being elected, appointed, or acting for the purposes of this Act :
- “Works” means and includes such railways, tramways, bridges, wharves, jetties, breakwaters, training-walls, works, and improvements to or at Duck River and Pelican Point, or for the improvement, construction, or maintenance of Smithton Harbour as are now under the control or management of the trustees, or as the Governor may authorise and approve.

Smithton Harbour Trust.

5 The trustees are hereby declared to be a body corporate by the name of "The Smithton Harbour Trustees," having perpetual succession and a common seal.

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Trustees a corporation.

6 Every election or poll on a proposal shall be held before some person hereinafter called the Returning Officer.

Returning officer.

7 At every election of trustees, and at every poll on 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 within the district owned or 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 of "The Local Government Act, 1906," entitled "Electors," of Part Five of the lastmentioned Act, shall apply to any election or poll held under this Act.

Every elector shall have a vote.

Election of Trustees.

8 The number of trustees constituting the Smithton Harbour Trustees shall be Five as heretofore, One of whom shall be Chairman. Only male electors resident within the district shall be eligible to be elected or appointed trustees.

Trustees.

9—(1) On the First Saturday in the month of June in each year certain of the trustees shall retire from office by rotation, and on the same day an election shall be held to supply their places as hereinafter provided.

Retirement of trustees.

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

Retiring trustee eligible for re-election.

10 Pursuant to and in continuance of the order of retirement in force under "The Smithton Harbour Trust Act" at the commencement of this Act, the Two trustees who have been longest in office without re-election shall retire from office on the First Saturday in the month of June, One thousand nine hundred and fourteen, and thereafter the trustees to retire from office shall always be the Two who have been longest in office without re-election, save that in the year One thousand nine hundred and sixteen, and in every Third year thereafter the One who has been longest in office without re-election shall retire.

Rotation in which trustees to retire.

11 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.

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Trustees to accept office or pay a fine.

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 of the peace 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.

Certain persons exempted from fines on refusal to accept office.

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. Who has already served the office of trustee for the period of One year, or paid the penalty for not occupying such office, or for resigning such office within Three years next before the day on which he is re-elected or appointed : or
- V. Whose usual place of abode is not situate within the district : or
- VI. Who is absent from the State at the time of the election or appointment : or
- VII. 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 so 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 the 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 the trustees, the whole number present not being less than Three; and any such Three trustees shall form a quorum.

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17—(1) The 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.

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Election of
chairman of
trustees.

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.

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.

Equal division
of votes.

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, and his seat shall at once be declared vacated.

Trustee not to
vote where he is
pecuniarily
interested.

20 All orders and proceedings of the trustees, together with the names of the trustees present at every meeting, shall be entered in a book to be kept by the 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 the trustees.

Elector may
inspect minutes.*Borrowing Money.*

22 It shall be lawful for the Smithton Harbour Trustees from time to time to borrow any sum or sums of money not exceeding in the whole Two thousand Pounds, 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

Power to trustees
to borrow
£2000.

Smithton Harbour Trust.

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the Governor may expressly authorise and approve, and any such sum so borrowed may be applied and expended by the trustees accordingly.

Power to
Governor to
grant loan of
£2000.
54 Vict. No. 30.

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, not exceeding in the whole Two thousand Pounds, upon the security of all the rates, funds, revenues, and property of or at the disposal of the trustees, as a loan to the Smithton Harbour Trustees for the purposes aforesaid; and any such sum or sums shall be defrayed out of moneys to be provided by Parliament for such purposes.

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.

24 The proviso to Section Two of "The Local Public Work 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 the necessity of such works and probable cost 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.
Poll to be taken.

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.

26 The 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.

27 If at the taking of such poll the number of votes recorded in favour of the trustees proceeding to borrow any such sum shall amount to Two-thirds or more of the total number of the 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.

Subsequent poll
may be held after
Twelve months.

Smithton Harbour Trust.

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

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Trustees may arrange for carrying out poll. Poll to be advertised.

29 Before the trustees shall take any poll as aforesaid, they shall cause a notice thereof to be advertised Three times in a daily newspaper circulating in the district, and also Once in the "Gazette," and the last of such newspaper 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.

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 :—

Proceedings. Voting-papers.

Voting-paper.

If you are in favour of the Smithton Harbour Trustees borrowing moneys from the State Government under "The Local Public Works Loans Act, 1890," and amendments, not exceeding in the whole Two thousand Pounds, for works and harbour improvements to or at Duck River and Pelican Point, or for Smithton Harbour 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 incorporated 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 Section Thirty-two of this Act.

"Local Public Works Loans Acts" incorporated.

Rating.

32 It shall be lawful for the trustees from time to time to make and levy a rate of not exceeding One Shilling in the Pound upon the annual value of all properties within the district as shown by the

Trustees may levy rates.

Smithton Harbour Trust.

A.D. 1913. — 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 by the Treasurer of Tasmania to the trustees, and for providing funds for the purposes of this Act.

Amount of rate. **33** The amount of such 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. **34** Every such rate shall be made upon and be payable by the persons who would be liable to be rated in respect of the properties included in the district if such rate were a general rate under "The Local Government Act, 1906," and shall be made and recoverable by the trustees in the same manner as any such general rate, and the provisions of such Act relating to rates shall, with the necessary alterations, accordingly apply.

6 Ed. VII. No. 31.

Control of Works, and Powers.

Trustees to control works. **35** The trustees shall have and take the charge, management, and control of the harbour and of all works now or hereafter constructed, and shall have the sole control and management of the construction and maintenance of the works, and the powers and duties of the Marine Board of Circular Head in, upon, and over the wharves, jetties, and training-walls and other works within the Smithton Harbour District, by virtue of "The Marine Boards Act, 1889," and the several Acts amending the same or incorporated therewith are declared to be abolished.

Power to enter lands. **36** It shall be lawful for the trustees, after Fourteen days' notice to the owner or occupier, to enter upon any uncultivated land, 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 the 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.

Trustees may enter Crown land. **37** The trustees may enter upon and take such waste lands of the Crown as may be necessary for the construction or maintenance of any works under this Act, to remove therefrom timber, stone, clay, or like material, without paying any compensation for either land or material.

Trustees may take private lands. **38** The trustees may enter upon and take such private lands as may be necessary for the construction of the works in the mode prescribed by "The Lands Clauses Act," which Act, except Sections Eight, Nine, and Thirty-seven thereof, is hereby incorporated with this Act, and the

Smithton Harbour Trust.

compensation for taking indigenous timber, stone, or material from uncultivated land, or material from any land, for the purposes of this Act, shall be settled by arbitration in the mode prescribed by "The Lands Clauses Act" in case of disputed compensation. The trustees shall be deemed to be the promoters of the undertaking.

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39 Every summons, notice, or other document, and all contracts and agreements requiring to be signed or executed by the trustees, 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.

Signature of documents.

40 In all proceedings, civil or criminal, it shall be sufficient to describe the property in any work as the property of the Smithton Harbour Trustees, 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 "The Smithton Harbour Trustees;" 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.

41- (!) The trustees 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, wharfingers, 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.

(2) All persons holding office at the commencement of this Act shall continue therein as if they had been appointed under the provisions of this Act.

42 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

43 The Chairman and treasurer of the trustees shall be paid respectively such salary as the trustees (with the approval of the Governor) may from time to time determine.

Salaries.

44 Except as last aforesaid, every person holding any office or place of profit in the gift or disposal of the trustees shall be disqualified from being a trustee, and if any trustee is appointed to any such office or

Officers may not be trustees.

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place of profit, he shall thereupon cease to be a trustee. Any trustee who shall be appointed treasurer shall be liable to all the provisions of this Act relating to such officer as if he were not a trustee.

Security.

45 Before any person, whether treasurer, clerk, collector, or other officer, who is entrusted by the trustees 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.

46 Every officer or person employed by the 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 trustee, and any trustee may take extracts therefrom.

Officers to pay over moneys.

47 Every collector or other officer shall, within Seven days after he shall have received any money on behalf of the 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.

48 Every collector and other officer appointed or employed by the 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.

49 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 or 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 the trustees, or to any person appointed by the 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 the

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trustees, then, on complaint thereof being made to a justice of the peace, such justice of the peace shall forthwith summon such collector, treasurer, or other officer to appear before 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, treasurer, or other officer, or upon proof by affidavit or otherwise that such summons was personally served upon him or left at his last known place of abode in Tasmania, such justices of the peace may hear and determine the matter in a summary way, and may adjust and declare the balance owing by such collector, treasurer, or other officer, and if it appears either upon confession of such collector, treasurer, or officer, or upon evidence, or upon inspection of the accounts, that any moneys of the trustees are in the hands of such collector, treasurer, or officer, or owing by him to the trustees, such justices of the peace may order such collector, treasurer, or officer to pay the same. And if such collector, treasurer, or officer fail to pay the amount so ordered forthwith, it shall be lawful for such justices of the peace to issue their warrant to levy the same by distress, and in default of sufficient distress, to commit such collector, treasurer, or officer to gaol, there to remain without bail for a period not exceeding Three months, unless the same is sooner paid.

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50 If any such collector, treasurer, or officer summoned as aforesaid refuses to make out such account in writing, or to produce and deliver to the justices of the peace 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 justices of the peace may commit such collector, treasurer, 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.

51 If any trustee, or any person acting on behalf of the 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, treasurer, or officer of the trustees to abscond, the justice of the peace taking such depositions may, instead of issuing his summons as aforesaid, issue his warrant for bringing such collector, treasurer, or officer before such Two or more justices of the peace as aforesaid; but no person executing such warrant shall keep such collector, treasurer, or officer in custody longer than Twenty-four hours without bringing him before a justice of the peace; and the justice of the peace before whom such collector, treasurer, or officer is brought may either discharge such collector, treasurer, or officer if he thinks there is no sufficient ground for his detention, or order such collector, treasurer, or officer to be detained in custody so as to be brought before Two or more justices of the peace, at a time and place to be named in

Arrest of officer.

Smithton Harbour Trust.

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such order, unless such collector, treasurer, or officer gives bail to the satisfaction of such justice of the peace for his appearance before such justices of the peace to answer the complaint of the trustees.

Saving of remedies.

52 No proceeding against or dealing with any such collector, treasurer, or officer as aforesaid shall deprive the trustees of any remedy which they otherwise would have had against such collector, treasurer, or officer, or any surety for him.

Books.

53 The 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 such sums of money have been received and paid, which books shall at all reasonable times be open to the inspection of any trustees or any creditor of the 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.

54—(1) The officers and the accounts of the 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 the trustees shall be published in the “Gazette” by the Auditor-General as soon as may be after such accounts have been audited.

Incorporation of Provisions of Marine Board Acts.

Incorporation of parts of Marine Boards Acts.

55—(1) The sections, enactments, and schedules mentioned in the Schedule (3), and every enactment amending the same, shall, with the necessary alterations, be and the same are hereby incorporated with this Act.

(2) References in the said sections and enactments to—

- I. “Board” or “Boards” shall be deemed to refer to the Smithton Harbour Trust:
- II. “Port” shall be deemed to refer to the harbour:
- III. “Master-Warden” shall be deemed to refer to the Chairman of the trustees:
- IV. “Warden” or “Wardens” shall be deemed to refer to trustee or trustees under this Act.

Every power and duty vested in or imposed upon a master-warden, warden or wardens, or officer by the said sections and enactments is

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hereby to the same extent vested in and imposed upon the Chairman of the trustees, trustee or trustees, or officer of the trustees (as the case may be) under this Act. A.D. 1913

56—(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 of the Smithton Harbour District; 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 the trustees of the expenses of and attending upon any such election. Regulations for
election of
wardens.

(2) The regulations set forth in Schedule (4) shall be deemed to have been made by the Governor under the power conferred upon him by this section.

57 Any expenses incurred in the preparation and printing this Act shall be a charge upon the revenue of the trustees. Expenses of Act.

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SCHEDULE.

(1.)

Commencing at a point on the Arthur River due south of the south-east angle of 99 acres 1 rood 36 perches purchased by M. Sampson by a northerly line to the south-east angle of that land by the east and part of the north boundary of that land by the east boundaries of lands selected by H. W. Charlton F. C. B. and E. W. Fairey respectively by part of the east boundary of land purchased by J. S. Ransom by the south and by the east boundary of land purchased by M. Richardson by part of the south and by part of the east boundary of land purchased by S. S. Field by the south and part of the east boundary of land purchased by J. A. Moore by the west boundary of lands purchased by M. S. and E. H. Moore respectively by the north boundary of land purchased by A. A. Smith by part of the east boundary of land purchased by A. Thorpe by the south by the east by the north and by a west boundary of other land purchased by A. Thorpe by a south and by the west boundaries of land purchased by A. A. Smith by the west boundaries of lands purchased by E. W. O'Connor and W. O'Connor respectively by the south boundary of land purchased by D. C. Kay by the west boundary of land purchased by E. W. O'Connor by the north boundary of land purchased by J. Kay by a north and east and again by a north boundary of land purchased by H. A. Kay by part of the east and part of the north boundary of land purchased by D. C. Kay the Younger by the north-west boundary of land purchased by A. H. Davis by the west boundary of land purchased by L. A. King by part of the north boundary of the lastmentioned land by the west and by the north boundary of other land purchased by L. A. King by part of the west boundary of land purchased by J. Corcoran by part of the south and by the west boundary of land purchased by F. C. Wells by the east boundary of land purchased by H. B. Jones to Deep Creek thence by that creek to the south boundary of land purchased by J. H. Harvey by the south by the east and by part of the north boundary of that land by the eastern boundaries of lands purchased by T. J. Hills J. C. Hills E. M. Ferguson and H. S. Ferguson respectively by the north boundary of the lastmentioned land to Deep Creek aforesaid thence by that creek to Duck Bay by that bay north-westerly to a point opposite the eastern extremity of Perkins Island thence by a line to and along the northern shore of that island by the western shores of that island and by a line to the north-east angle of the Parish of Williams by the eastern boundaries of that parish and the Parish of Togari and by a continued southerly line to the Arthur River thence by a south-easterly line to Pyramid Hill and thence by a north-easterly line (the continuation of which would strike the south-west angle of land selected by W. B. Holton) to the Arthur River and thence by that river (after crossing the same) to the point of commencement.

(2.)

I, *A.B.*, having been elected [or appointed] a Trustee of the Smithton Harbour District, 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.

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(3.)

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Extent of Incorporation.	Reference, where Section, &c., re-enacted by subsequent Enactment.
The following sections of "The Marine Boards Act, 1889" (53 Vict. No. 34), and schedules thereto, are incorporated:—	
Section 61.	
Sections 62 to 71, both inclusive	2 Geo. V. No. 34, s. 2
Section 72, as re-enacted by	1 Geo. V. No. 24, s. 24
Sections 73 to 98, both inclusive.	
Section 99, as re-enacted by	1 Geo. V. No. 24, s. 25
Sections 100 to 102, both inclusive.	
Section 103, as re-enacted by	1 Geo. V. No. 24, s. 37
Sections 104 to 106, both inclusive.	
Section 107, as re-enacted by	8 Ed. VII. No. 31, s. 6
Sections 108 and 109.	
Section 110, as re-enacted by	8 Ed. VII. No. 31, s. 5
Section 111, as re-enacted by	56 Vict. No. 57, s. 13
Section 112.	
Section 113, as re-enacted by	59 Vict. No. 27, s. 14
Sections 120 and 121.	
Section 122, as re-enacted by	6 Ed. VII. No. 34, s. 4
Sections 123 and 124.	
Section 125, as re-enacted by	1 Geo. V. No. 24, s. 27
Sections 127 to 129, both inclusive.	
Section 130, as re-enacted by	3 Ed. VII. No. 20 s. 11
(Except so much of Section 130 as relates to the granting of certificates of competency or service to masters and mates of steam or sailing vessels.)	
Sections 131 to 133, both inclusive.	
Sections 170 to 174, both inclusive.	
Sections 181 to 190, both inclusive.	
Schedule (5), as re-enacted by	4 Ed. VII. No. 18, s.
Section 3 of "The Marine Boards Amendment Act, 1893" (57 Vict. No. 15), is incorporated.	15
The following sections of "The Marine Boards Amendment Act, 1895" (59 Vict. No. 27), are incorporated:—	
Section 10.	
Section 11, as re-enacted by	8 Ed. VII. No. 31, s. 4
Section 23.	
Section 5 of "The Marine Boards Act, 1896" (60 Vict. No. 33), is incorporated, as re-enacted by	1 Geo. V. No. 24, s. 36
Sections 9 and 26 of "The Marine Boards Amendment Act, 1898" (62 Vict. No. 36), are incorporated.	
Section 7—except Subsection (3)—and Sections 8 and 9 of "The Marine Boards Amendment Act, 1904" (4 Edw. VII. No. 18), are incorporated.	
Section 31 of "The Marine Boards Act Amendment Act, 1910" (1 Geo. V. No. 24), is incorporated.	

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(4.)

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 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.

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 male 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.

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(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. A.D. 1913.

(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.

Booths, Ballot-boxes, &c.

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.

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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. 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.

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.

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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. A.D. 1913.

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 Trustees 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.

(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.

(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.

Provision 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 Election and Polls.

26. No money shall be paid by the Trustees for refreshments in connection with the conduct of an election or poll, and the only fees or expenses which shall

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Directions.

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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 the 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.

