

Acts reprinted pursuant to the Amendments Incorporation
Act, 1937

CONSTITUTION ACT, 1934-1961

LAND TAX ACT, 1936-1961

With notes of judicial decisions affecting sections of the reprinted Acts



CONSTITUTION ACT, 1934-1961.

BEING

CONSTITUTION ACT, 1934, No. 2151 OF 1934
[ASSENTED TO 18TH OCTOBER, 1934.]

AS AMENDED BY

- STATUTE LAW REVISION ACT, 1935, No. 2246 OF 1935
[ASSENTED TO 19TH DECEMBER, 1935.]
- CONSTITUTION ACT AMENDMENT ACT, 1936, No. 2336 OF 1936
[ROYAL ASSENT PROCLAIMED 25TH MARCH, 1937.]
- CONSTITUTION ACT AMENDMENT ACT, 1937, No. 2381 OF 1937
[ROYAL ASSENT PROCLAIMED 30TH MARCH, 1938.]
- CONSTITUTION ACT AMENDMENT ACT, 1939, No. 48 OF 1939
[ROYAL ASSENT PROCLAIMED 28TH MARCH, 1940.]
- CONSTITUTION ACT AMENDMENT ACT (No. 2), 1939, No. 49 OF 1939
[ROYAL ASSENT PROCLAIMED 28TH MARCH, 1940.]
- CONSTITUTION ACT AMENDMENT ACT, 1940, No. 31 OF 1940
[ASSENTED TO 21ST NOVEMBER, 1940.]
- CONSTITUTION ACT AMENDMENT ACT, 1942, No. 8 OF 1942
[ASSENTED TO 22ND OCTOBER, 1942.]
- CONSTITUTION ACT AMENDMENT ACT, 1943, No. 41 OF 1943
[ROYAL ASSENT PROCLAIMED 27TH MARCH, 1944.]
- CONSTITUTION ACT AMENDMENT ACT, 1947, No. 19 OF 1947
[ASSENTED TO 6TH NOVEMBER, 1947.]
- PUBLIC FINANCE ACT, 1949, No. 48 OF 1949
[ASSENTED TO 1ST DECEMBER, 1949.]
- CONSTITUTION ACT AMENDMENT ACT, 1950, No. 38 OF 1950
[ASSENTED TO 30TH NOVEMBER, 1950.]
- CONSTITUTION ACT AMENDMENT ACT, 1951, No. 4 OF 1951
[ASSENTED TO 6TH SEPTEMBER, 1951.]
- CONSTITUTION ACT AMENDMENT ACT (No. 2), 1951, No. 52 OF 1951
[ROYAL ASSENT PROCLAIMED 6TH MARCH, 1952.]
- CONSTITUTION ACT AMENDMENT ACT, 1953, No. 28 OF 1953
[ROYAL ASSENT PROCLAIMED 3RD DECEMBER, 1953.]
- CONSTITUTION ACT AMENDMENT ACT (No. 2), 1953, No. 56 OF 1953
[ROYAL ASSENT PROCLAIMED 24TH JUNE, 1953.]
- STATUTES AMENDMENT (PUBLIC SALARIES) ACT, 1955, No. 3 OF 1955
[ASSENTED TO 23RD JUNE, 1955.]
- CONSTITUTION ACT AMENDMENT ACT, 1955, No. 59 OF 1955
[ROYAL ASSENT PROCLAIMED 8TH DECEMBER, 1955.]
- CONSTITUTION ACT AMENDMENT ACT, 1959, No. 39 OF 1959
[ROYAL ASSENT PROCLAIMED 17TH DECEMBER, 1959.]
- STATUTES AMENDMENT (PUBLIC SALARIES) ACT, 1960, No. 8 OF 1960
[ASSENTED TO 19TH MAY, 1960.]
- AND
- CONSTITUTION ACT AMENDMENT ACT, 1961, No. 24 OF 1961
[ROYAL ASSENT PROCLAIMED 22ND FEBRUARY, 1962.]

An Act to consolidate certain laws relating to the Constitution of the State, and for other purposes incidental thereto.

BE IT ENACTED by the Governor of the State of South Australia, with the advice and consent of the Parliament thereof, as follows:

PART I.

PART I.

PRELIMINARY.

Short title and commencement.

1. This Act may be cited as the "Constitution Act, 1934-1961," and shall come into operation on a day to be fixed by proclamation.

Repeal.

2. The Acts set out in the first schedule are repealed to the extent shown in that schedule.

Division of Act.

3. This Act is divided into Parts as follows:—

PART I.—Preliminary: sections 1-3.

PART II.—The Legislature: sections 4-64.

PART III.—The Executive: sections 65-73.

PART IV.—The Judiciary: sections 74 and 75.

PART II.

PART II.

THE LEGISLATURE.

General Provisions.

Constitution of the Parliament.
2, 1855-6,
s. 1.

4. There shall be a Legislative Council and a House of Assembly which shall be called the Parliament of South Australia, and shall be constituted in the manner provided by this Act.

Powers of the Parliament.
2, 1855-6,
s. 1.

5. The Legislative Council and House of Assembly shall have and exercise all the powers and functions formerly exercised by the Legislative Council constituted pursuant to section 7 of the Act of the Imperial Parliament, 13 and 14 Victoria, Chapter 59, entitled "An Act for the better Government of Her Majesty's Australian Colonies."

Place and time for holding Sessions of Parliament.
2, 1855-6,
s. 2.

6. (1) The Governor may—

(a) fix such places and times for holding every session of the Parliament as he thinks fit:

- (b) from time to time change any such place or time as he judges advisable and most consistent with general convenience and the public welfare:
- (c) prorogue the Parliament from time to time:
- (d) dissolve the House of Assembly by proclamation or otherwise whenever he deems it expedient:

Provided that this section shall not authorize the Governor to dissolve the Legislative Council.

(2) The Governor shall give sufficient notice of the time and place fixed for holding every session of Parliament, and of any change thereof.

7. There shall be a session of the Parliament once at least in every year; so that a period of twelve calendar months shall not intervene between the last sitting of the Parliament in one session and the first sitting of the Parliament in the next session.

Sessions of Parliament.
2, 1855-6,
s. 3.

8. The Parliament may, from time to time, by any Act, repeal, alter, or vary all or any of the provisions of this Act, and substitute others in lieu thereof: Provided that—

Power of Parliament to alter this Act.
2, 1855-6,
s. 34.

(a) it shall not be lawful to present to the Governor, for His Majesty's assent, any Bill by which an alteration in the constitution of the Legislative Council or House of Assembly is made, unless the second and third readings of that Bill have been passed with the concurrence of an absolute majority of the whole number of the members of the Legislative Council and of the House of Assembly respectively:

(b) every such Bill which has been so passed shall be reserved for the signification of His Majesty's pleasure thereon.

9. The Parliament may, by any Act, define the privileges, immunities, and powers to be held, enjoyed, and exercised by the Legislative Council and House of Assembly, and by the members thereof respectively: Provided that no such privileges, immunities, or powers shall exceed those held, enjoyed, and exercised on the twenty-fourth day of October, eighteen hundred and fifty-six, by the House of Commons, or the members thereof.

Privileges of Parliament.
2, 1855-6,
s. 35.

10. Except as provided in the sections of this Act relating to money Bills, the Legislative Council shall have equal power with the House of Assembly in respect of all Bills.

Relative powers of Houses of Parliament.
1148, 1913,
s. 26.

Constitution Act, 1934-1961.

The Legislative Council.

Number of members of Legislative Council.
1148, 1913,
s. 7 (2).

11. The Legislative Council shall consist of twenty members, who shall be elected by the inhabitants of the State legally qualified to vote.

Qualification of member of Legislative Council.
2, 1855-6,
s. 5.

12. No person shall be capable of being elected a member of the Legislative Council unless—

- (a) he is at least thirty years of age; and
- (b) he is a British subject or legally made a denizen of the State; and
- (c) he has resided in the State for at least three years.

Term of service of Legislative Councillors.
959, 1908,
s. 10.

13. Subject to the provisions contained in this Act as to the dissolution of the Legislative Council, every member of the Council, except a member elected to fill a casual vacancy, shall occupy his seat for the term of six years at least, calculated as from the first day of March of the year in which he was last elected, and for such further period as is provided for in the next succeeding section: Provided that—

- (a) if the seat of any member of the Council becomes vacant by death, resignation, or otherwise before the expiration of his term of service, and a member is returned for the district in which the vacancy occurred, he shall hold office only for the unexpired term of the member whose seat has been vacated, and shall, for the purpose of retirement, be deemed to have been elected at the time when the last-mentioned member was elected or deemed to be elected:
- (b) where two or more members are so returned at the same time to fill vacated seats of unequal terms he who at the count of votes first received an absolute majority of votes shall hold the seat which has the longest term to run, and so on, and in the event of a tie the matter shall be determined by lot.

Periodical retirement of Legislative Councillors.
959, 1908,
s. 11.
1148, 1913,
s. 13.

14. Whenever the House of Assembly is dissolved by the Governor, or expires by effluxion of time, those members of the Legislative Council, not exceeding two for any Council district, who have completed the minimum term of service provided by the preceding section shall retire and vacate their seats, and subject to the provisions of this Act as to deadlocks, an election to supply the vacancies so created shall take place on the day of the next general election of the House of Assembly.

Order of retirement, 959, 1908, s. 12, 1148, 1918, s. 14.

15. The periodical retirement of members of the Legislative Council under the provisions of the last preceding section shall be determined as follows:—

- i. The members retiring in each Council district shall be those who have represented the district for the longest time, calculated from the date of their last election, and if, in accordance with the last preceding section, two members are to retire and there are not two who have represented the district for such longest time, then the two members to retire shall be the one who has represented the district for the longest time, calculated as aforesaid, and the member or one of the members who has or have represented the district for the next longest time, calculated as aforesaid:
- ii. If two or more members have represented the same Council district for an equal time, calculated as aforesaid, the order of retirement as between them shall be determined by the order in which at the count of votes at their election they respectively received an absolute majority of votes, so that he who last received an absolute majority of votes shall retire first and so on. If their position is equal in this respect, or if no poll was taken, the order of retirement between them shall be determined by lot:
- iii. The Legislative Council shall keep a roll of its members, containing all particulars necessary for the application of the foregoing rules as to their periodical retirement.

16. (1) Any member of the Legislative Council may resign his seat in the Council by writing under his hand, addressed to the President of the Council, and delivered to the President forthwith after the signing thereof, and upon the receipt of such resignation by the President the seat of the member shall become vacant.

Resignation of Legislative Councillors. 2, 1855-6, s. 11, 659, 1908, s. 24.

(2) If there is a vacancy in the office of the President of the Legislative Council, or if the President is absent from the State or incapacitated from performing the duties of his office the resignation may be delivered to the Governor, and when so delivered, shall have the same effect as if delivered to the President.

17. If any member of the Legislative Council—

- (a) without permission of the Council fails for twelve sitting days consecutively of any session of the Council to give his attendance therein; or

Vacation of seat in Council. 2, 1855-6, s. 12, 959, 1908, s. 19. Amended by 19, 1947, s. 3.

- (b) takes any oath or makes any declaration or act of acknowledgment or allegiance to any foreign prince or power; or
- (c) does, concurs in, or adopts any act whereby he may become a subject or citizen of any foreign state or power; or
- (d) becomes bankrupt; or
- (e) takes the benefit of any law relating to insolvent debtors; or
- (f) becomes a public defaulter; or
- (g) is attainted of treason; or
- (h) is convicted of a felony or any infamous crime; or
- (i) becomes of insane mind,

Cf. U.K.,
52, Geo. 3,
c. 144.

Cf. U.K.,
49 & 50,
Vict. s. 16.

his seat in the Council shall thereby become vacant.

Concurrent
writs of
Governor and
President.
959, 1908,
s. 22.

18. (1) Whenever a casual vacancy occurs in the Legislative Council at or near the time when the Governor is issuing, or is about to issue, a writ or writs for periodical or other elections of members of the Council, and the casual vacancy is to be filled, the President shall in his writ for filling that vacancy fix, if practicable, the same days for nomination and polling respectively as are fixed by the Governor in the writ or writs issued by him.

(2) The elections so ordered for the same day shall in each district be conducted as one election for all the members to be so elected therein, one and the same form of voting paper being used for all voters; and the Returning Officer shall indorse upon the writ issued by the Governor the names of the elected candidates who, being the number therein required, first obtained an absolute majority of votes, and the names of the remaining elected candidate or candidates he shall indorse upon the writ issued by the President. If two or more elected candidates obtain an absolute majority of votes at the same time the Returning Officer shall, by drawing lots, decide which of such candidates is to be deemed, for the purpose of this section, to have first obtained an absolute majority and which next, and so on as the case requires.

Council
districts.
1148, 1913,
s. 9.

19. The State is hereby divided for the purpose of electing members of the Legislative Council into five Council districts, which shall respectively—

- (a) be distinguished by the names, and
 - (b) return the number of members, and
 - (c) comprise the Assembly districts,
- set forth in the second schedule to this Act.

20. (1) Subject to the next three succeeding sections, the following persons, and no others, shall be entitled to vote at the election of members of the Legislative Council, namely:—

Qualifications of electors for Council elections.
1148, 1913, s. 17.
1835, 1918, s. 3.
Amended by 31, 1940, s. 3, and 41, 1943, s. 3.

- i. Any person who has a freehold estate in possession, either legal or equitable, in any land situate within the State, which estate is of the clear value of at least fifty pounds above all charges and encumbrances affecting the same:
- ii. Any person who has a leasehold estate in possession, in any land situate within the State, which estate is of the clear annual value of at least twenty pounds:

Provided that the lease thereof—

- (a) has been registered in the Lands Titles Registration Office or the General Registry Office for the registration of deeds, and
 - (b) was, when granted, for a term of not less than three years, or contains a clause authorising the lessee to become the purchaser of the land thereby demised;
- iii. Any person who is registered, in the Lands Titles Registration Office or the General Registry Office for the registration of deeds, as the proprietor of a lease from the Crown of land situate within the State, upon which land there are improvements to the value of at least fifty pounds, which improvements are the property of such person; and
 - iv. any person who is an inhabitant occupier, as owner or tenant, of any dwelling-house: Provided that no person shall be entitled to vote by reason of being a joint occupier of any dwelling-house.

(2) When a person inhabits any dwelling-house by virtue of any office, service, or employment, and the dwelling-house is not inhabited by any person under whom the first-mentioned person serves in such office, service, or employment, the first-mentioned person shall be deemed, for the purposes of subdivision iv. of subsection (1) hereof to be an inhabitant occupier of such dwelling-house as a tenant.

(3) A person shall not be deemed to be an inhabitant occupier of a dwelling-house unless he, or some member of his family, ordinarily sleeps and has meals therein; and he shall not necessarily be deemed to be an inhabitant occupier thereof by reason only of the fact that he, or some member of his family, ordinarily sleeps and has his meals therein.

Constitution Act, 1934-1961.

(4) In this section the term "dwelling-house" means any structure of a permanent character, being a fixture to the soil, which is ordinarily capable of being used for human habitation and includes part of a building when that part is separately occupied as a dwelling: Provided that when a dwelling-house is only part of a building and any other part thereof is in the occupation as a dwelling of some person other than the occupier of the first-mentioned part, the first-mentioned part shall not be a dwelling-house within the meaning of this section, unless it is structurally severed from such other part of the building, and there is no direct means of access between such parts.

(5) For the purposes of this section, the following persons only shall be deemed to be members of a family:—Husband, wife, father, mother, grand-father, grand-mother, step-father, step-mother, son, daughter, grand-son, grand-daughter, step-son, step-daughter, brother, sister, half-brother, half-sister.

(6) In this section the term "improvements" means substantial and permanent improvements, consisting of buildings, fencing, dams, tanks, wells, or reservoirs, or clearing, or drainage, or irrigation works.

20a. (1) Subject to the next two succeeding sections, the following persons shall also be entitled to vote at the election of members of the Legislative Council, namely:—

i. Any person who is or has been a member of a naval, military, or air force of the Commonwealth during any war in which the Commonwealth is or has been engaged and who—

(a) voluntarily enlisted in that force; or

(b) whether he voluntarily enlisted or not, served in that force outside the Commonwealth, or in an evacuated area:

ii. Any person who is or has been a member of a naval, military, or air force of any other part of His Majesty's Dominions during the war in which His Majesty is or has been engaged and who during that war served in that force outside the part of His Majesty's Dominions in which the force was raised:

iii. Any person who during a war in which the Commonwealth is or has been engaged was domiciled in any State of the Commonwealth and whilst so domiciled is or has been employed in any capacity in sea-going service on a ship other than a ship belonging to a Navy.

(2) A person shall not be entitled to vote by virtue of this section—

- (a) if he has been discharged from service in the naval, military, or air force, or from his employment on a ship because of his own default or misconduct;
- (b) unless he is enrolled on the roll for a subdivision of a council district;
- (c) unless he is a British subject.

(3) A person who, if enrolled, would be entitled to vote by virtue of this section, shall be entitled to be enrolled on the roll for a subdivision of a council district—

- (a) if he has lived in that subdivision continuously for at least one month immediately before his claim for enrolment; or
- (b) in the case of a person who at the time of his claim for enrolment is on service as a member of a naval, military, or air force, if he had lived in that subdivision continuously for at least one month immediately before commencing service in that force.

(4) The expression “evacuated area” when used in this section in relation to any service shall mean an area from which at the time of the service the civil population was evacuated pursuant to the order of a Minister of the Crown or an officer of a naval, military, or air force.

21. No person shall be entitled to vote at an election for a member or members of the Legislative Council unless—

- (a) he is at least twenty-one years of age;
- (b) he is a British subject;
- (c) he is an inhabitant of the State;
- (d) he has resided in the State at least six months prior to the registration of his electoral claim;
- (e) he is at the time of the election registered on the electoral roll for the Council district in which the election is held:

Provided that the requirements as to age and six months' residence in the State shall not apply to any person entitled to vote by reason of war service or service in a ship as provided in the preceding section.

22. No person who is of unsound mind and no person attainted of treason, or who has been convicted and is under sentence or subject to be sentenced for any offence punishable under the law of any part of the King's Dominions by imprisonment for one year or longer shall be entitled to vote at any election for a member or members of the Legislative Council.

Disqualifications for voting for Council.
1148, 1913, s. 17 (Pt.) and s. 18.
1929, 1929, s. 192.
Cf. U.K., 7 & 8, Will 3, c. 25, s. 7.
Amended by 41, 1943, s. 5.

Disqualifications for voting for Council.
Substituted by 41, 1943, s. 6.

Constitution Act, 1934-1961.

Election of
President of
Legislative
Council.
2, 1855-6,
s. 7.

23. (1) The Legislative Council shall, at its first meeting, and before proceeding to the dispatch of any other business, elect some member of the Council to be the President thereof, and as often as the place of the President becomes vacant by death, resignation, vacation of seat, or removal by a vote of the Council, the Council shall again elect some other member to be the President thereof.

(2) The President so elected shall preside at all meetings of the Council.

(3) The election of the President of the Council shall be notified to the Governor by a deputation of the Council.

Absence of
President.
2, 1855-6,
s. 9.

24. If the President of the Legislative Council is absent in consequence of leave of absence granted to him by the Council, or of illness, or other unavoidable cause, the Council may choose some other member of the Council to fill temporarily the office and perform the duties of the President during his absence.

Continuance
of President
in office after
dissolution or
retirement.
496, 1890,
ss. 1 and 3.
Cf. U.K.,
9 & 10,
Vict., c. 77,
s. 5.

25. (1) If the President of the Legislative Council vacates his seat by periodical retirement, or by reason of the dissolution of the Council, he shall nevertheless be and be deemed to be, the President of the Council until the next meeting of Parliament, unless he is not re-elected a member of the Council.

(2) This section shall not enable any person continued in the office of President by this section to preside at any meeting of the Legislative Council.

Quorum of
Council.
2, 1855-6,
s. 10.
959, 1908,
s. 13.

26. (1) The Legislative Council shall not be competent to proceed with the dispatch of business unless there are present, including the President, or the person chosen to preside in his absence, at least ten members of the Council.

(2) All questions which arise shall be decided by a majority of the votes of those members of the Council who are present exclusive of the President, or the person chosen as afore-said, who shall be allowed a casting vote.

The House of Assembly.

Number of
members of
House of
Assembly.
1148, 1913,
s. 8 (2).
Amended by
2236, 1936,
s. 5.

27. The House of Assembly shall consist of thirty-nine members who shall be elected by the inhabitants of the State legally qualified to vote.

28. (1) Every House of Assembly shall continue for three years from the day on which it first meets for the dispatch of business, subject nevertheless to be sooner prorogued or dissolved by the Governor and subject to the following provisions:—

Term of House of Assembly.
2, 1855-6, s. 3.
959, 1908, s. 15.
2141, 1933, s. 3.
Of U.K., 6 & 7, Will & Mar., c. 2, s. 1;
1, Geo. 1, Stat. 2, c. 39; 1 & 2, Geo. 5, c. 13, s. 7.
Amended by 2381, 1937, s. 3, and by 49, 1939, s. 3.

(a) if the said period of three years would expire between the thirtieth day of September and the first day of March next thereafter, the House of Assembly shall continue up to and including the day preceding the said first day of March and no longer:

(b) if the said period of three years would expire between the last day of February and the first day of October next thereafter, the House of Assembly shall cease and determine on the said last day of February.

* * * * *

Subsec. (2) repealed by 2381, 1937, s. 3.

29. Any person qualified and entitled to be registered as an elector in and for any electoral district shall be qualified and entitled to be elected a member of the House of Assembly for any electoral district.

Qualification of Member of House of Assembly.
2, 1855-6, s. 14.

30. (1) Any member of the House of Assembly may resign his seat in the House by writing under his hand addressed to the Speaker of the House, and delivered to the Speaker forthwith after the signing thereof, and upon the receipt of such resignation by the Speaker, the seat of the member shall become vacant.

Resignation of seats in the Assembly.
2, 1855-6, s. 23.

(2) If there is a vacancy in the office of Speaker or if the Speaker is absent from the State or incapacitated from performing the duties of his office, the resignation may be delivered to the Governor and when so delivered shall have the same effect as if delivered to the Speaker.

31. If any member of the House of Assembly—

(a) for twelve sitting days consecutively of any session of the House of Assembly without the permission of the House entered upon its journals fails to give his attendance in the House; or

Vacation of seats in the Assembly.
2, 1855-6, s. 25.
959, 1908, s. 19.
Of U.K., 15, Geo. 2, c. 22, s. 1.
Amended by 19, 1947, s. 4.

s. 31. STOTT V. PARKER (1939) S.A.S.R. 98. A member of the House of Assembly called meetings of his creditors under Part XI. of the Commonwealth Bankruptcy Act and those meetings resolved to accept a composition in satisfaction of claims and also resolved that the holding of the meetings should not be an act of bankruptcy. The Speaker, who had been advised that the member's seat had become vacant, withheld the salary of the member. Held, upon a petition of right by the member for payment of his Parliamentary salary, that the petition was cognizable by the Court, but that the Court had no jurisdiction to determine

PART II.

- (b) takes any oath or makes any declaration or acknowledgment of allegiance, obedience, or adherence to any foreign prince or power; or
- (c) does, concurs in, or adopts any act whereby he may become a subject or citizen of any foreign state or power; or
- (d) becomes entitled to the rights, privileges, or immunities of a subject or citizen of any foreign state or power; or
- (e) becomes bankrupt or an insolvent debtor within the meaning of the laws in force in the State relating to bankrupts or insolvent debtors; or
- (f) becomes a public defaulter; or
- (g) is attainted of treason; or
- (h) is convicted of a felony or any infamous crime; or
- (i) becomes of unsound mind,

U.K.,
Geo. 5,
c. 144.

U.K.,
19 & 50,
Vict., c. 16.

his seat in the House of Assembly shall thereby become vacant.

Assembly
Districts.
1148, 1913,
s. 10 (2) 11.
Amended by
2236, 1936,
s. 6.

32. (1) For the purpose of electing members of the House of Assembly, the State shall be divided into thirty-nine electoral districts, which shall respectively be distinguished by the names and comprise the portions of the State set forth in the third schedule to this Act. Each such electoral district shall return one member.

(2) Every Assembly District shall also be an electoral division of the Council District within which it is comprised.

Qualification
of electors
for House of
Assembly.
876, 1904,
s. 4.
1446, 1920,
s. 53.
U.K.,
7 & 8,
Will. 3, c. 25,
s. 7.

33. (1) Subject to the disqualifications set out in subsection (2) of this section, each of the following persons shall be entitled to vote at an election for a member or members of the House of Assembly if at the time of the election he is enrolled on the electoral roll for a subdivision of the Assembly district in which the election is held:

Every person who—

- (a) is at least twenty-one years of age; and
- (b) is a British subject; and
- (c) has lived continuously in the Commonwealth for at least six months and in the State for at least three months and in an Assembly sub-division for at least one month immediately preceding the date of his claim for enrolment; and

* * * * *

Subsection
(1) sub-
stituted by
31, 1940,
s. 4, and
amended by
41, 1943,
s. 7.

s. 31.
(contd.)

the matter upon which the salary depended and accordingly, that until the House of Assembly had determined whether the member was entitled to sit and vote, the Court could not adjudicate on his claim to be paid his salary.

Semble, the Commonwealth Bankruptcy Act is a law in force in South Australia relating to bankruptcy and insolvent debtors and a debtor who takes the benefit of that law is an insolvent debtor within the meaning of section 31.

(2) No person who is of unsound mind, and no person attainted of treason, or who has been convicted and is under sentence or subject to be sentenced for any offence punishable under the law of any part of the King's Dominions by imprisonment for one year or longer, shall be entitled to vote at any election of members of the House of Assembly.

33a. (1) Subject to the disqualifications set out in subsection (2) of section 33 of this Act, the following persons shall also be entitled to vote at the election of members of the House of Assembly, namely:—

Assembly franchise based on war service. Inserted by 41, 1943, s. 8.

i. Any person who is or has been a member of a naval, military, or air force of the Commonwealth during any war in which the Commonwealth is or has been engaged and who—

(a) voluntarily enlisted in that force; or

(b) whether he voluntarily enlisted or not, served in that force outside the Commonwealth or in an evacuated area;

ii. Any person who is or has been a member of a naval, military, or air force of any other part of His Majesty's Dominions during the war in which His Majesty is or has been engaged and who during that war served in that force outside the part of His Majesty's Dominions in which the force was raised;

iii. Any person who during a war in which the Commonwealth is or has been engaged was domiciled in any State of the Commonwealth and whilst so domiciled is or has been employed in any capacity in sea-going service on a ship other than a ship belonging to a Navy.

(2) A person shall not be entitled to vote by virtue of this section—

(a) if he has been discharged from service in the naval, military, or air force or from his employment on a ship because of his own default or misconduct;

(b) unless he is a British subject;

(c) unless he is enrolled on the roll for a subdivision of an Assembly district.

(3) A person who, if enrolled would be entitled to vote by virtue of this section shall be entitled to be enrolled on the roll for a subdivision of an Assembly district:—

(a) if he has lived in that subdivision continuously for at least one month immediately before his claim for enrolment; or

(b) in the case of a person who at the time of his claim for enrolment is on service as a member of a naval, military, or air force, if he had lived in that subdivision continuously for at least one month immediately before commencing service in that force.

(4) The expression “evacuated area” when used in this section in relation to any service shall mean an area from which, at the time of the service, the civil population was evacuated pursuant to the order of a Minister of the Crown or an officer of a naval, military, or air force.

34. (1) The members of the House of Assembly shall, upon the first assembling after every general election, proceed forthwith to elect one of their number to be Speaker, and in case of his death, resignation, or removal by a vote of the House, the said members shall forthwith proceed to elect another of their number to be Speaker.

(2) The Speaker so elected shall preside at all meetings of the House of Assembly.

(3) The election of the Speaker shall be forthwith notified to the Governor by a deputation of the House.

35. If the Speaker of the House of Assembly is absent in consequence of leave of absence granted to him by the House, or of illness or other unavoidable cause, the House may choose some other member of the House to fill temporarily the office and perform the duties of the Speaker during his absence.

36. (1) In case of any dissolution of Parliament the Speaker of the House of Assembly at the time of the dissolution shall be, and shall be deemed to be, the Speaker of the House until the first meeting of the new Parliament, unless he is not re-elected a member of the House; and the Chairman of Committees at the time of the dissolution shall be, and shall be deemed to be, the Chairman of Committees until

Election of
the Speaker.
2, 1855-6,
s. 19.

Absence of
Speaker.
2, 1855-6,
s. 20.
Cf. U.K.,
18 & 19,
Vict., c. 84.

Continuance
in office of
Speaker and
Chairman of
Committees
after
dissolution.
496, 1890,
ss. 2, 3.
Cf. U.K.,
9 & 10,
Vict. c. 77,
s. 5.

the first meeting of the new Parliament, unless he is not re-elected a member of the House.

(2) This section shall not enable any person continued in the office of Speaker by this section to preside at any meeting of the House of Assembly.

37. (1) The House of Assembly shall not be competent to proceed with the dispatch of business unless there are present, including the Speaker or the person chosen to preside in his absence, at least fifteen members of the House.

Quorum; division; casting vote. 2, 1855-6, s. 21. 959, 1908, s. 14. 1029, 1910, s. 9.

(2) All questions which arise in the House of Assembly shall be decided by the majority of votes of the members present, other than the Speaker or person aforesaid.

(3) When the votes are equal the Speaker or person aforesaid shall have the casting vote.

Both Houses of Parliament.

38. The privileges, immunities, and powers of the Legislative Council and House of Assembly respectively, and of the committees and members thereof respectively, shall be the same as but no greater than those which on the twenty-fourth day of October, eighteen hundred and fifty-six, were held, enjoyed, and exercised by the House of Commons and by the committees and members thereof, whether such privileges, immunities, or powers were so held, possessed, or enjoyed by custom, statute, or otherwise.

Privileges, powers, etc., of Council and Assembly. 14, 1872, s. 1. Stat. 1608, 1, Jac. 1, s. 13.

39. No member of the Parliament shall be entitled to set up or claim any of the privileges, immunities, or powers to which he may be entitled by virtue of the last preceding section, as against any summons, subpoena, writ, order, process, or proceeding whatsoever issued by any court of law within the said province: Provided that—

Privileges against legal proceedings abolished. 430, 1888. Cf. U.K., 10, Geo. 3, c. 50, ss. 1, 2.

(a) no writ of *capias ad satisfaciendum* shall be executed or put into effect against any such member during any session of Parliament or within ten days prior to the meeting thereof; and

(b) no member shall be liable to any penalty or process for non-attendance as a witness in any court when such non-attendance is occasioned by his attendance in his place in Parliament.

40. Any copy of the journals of the House of Commons printed, or purporting to be printed, by the order or printer of the House of Commons shall be received as *prima facie* evidence, without proof of its being such copy, upon any

Evidence of privileges. 14, 1872, s. 2.

s. 38. WICKLEIN v. WARD, SWINDEN v. WARD (1880) 14 S.A.L.R. 21. Held (before the enactment of Act 430, 1888, now section 39 of this Act), that a member of Parliament was privileged from arrest for 40 days after prorogation, and for a like period before the re-assembling of Parliament.

Constitution Act, 1934-1961.

inquiry touching the privileges, immunities, and powers of the Legislative Council or House of Assembly, or of any committee or member thereof, respectively.

Settlement of
deadlocks.
1959, 1968,
s. 21.

41. (1) Whenever—

- (a) any bill has been passed by the House of Assembly during any session of Parliament; and
- (b) the same bill or a similar bill with substantially the same objects and having the same title has been passed by the House of Assembly during the next ensuing Parliament; and
- (c) a general election of the House of Assembly has taken place between the two Parliaments; and
- (d) the second and third readings of the bill were passed in the second instance by an absolute majority of the whole number of members of the House of Assembly; and
- (e) both such bills have been rejected by the Legislative Council or failed to become law in consequence of any amendments made therein by the Legislative Council,

it shall be lawful for but not obligatory upon the Governor within six months after the last rejection or failure—

- (i) to dissolve the Legislative Council and House of Assembly by proclamation to be published in the *Gazette*; or
- (ii) to issue writs for the election of two additional members for each Council district.

(2) If the Legislative Council and House of Assembly are so dissolved—

- (a) all the members of both Houses of Parliament shall thereupon vacate their seats and members shall be elected to supply the vacancies so created; and
- (b) the order of retirement as between members of the Legislative Council elected after such dissolution shall be as provided in section 15 of this Act and one-half of such members shall retire after three years' service calculated from the first day of March of the year of their election or after such further period as is provided for in section 14.

(3) If writs for the election of additional members of the Council are issued, after the issue of such writs no vacancy whether arising before or after the issue thereof shall be filled except as may be necessary to bring the representation

of the district in which the vacancy occurs to its proper number as set forth in the second schedule of this Act. Whenever there are more seats vacated by members returned for the same district than there are seats to be filled and such members' seats were of unequal tenure the seats of those members the unexpired portions of whose terms are the shorter shall be first filled.

42. (1) No member of Parliament shall be permitted to sit or vote therein until he has taken and subscribed the following oath before the Governor, or before some person or persons authorised by the Governor to administer such oath:—

Oath of allegiance. 959, 1908, s. 23. Cf. U.K., 29 & 30, Vict., c. 19, s. 1.

“I do sincerely promise and swear that I will be faithful and bear true allegiance to His Majesty King GEORGE THE FIFTH as lawful Sovereign of Great Britain and Ireland, and of this State of South Australia and its Dependencies in the Commonwealth of Australia, dependent on and belonging to the said Great Britain; and that I will defend him to the utmost of my power against all traitorous conspiracies and attempts whatsoever which shall be made against His person, crown, and dignity; and that I will do my utmost endeavour to disclose and make known to His Majesty, His heirs and successors, all treasons and traitorous conspiracies and attempts, which I shall know to be against Him, or any of them: And all this I do swear without any equivocation, mental evasion, or secret reservation, and renouncing all pardons and dispensations from any person or persons whatever to the contrary. So HELP ME GOD!”

(2) It shall not be necessary for any member of Parliament who has taken the oath prescribed herein to take the said oath again in the event of the demise of the Crown; such oath shall be deemed to relate to the Sovereign, His heirs, and successors according to law, and the name of the Sovereign for the time being shall be substituted as occasion requires.

(3) Nothing in this section shall be deemed to affect the operation of “The Affirmations Act, 1896,” which entitles any person to make an affirmation in lieu of taking any oath required by this Act.

43. Whenever any question arises respecting any vacancy in either House of Parliament it shall be heard and determined by the House in which the vacancy occurred.

Determination of questions of vacancy. 2, 1855-6, s. 13.

s. 42 (3). The Affirmations Act, 1896, has been repealed and superseded by the Oaths Act, 1936.

PART II.

Disqualification of Judges and ministers of religion.
2, 1855-6, s. 36.
Cf. U.K., 7, Geo. 2, c. 16, s. 4; 41, Geo. 3, c. 63, s. 1.

44. No judge of any court of the State, and no clergyman or officiating minister shall be capable of being elected a member of the Parliament.

Disqualification of members holding offices of profit.
2, 1855-6, s. 17.
Cf. U.K., 5, Will. & Mar., c. 7, s. 59; 12 & 13, Will. 3, c. 10, s. 87.

45. If any member of the Parliament accepts any office of profit or pension from the Crown, during pleasure, excepting those offices which are required by this Act to be held by members of Parliament, his seat shall be thereupon and is hereby declared to be vacant.

Effect of election of disqualified person.
2, 1855-6, s. 18.
19, 1869-70, s. 6.
Cf. U.K., 15, Geo. 2, c. 22, s. 2.

46. (1) If any person by this Act disabled from or declared to be incapable of voting or sitting in Parliament is, nevertheless, elected and returned as a member to serve in Parliament for any electoral district, his election and return shall be void to all intents and purposes whatsoever.

(2) If any person so elected and returned, contrary to the provisions of this Act, sits or votes as an elected member of Parliament he shall forfeit the sum of five hundred pounds, to be recovered by any person who sues for it in the Supreme Court or in any other court of record in the State having competent jurisdiction.

Crown pensioners qualified for election
Inserted by 48, 1939, s. 3.

46a. Notwithstanding any other provision of this Act a person who has been in the employment of the Crown and has retired from that employment, and has by virtue of that employment become entitled to a pension wholly or partly paid by the Crown, shall not, by reason only of the receipt of that pension—

(a) be disabled from or incapable of being elected as a member of the Parliament or of sitting and voting therein; or

(b) be liable to any forfeiture, fine, or other disability for so sitting and voting.

Prevention of membership of both Commonwealth and State Parliaments.
790, 1902, s. 2.
731, 1899, s. 3.

47. (1) No member of either House of the Parliament of the Commonwealth shall be a member of either House of the Parliament of the State.

(2) If any member of either House of the Parliament of the State is elected a member of either House of the Parliament of the Commonwealth he shall vacate his seat in the Parliament of the State on taking his seat in the Parliament of the Commonwealth.

PART II.

48. Women shall possess and may exercise the right to vote at parliamentary elections subject to the same qualifications and in the same manner as men.

Franchise for women. 613, 1894, ss. 1 & 2.

48a. A woman shall not be disqualified by sex or marriage for being elected to, or sitting or voting as a member of, either House of the Parliament.

Non-disqualification of women as members.

Inserted by 39, 1959, s. 3.

49. Any person who—

Disqualification of persons holding contracts for the Public Service. 19, 1869-70 s. 1. Cf. U.K., 22, Geo. 3, c. 45, s. 1.

(a) directly or indirectly, himself or by any person whatsoever in trust for him, or for his use or benefit, or on his account, undertakes, executes, holds, or enjoys in the whole or in part any contract, agreement, or commission made or entered into with, under, or from any person or persons whatsoever, for or on account of the Government of the State; or

(b) knowingly and willingly furnishes or provides in pursuance of any such agreement, contract, or commission made or entered into as aforesaid, any money to be remitted abroad, or any wares or merchandise to be used or employed in the service of the public; or

(c) is a member of any company, or holds any office or position in any company formed for the construction of any railway, or other public work, the payment for which, or the interest on the cost of which has been guaranteed by the State,

shall be incapable of being elected, or of sitting or voting as a member of the Parliament during the time he executes, holds, or enjoys any such contract, agreement, or commission, or office, or position, or any part or share thereof, or any benefit or emolument arising from the same.

50. If any person, being a member of the Parliament—

(a) directly or indirectly, himself or by any other person whatsoever in trust for him, or for his use or benefit, or on his account, enters into, accepts, agrees for, undertakes or executes in the whole or in part, any such contract, agreement, or commission as aforesaid; or

(b) having already entered into any such agreement or commission, or part or share of any such contract,

Avoidance of seat of members accepting or holding certain contracts. 19, 1869-70, s. 2.

s. 48a. THE QUEEN V. HUTCHINS; EX PARTE CHAPMAN AND COCKINGTON (1959) S.A.S.R. 189. Where two women were nominated as candidates for election to the Legislative Council and application was made to the Supreme Court for an order in the nature of mandamus directing the returning officer to reject the nomination of any woman as a candidate for election to the Legislative Council, held that the Supreme Court had no jurisdiction to make the order sought. Section 48a was enacted since this decision.

agreement, or commission, by himself, or by any other person whatsoever in trust for him, or for his use or benefit, or upon his account, continues to hold, execute, or enjoy the same, or any part thereof,

his seat in the Parliament shall be and is hereby declared to be void.

Exemptions.
19, 1868-70,
ss. 3 & 4.

51. Nothing contained in the preceding two sections shall extend—

- (a) to persons contributing towards any loan raised for public purposes under the authority of Parliament; nor
- (b) to the holders of any bonds issued under any Act authorising any such loan; nor
- (c) to any contract, agreement, or commission made, entered into, or accepted by any incorporated trading company in its corporate capacity, if that incorporated company consists of more than twenty persons, and the contract, agreement, or commission is made, entered into, or accepted for the general benefit of such incorporated company; nor
- (d) to any contract or agreement in respect of any lease, licence, or agreement in respect to the sale or occupation of any waste lands of the Crown, or Crown lands; nor
- (e) to any person on whom the completion of any contract, agreement, or commission devolves by descent, or limitation, or by marriage, or as devisee, or legatee, until twelve calendar months after he has been in possession of the same; nor
- (f) to any executor, or administrator, until three years after he has been in possession of the contract, agreement, or commission; nor
- (g) to the supply or provision or any contract for the supply or provision by or to the Government or by or to any person on behalf of the Government, of any goods, chattels or services where such goods, chattels or services are supplied or provided on no better terms than those on which they are ordinarily supplied or provided to members of the public; nor
- (h) to any loan made under any Act by the Government or by any person on behalf of the Government to any person who was not a member of the Parliament at the time when the loan was made.

Cf. U.K.,
22, Geo. 3,
c. 45, s. 3.

Cf. U.K.,
22, Geo. 3,
c. 45, s. 6.

Inserted by
48, 1939,
s. 4.

Inserted by
48, 1939,
s. 4.

52. (1) In every such contract, agreement, or commission made, entered into, or accepted as aforesaid, there shall be inserted an express condition that no member of the Parliament be admitted to any share or part of such contract, agreement, or commission, or to any benefit to arise therefrom.

Conditions to be inserted in all public contracts.
19, 1869-70, s. 5.
Cf. U.K., 22, Geo. 3, c. 45, s. 10.
Cf. U.K., 1, Geo. 1, Stat. 2, c. 56, s. 2.

(2) If any person who has entered into or accepted any such contract, agreement, or commission, admits any member of Parliament to any part or share thereof, or to receive any benefit thereby, he shall forfeit and pay the sum of five hundred pounds, to be recovered, with full costs of suit, by any person who sues for it in the Supreme Court, or in any other court of competent jurisdiction.

53. If any person disabled or declared by section 49 or 50 incapable of being elected, sits or votes as a member of either House of the Parliament, he shall forfeit the sum of five hundred pounds, to be recovered, with full costs of suit, by any person who sues for it in the Supreme Court or any other court of competent jurisdiction.

Sitting in Parliament whilst disqualified.
19, 1869-70, s. 6.
Cf. U.K., 1, Geo. 1, Stat. 2, c. 56, s. 2;
22, Geo. 3, c. 45, s. 9.

54. No person shall be liable to any forfeiture or penalty imposed by section 52 or 53 unless a prosecution is commenced within twelve calendar months after the forfeiture or penalty has been incurred.

Limitations of actions.
19, 1869-70, s. 7.
Cf. U.K., 22, Geo. 3, c. 45, s. 11.

54a. (1) Notwithstanding any other provision of this Act, the seat of a member of Parliament shall not be or become vacant and a member of Parliament shall not be liable to any forfeiture, fine, or other disability by reason only of the fact that—

Provisions as to members of Parliamentary committees and royal commissions.
Inserted by 48, 1939, s. 5.

(a) he accepts or holds office as the chairman or a member of any committee appointed by either House of Parliament or by both Houses of Parliament, or of any royal commission:

(b) as such chairman or member, he receives or is entitled to receive any salary, fees, allowances, or other emoluments.

(2) The election of any person as a member of Parliament shall not be affected by reason only of the fact that he holds any such office or receives or is entitled to receive any such salary, fees, or other emoluments.

PART II.

Standing
Rules and
Orders.
2, 1855-6,
s. 27.

55. (1) The Legislative Council and House of Assembly from time to time as there shall be occasion, shall prepare and adopt such Standing Rules and Orders as appear to the Council and Assembly respectively best adapted for—

- (a) the orderly conduct of the Council and Assembly respectively:
- (b) the regulation of the proceedings thereof and the dispatch of business therein:
- (c) the manner in which the Council and Assembly shall be presided over in case of the absence of the President or Speaker:
- (d) the mode in which the Council and Assembly shall confer, correspond, and communicate with each other relative to votes or Bills passed by or pending in the Council and Assembly respectively:
- (e) the proper passing, intituling, and numbering of the Bills to be introduced into and passed by the Council and Assembly:
- (f) the proper presentation of the same to the Governor for the time being, for His Majesty's assent:
- (g) the establishment of a Joint Standing Committee of both Houses to examine and report to the Council and the Assembly upon all regulations, rules, by-laws and orders (not being orders made in judicial proceedings) made pursuant to any Act of Parliament.

(2) All such rules and orders shall, by the Council and Assembly respectively, be laid before the Governor, and, being by him approved, shall become binding and of force.

(3) The Chairman of the Committee constituted by Standing Orders under paragraph (g) of subsection (1) of this section shall receive for his services as chairman, a salary at the rate of two hundred and fifty pounds a year, and each other member of the said committee shall receive for his services as member, a salary at the rate of one hundred and twenty-five pounds a year.

The said salaries shall be in addition to any other sums payable to the chairman and members in respect of their parliamentary duties.

(4) The Treasurer shall by virtue of this section and without any further appropriation pay the said salaries to the person entitled thereto in twelve equal monthly payments in each year.

Inserted by
2381, 1937,
s. 4.

Inserted by
48, 1939,
s. 6, and
amended by
3, 1955, s. 4
and by 8,
1960, s. 2.

Inserted by
48, 1939,
s. 6.

(5) The standing orders under paragraph (g) of subsection (1) of this section may provide—

Inserted by
33, 1950,
s. 3.

- (a) that the members of the committee constituted under those orders, may remain in office during the period between the dissolution or expiration of the House of Assembly and the appointment of their successors on the committee after the next election;
- (b) for the performance as far as possible of the work of the Committee during the said period;
- (c) for any matters consequential on or incidental to those mentioned in the preceding paragraphs of this subsection.

56. It shall be lawful for the Governor to transmit, by message, to the Council or Assembly, for their consideration, any amendment which he desires to be made in any Bill presented to him for His Majesty's assent and all such amendments shall be taken into consideration, in such convenient manner, as is provided in that behalf by the standing rules and orders.

Governor's
Message.
2, 1855-6,
s. 28.

57. (1) When any bill has passed its second reading in either House of Parliament, but has not been finally disposed of at the close of the session, the Bill shall not necessarily lapse by prorogation, but may, in the next session of the same Parliament, be restored to the stage reached in the previous session, and thereafter proceeded with as if no prorogation had intervened.

Restoration of
lapsed bills.
579, 1893,
ss. 1 & 2.

(2) The restoration provided for in this section shall be effected by carrying a motion that the bill be restored to the notice paper; and every such motion shall be put to the vote without debate, unless otherwise provided by the standing orders of the House in which the motion is made.

58. (1) The salary of the President of the Legislative Council shall be at least equal to the salary of the Speaker of the House of Assembly; and the salaries and allowances of the officers of the Legislative Council shall be the same as those of the corresponding officers of the House of Assembly.

Provision as
to President,
Speaker, and
officers.
2, 1855-6,
s. 37.
Cf. U.K.,
2 & 3, Will. 4,
c. 105, s. 1.

(2) The Chief Clerk for the time being of the Legislative Council, and of the House of Assembly shall respectively be removable from office only in accordance with a vote of the House in which he is an officer.

PART II.

Governor's
recommendation
for money
votes.
2, 1855-6,
s. 40.

59. It shall not be lawful for either House of the Parliament to pass any vote, resolution, or bill for the appropriation of any part of the Revenue, or of any tax, rate, duty, or impost, for any purpose which has not been first recommended by the Governor to the House of Assembly during the session in which such vote, resolution, or bill is passed.

Money Bills.

Interpretation
of secs. 60-63.
1148, 1918,
s. 21.
Of U.K.,
1 & 2, Geo. 5,
s. 18.

60. (1) In this and the next three sections the expressions "revenue," "public money," "taxation," and "loan" respectively do not include any revenue, money, taxation, or loan raised by local authorities or bodies for local purposes.

(2) For the purposes of this and the next three sections a bill, or a clause of a bill, shall not be taken to appropriate revenue or public money, or to deal with taxation, by reason only of its containing provisions for the imposition or appropriation of fines or other pecuniary penalties, or for the demand or payment or appropriation of fees for licences or fees for services under the proposed Act.

(3) For the purposes of the said sections a bill, or a clause of a bill, shall be taken to deal with taxation if it provides for the imposition, repeal, remission, alteration, or regulation of taxation.

(4) In the said sections—

"appropriation bill" means a bill for appropriating revenue or other public money:

"money bill" means a bill for appropriating revenue or other public money, or for dealing with taxation, or for raising or guaranteeing any loan, or for providing for the repayment of any loan:

"money clause" means a clause of a bill, which clause appropriates revenue or other public money, or deals with taxation, or provides for raising or guaranteeing any loan or for the repayment of any loan:

"previously authorised purpose" means—

(a) a purpose which has been previously authorised by Act of Parliament or by resolution passed by both Houses of Parliament; or

(b) a purpose for which any provision has been made in the votes of the Committee of Supply whereon an appropriation bill previously passed was founded.

61. A money bill, or a money clause, shall originate only in the House of Assembly.

Origin of money bills and money clauses.
1148, 1913, s. 23.

62. (1) The Legislative Council may not amend any money clause.

Power of Council as to money clauses.
1148, 1913, s. 24.

(2) Subject to subsection (3) of this section, the Council may return to the House of Assembly any bill containing a money clause with a suggestion to omit or amend such clause or to insert additional money clauses, or may send to the Assembly a bill containing suggested money clauses requesting, by message that effect be given to the suggestion; and the Assembly may, if it thinks fit, make any omission or amendment, or insertion so suggested, with or without modifications.

(3) Subsection (2) of this section applies to a money clause contained in an appropriation bill only when such clause contains some provision appropriating revenue or other public money for some purpose other than a previously authorised purpose or dealing with some matter other than the appropriation of revenue or other public money.

(4) When, under subsection (2) of this section, the Council sends to the Assembly a bill containing suggested money clauses, such clauses shall be printed in erased type, and shall not be deemed to form part of the bill.

63. A bill for appropriating revenue or other public money for any previously authorised purpose shall not contain any provision appropriating revenue or other public money for any purpose other than a previously authorised purpose.

Restriction on contents of ordinary appropriation bill.
1148, 1913, s. 25.

64. No infringement or non-observance of any provision of the preceding three sections shall be held to affect the validity of any Act assented to by the Governor.

Validity of Acts assented to.
1148, 1913, s. 27.

PART III.

PART III.

THE EXECUTIVE.

65. (1) The number of Ministers of the Crown shall not exceed eight.

Number of Ministers, and salaries payable.
959, 1908, s. 20.
1492, 1921, s. 3.
Amended by 19, 1947, s. 5 and by 28, 1953, s. 3.

(2) The Ministers of the Crown shall respectively bear such titles and fill such ministerial offices as the Governor from time to time appoints, and not more than five of the Ministers shall at one time be members of the House of Assembly.

PART III.

Substituted by
8, 1960,
s. 3.

(3) The total salaries and allowances to be paid to the Ministers of the Crown for their services in the discharge of their ministerial duties and in respect of expenses incurred in the discharge thereof shall not exceed seventeen thousand and fifty pounds. Such salaries and allowances shall be in addition to any amounts to which they are entitled under the Payment of Members of Parliament Act, 1948-1958.

Inserted by
4, 1951,
s. 3.

(4) This section, without further appropriation, shall be sufficient authority for the payment, in every financial year, of the salaries of Ministers out of the general revenue of the State.

Ministerial
offices.
Substituted by
28, 1953,
s. 4.

66. (1) No person shall hold office as a Minister of the Crown for more than three calendar months unless he is a member of Parliament.

(2) Every Minister of the Crown shall, *ex officio*, be a member of the Executive Council.

Appointment
of Acting
Ministers.
16, 1873,
s. 1.

67. (1) Whenever any Minister of the Crown, through ill health, temporary absence from the seat of government or from the State, or other like cause, is unable to perform the duties of his office, the Governor in Council may issue a Commission under his hand and the public seal of the State nominating and appointing one of the Ministers as Acting Minister in the place of the Minister unable to perform the duties of his office, during such inability.

(2) From and after the issue of the Commission, and during the continuance thereof, the Minister therein nominated and appointed shall have, exercise, possess, and enjoy all the powers, authorities, and discretions, and shall do and fulfil the acts and functions of the Minister in whose place and office he has been so nominated and appointed in as full, complete, and effectual a manner as the Minister in whose place and office he has been so appointed could have exercised, done, or fulfilled the same.

(3) No Minister who accepts the office conferred by any such Commission shall thereby accept, or be deemed to have thereby accepted, an office of profit within the meaning of this Act.

Appointment
of officers.
2, 1855-6,
s. 29.

68. The appointment to all public offices under the Government of the State, whether such offices be salaried or not, shall be vested in the Governor, with the advice and consent

s. 66. In *re* F. W. HOLDER, 3rd June, 1897; S.A. *Register* (newspr.); 6 Austn. Digest 62. Held that a person appointed as Acting Attorney-General need not be a legal practitioner.

of the Executive Council, except the appointment of the officers required by this Act to be members of Parliament, the appointment and dismissal of which officers shall be vested in the Governor alone: Provided that this section shall not extend to minor appointments, which by statute or by order of the Governor in Council are vested in Heads of Departments, or other officers or persons within the State.

69. (1) During the temporary absence of the Governor from the seat of Government or from the State or during the illness of the Governor all the powers and authorities conferred upon or vested in him by any statutory or other law of usage of the State, as well as the powers and authorities conferred upon or vested in him by the Letters Patent, shall and may be exercised, performed, and executed by the person appointed by him to be his Deputy during such absence or illness, subject, nevertheless, to anything expressed in the instrument appointing such Deputy.

Powers of Governor's Deputy.
1072, 1910, ss. 2 & 3.
Amended by 8, 1942, s. 3.

(2) In this and the next succeeding section—

“the Letters Patent” means the Letters Patent passed under the Great Seal of the United Kingdom of Great Britain and Ireland, bearing date the twenty-ninth day of October, one thousand nine hundred, whereby permanent provision was made for the office of Governor in and for the State of South Australia and its dependencies in the Commonwealth of Australia.

70. During such time as the powers and authorities granted to the Governor by the Letters Patent are vested in the Lieutenant-Governor, or any other person who is appointed to administer the Government of the State, the provisions of the preceding section shall apply to the person appointed to be the Deputy of the Lieutenant-Governor, or of the person appointed to administer the Government as aforesaid, during his temporary absence from the seat of Government or from the State or during his illness, subject nevertheless to anything expressed in the instrument appointing such Deputy.

Power of deputy of Lieutenant-Governor or Administrator.
1072, 1910, s. 4.
Amended by 8, 1942, s. 4.

71. No officer of the Government shall be bound to obey any order of the Governor involving any expenditure of public money, nor shall any warrant for the payment of money, or any appointment to or dismissal from office be valid, except as provided in this Act, unless the order, warrant, appointment, or dismissal is signed by the Governor, and countersigned by the Chief Secretary.

Signature and counter-signature of certain orders, warrants, etc.
2, 1855-6, s. 33.

PART III.

s. 72 repealed
by 48, 1949,
s. 2.

Salary of the
Governor.
1548, 1922,
ss. 2, 3, 5.

* * * * *

73. (1) The salary payable to the Governor shall be at the rate of five thousand pounds a year.

(2) There shall be payable to His Majesty every financial year out of the general revenue of the State for payment of the salary of the Governor, the sum of five thousand pounds.

(3) Notwithstanding the Taxation Act, 1927, the salary of the Governor provided for by this section shall be exempt from taxation under that Act.

Allowances to
Governor for
expenses.

Inserted by
52, 1951,
s. 3.

Paras. (a)
and (b)
substituted
by 24, 1961,
s. 3 (1).

73a. (1) In addition to the salary prescribed by section 73 of this Act, there shall be paid to the Governor—

(a) in respect of the whole of the financial year commencing on the first day of July one thousand nine hundred and sixty-one an expenses allowance at the rate of seven thousand pounds a year;

(b) in respect of each subsequent financial year an expenses allowance at an annual rate arrived at by dividing the sum of seven thousand pounds by $123\frac{2}{5}$ and multiplying the quotient by the consumer price index (as hereinafter defined) for the quarter ended on the thirty-first day of March preceding the commencement of the said financial year and by adjusting the product to the nearest multiple of fifty pounds.

(2) The said expenses allowance shall—

(a) accrue due from day to day;

(b) be apportionable in point of time; and

(c) be paid monthly by the Treasurer out of the general revenue of the State: Provided that the allowance in respect of the period between the thirtieth day of June nineteen hundred and fifty-one and the passing of the Constitution Act Amendment Act (No. 2) 1951 shall be paid in one sum as soon as is convenient after the passing of the said Act.

(3) Whenever in case of the death, incapacity, removal, or departure from the State of the Governor, the Government of the State is administered during any period by the Lieutenant-Governor, or any other person appointed for the purpose by His Majesty the King, the Treasurer may direct that the whole, or such part as in the circumstances he deems just, of the expenses allowance which would otherwise have been payable in respect of that period to

s. 73 (3). The Taxation Act, 1927, has been repealed and superseded by the Income Tax Assessment Act, 1936, section 24 of which exempts the salary of the Governor from State income tax.

the Governor, shall be paid to the Lieutenant-Governor or other person administering the Government of the State.

(4) The expenses allowance payable under this section shall be in addition to any salary or other payment to which the Governor is entitled under any other enactment.

(5) In this section the expression "consumer price index" means the quarterly consumer price index number for Adelaide prepared and published by the Commonwealth Statistician from time to time.

Substituted
by 24, 1961,
s. 3 (2).

73b. This Act without further appropriation, shall be sufficient authority for the payment from year to year by the Treasurer out of the general revenue of the State, of the salary of the Governor, and of the expenses allowance of the Governor, and of any money payable to the Lieutenant-Governor or any person administering the Government of the State, as provided for in this Part.

Financial
provisions.
Inserted by
52, 1951,
s. 3.

73c. (1) There shall also be paid to the Governor in each financial year an allowance for payment of the salaries of his staff, at the rate of two thousand six hundred and fifty pounds a year.

Allowance for
salaries of
staff.
Inserted by
56, 1953,
s. 3.

(2) The said allowance shall—

- (a) accrue due from day to day;
- (b) be apportionable in point of time;
- (c) be paid monthly by the Treasurer out of the general revenue of the State.

(3) Whenever the government of the State is administered during any period by the Lieutenant-Governor or any other person appointed for the purpose by His Majesty the King, the Treasurer may direct that the whole, or such part as in the circumstances he deems just, of the allowance which would otherwise have been payable to the Governor under this section in respect of that period shall be paid to the Lieutenant-Governor or other person administering the government of the State.

(4) This section, without further appropriation, shall be sufficient authority for the payment from year to year by the Treasurer out of the general revenue of the State of the allowance prescribed by this section.

(5) This section shall be deemed to have come into operation on the first day of July, nineteen hundred and fifty-three,

PART III.

and any arrears of the said allowance payable by virtue of this sub-section shall be paid in one sum as soon as is convenient after the enactment of this section.

PART IV.

PART IV.

THE JUDICIARY.

Tenure of
office of
Judges.
2, 1855-6,
s. 30.

74. The Commissions of all Judges of the Supreme Court shall be and remain in full force during their good behaviour, notwithstanding the demise of the King or of His heirs and successors, and notwithstanding any law, usage, or practice to the contrary.

Removal
from office
of Judges.
2, 1855-6,
s. 31.

75. It shall be lawful for the King, His heirs and successors to remove any Judge of the Supreme Court upon the address of both Houses of the Parliament.

s. 75. MEMORANDUM OF LORDS OF COUNCIL ON REMOVAL OF COLONIAL JUDGES (1869) 6 Moo. P. C. (N.S.) app. IX.-XX.; 5 Austr. Digest 14. *Seem*, there should be a hearing before the Privy Council before the Crown exercises the power of removal.

SCHEDULES.

THE FIRST SCHEDULE.

ACTS REPEALED.

Number of Act.	Title of Act.	Extent of Repeal.
No. 2 of 1855-6 .	The Constitution Act	The whole
No. 19 of 1869-70	An Act to prevent public Contractors being returned to or sitting or voting in Parliament	Do.
No. 14 of 1872 . .	An Act to repeal The Parliamentary Privilege Act and to make other provisions in lieu thereof	Do.
No. 5 of 1873 . .	The Constitution Amendment Act, 1873 . .	Do.
No. 16 of 1873 . .	An Act to enable His Excellency the Governor to appoint Acting Ministers of the Crown in certain cases	Do.
No. 28 of 1873 . .	An Act to increase the salaries of the Judges of the Supreme Court and of certain Officers of the Civil Service of the Province of South Australia	Do.
No. 430 of 1888 . .	An Act to amend an Act No. 14 of 1872, intituled "An Act to Repeal the Parliamentary Privilege Act, and to make other provisions in lieu thereof"	Do.
No. 453 of 1889 . .	An Act to amend the Civil List	Do.
No. 462 of 1889 . .	An Act to alter the Boundaries of certain Electoral Districts and Divisions, and for other purposes	Do.
No. 496 of 1890 . .	The Officers of Parliament Act	Do.
No. 579 of 1893 . .	The Lapsed Bills Continuance Act	Do.
No. 531 of 1893 . .	An Act to alter the Boundaries of the Electoral Districts and Divisions of Albert and Onkaparinga	Do.
No. 613 of 1894 . .	The Constitution Amendment Act, 1894	Do.
No. 636 of 1895 . .	An Act to alter the Boundaries of the Electoral Districts and Divisions of Burra and Stanley	Do.
No. 637 of 1895 . .	An Act to alter the boundaries of the Electoral Districts and Divisions of Gumeracha and Albert	Do.
No. 731 of 1899 . .	The Constitution Amendment Act, 1899 . .	Do.
No. 790 of 1902 . .	An Act to amend "The Constitution Amendment Act, 1899"	Do.
No. 876 of 1904 . .	The Electoral Laws Amendment Act, 1904 . .	s. 4 (2)
No. 959 of 1908 . .	The Constitution Amendment Act, 1908 . .	The whole
No. 1029 of 1910 . .	The Constitution Amendment Act, 1910 . .	Do.
No. 1065 of 1911 . .	The Governor's Appropriation Act, 1911 . .	Do.
No. 1072 of 1911-12 . .	The Deputy Governor's Powers Act, 1910 . .	Do.
No. 1087 of 1912 . .	The Governor's Appropriation Act Amendment Act, 1912	Do.
No. 1148 of 1913 . .	The Constitution Further Amendment Act, 1913	Do.
No. 1167 of 1914 . .	The Governor's Appropriation Act Further Amendment Act, 1914	Do.
No. 1210 of 1915 . .	Governor's Appropriation Act Further Amendment Act, 1915	Do.
No. 1135 of 1918 . .	Constitution Amendment (War Service Franchise) Act, 1918	Do.
No. 1446 of 1920 . .	Electoral Code Further Amendment Act, 1920	ss. 53, 54
No. 1492 of 1921 . .	Constitution Amendment (Ministers' Salaries) Act, 1921	The whole
No. 1548 of 1922 . .	Governor's Salary Act, 1922	Do.
No. 1929 of 1929 . .	Electoral Act, 1929	s. 192
No. 2141 of 1933 . .	Constitution (Quinquennial Parliament) Act, 1933	The whole

Amended by S.L.R. Act 1935.

Constitution Act, 1934-1961.

Substituted by
59, 1955,
s. 3.

THE SECOND SCHEDULE.

LEGISLATIVE COUNCIL ELECTORAL DISTRICTS.

CENTRAL DISTRICT No. 1 (Four Members).

Comprising the electoral divisions of Adelaide, West Torrens, Hindmarsh, Semaphore, Port Adelaide, Enfield, and Torrens.

CENTRAL DISTRICT No. 2 (Four Members).

Comprising the electoral divisions of Norwood, Burnside, Mitcham, Unley, Edwardstown, and Glenelg.

SOUTHERN DISTRICT (Four members).

Comprising the electoral divisions of Murray, Alexandra, Onkaparinga, Stirling, Gumeracha, Albert, Millicent, Victoria, and Mount Gambier.

MIDLAND DISTRICT (Four Members).

Comprising the electoral divisions of Gouger, Wallaroo, Yorke Peninsula, Light, Barossa, Angas, Ridley, and Gawler.

NORTHERN DISTRICT (Four Members).

Comprising the electoral divisions of Flinders, Eyre, Whyalla, Stuart, Port Pirie, Frome, Rocky River, Burra, and Chaffey.

Substituted by
59, 1955,
s. 3.

THE THIRD SCHEDULE.

HOUSE OF ASSEMBLY ELECTORAL DISTRICTS.

ELECTORAL DISTRICT OF NORWOOD.

Commencing at the intersection of Payneham Road with Wellington Road at the northern corner of preliminary section 279, Hundred of Adelaide; thence southerly along latter road; easterly along Cook and Marion Roads; southerly along Glynde Road to Kensington Road, Kensington Park; westerly along latter road to Dequetteville Terrace, Kent Town; north-westerly and northerly along said terrace and northerly along Hackney Road to the River Torrens; north-easterly along said river; south-easterly along Battams Road, Royston Park; thence north-easterly along Payneham Road to the point of commencement.

ELECTORAL DISTRICT OF BURNSIDE.

Commencing at the intersection of Kensington Road with the eastern boundary of City of Adelaide; thence easterly along Kensington Road to Burnside Road; northerly along Burnside and Glynde Roads; north-easterly along the Lower North-Eastern Main Road to the northern boundary of the Hundred of Adelaide; easterly and southerly along the northern and eastern boundaries of said hundred; south-westerly and easterly along the north-western and southern boundaries of section 997; southerly along the western boundaries of sections 827 and 826; south-westerly along the north-western boundary of section 991; easterly, south-westerly and north-westerly following the boundaries of section 855; southerly and westerly along the eastern and southern boundaries of section 1104; southerly along the western boundaries of sections 484 and 1107; westerly and southerly along the northern and western boundaries of section 1180; westerly along the southern boundaries of sections 919 and 906; southerly along the eastern boundaries of sections 1057, 1056 and 1054; westerly along the southern boundaries of sections 1054 and 1053; northerly, westerly and southerly following the boundaries of section 1001; south-easterly and south-westerly along the north-eastern and south-eastern boundaries of section 1284; generally westerly and north-westerly along the Main South-Eastern Road to the southern boundary of the City of Adelaide (Park Terrace); easterly and northerly along the southern and eastern boundaries of said city to the point of commencement.

ELECTORAL DISTRICT OF MITCHAM.

Commencing at a point being the intersection of the Adelaide and Nairne railway with Goodwood Road, Millswood; thence south-easterly along said railway to Northgate Street, Unley Park; easterly along said street to Unley Road; northerly along said road to Fisher Street, Malvern; easterly along said street to the Main South-Eastern Road; thence in a generally south-easterly direction along said main road, along the western and south-western boundaries of section 1286, Hundred of Adelaide, and along said Main South-Eastern Road to the eastern boundary of the hundred; generally southerly and westerly following the boundaries of said hundred to the eastern boundary of section 22, Hundreds of Adelaide and Noarlunga; northerly in Hundred of Adelaide along the eastern boundaries of sections 22 and 18 along the Adelaide and Nairne railway, the eastern boundaries of sections 14 and 12 and along Goodwood Road to the point of commencement.

ELECTORAL DISTRICT OF UNLEY.

Commencing at the south-western corner of City of Adelaide; thence easterly along Park Terrace to Glen Osmond Road; south easterly along said road to Fisher Street, Fullarton; westerly along said street to Unley Road; southerly along said road to Northgate Street, Unley Park; westerly along said street to Adelaide and Nairne railway; north-westerly along said railway to Goodwood Road, Millswood; southerly along said road to Cross Road, Clarence Park; westerly along said road to Main South Road; northerly along said main road to Anzac Highway; thence north-easterly along said highway to the point of commencement.

ELECTORAL DISTRICT OF EDWARDSTOWN.

Commencing at the intersection of Main South Road with Anzac Highway; thence southerly along said main road to Cross Road; easterly along said road to Goodwood Road, Clarence Park; southerly along latter road, the eastern boundaries of sections 12 and 14, Hundred of Adelaide, the Adelaide and Nairne railway and along the eastern boundaries of section 18 and section 22, Hundreds of Adelaide and Noarlunga, to the River Sturt; north-westerly along said river to Anzac Highway; thence easterly and north-easterly along said highway to the point of commencement.

ELECTORAL DISTRICT OF GLENELG.

Commencing at a point on the sea coast opposite the south-western corner of section 569, Hundred of Noarlunga; thence easterly along the southern boundaries of said section 569 and sections 506 and 510 to the Main South Road; generally north-north-easterly along said main road to the south-western boundary of the Hundred of Adelaide (River Sturt); north-north-westerly along said River Sturt to Anzac Highway; westerly along said highway and production to the sea coast; thence southerly along said sea coast to the point of commencement, together with the jetties along the sea coast.

ELECTORAL DISTRICT OF ADELAIDE.

Commencing at the intersection of West Beach Road with Marion Road, Richmond; northerly along Marion Road; easterly along Henley Beach Road; northerly along Hardy's Road; easterly along River Torrens; southerly along Hackney Road; southerly and south-easterly along Dequetteville Terrace; southerly along Victoria Avenue; westerly along Park Terrace; northerly along the western boundary of City of Adelaide to intersect the production easterly of West Beach Road; westerly along said production and road to the point of commencement.

ELECTORAL DISTRICT OF WEST TORRENS.

Commencing at the intersection of the production westerly of Anzac Highway with the sea coast; northerly along sea coast to a point opposite the north-western corner of section 1006, Hundred of Yatala; easterly to said corner and along the northern boundary of section 1006; northerly along the western boundary of section 452; easterly along Routledge Road, North Terrace, and Trimmer Parade; southerly along Findon Road; easterly along River Torrens; southerly along Hardy's Road; westerly along Henley Beach Road; southerly along Marion Road; easterly along West Beach Road and production to the western boundary of City of Adelaide; southerly along latter boundary; thence south-westerly and westerly along Anzac Highway and production to point of commencement, together with the jetties along sea coast.

ELECTORAL DISTRICT OF HINDMARSH.

Commencing at the intersection of Findon Road with River Torrens; northerly along Findon Road; westerly along Trimmer Parade; north-easterly along Woodville and Henley Beach railway; to the north-eastern boundary of Port Road;

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south-easterly along said boundary; north-easterly along the north-western boundary of preliminary section 376, Hundred of Yatala; south-easterly along Torrens Road; northerly along Days Road; easterly along the northern boundaries of sections 394 and 377; southerly along Churchill Road; south-easterly along Torrens Road; south-westerly along Park Terrace; thence generally westerly along the River Torrens to the point of commencement.

ELECTORAL DISTRICT OF SEMAPHORE.

Commencing at a point on the sea coast opposite the north-western corner of section 1006, Hundred of Yatala; northerly along sea coast (including Block 30, Hundred of Port Adelaide) to Pelican Point and easterly to the north-eastern corner of Lefevre Peninsula (Snapper Point); southerly along the western sides of Lipson Reach and Hindmarsh Reach; westerly along the northern side of Gawler Reach; southerly along the western side of Old Port Reach to the south-eastern corner of section 78, Hundred of Yatala; south-easterly across Old Port Reach to the western corner of Harbor Allotment 13; south-easterly along the north-eastern boundaries of Old Port Road and Port Road to the Woodville and Henley Beach railway; south-westerly along said railway; westerly along North Terrace, Seaton, and Routledge Road; southerly along the western boundary of section 452; westerly along the northern boundary of section 1006 and production to the point of commencement, together with jetties along the sea coast.

ELECTORAL DISTRICT OF PORT ADELAIDE.

Commencing at the western corner of preliminary section 376, Hundred of Yatala; thence north-easterly along its north-western boundary; south-easterly along Torrens Road; northerly along Days Road; westerly along Chapman Road, Woodville Gardens; northerly along Hanson Road; north-westerly along North Arm Road; north-easterly and northerly following the south-eastern and eastern sides of creek east of Garden and Torrens Island to a point west of the north-western corner of section 328, Hundred of Port Adelaide; west to the eastern side of Torrens Island; north-westerly and westerly along the north-eastern and northern sides of said island to Point Grey; south to Snapper Point and along the western side of Lipson Reach and Hindmarsh Reach; westerly along the northern side of Gawler Reach; southerly along the western side of Old Port Reach to the south-eastern corner of section 78, Hundred of Yatala; south-easterly across Old Port Reach to the southern corner of Harbor Allotment 13; thence south-easterly along the north-eastern boundary of Old Port Road and Port Road to the point of commencement.

ELECTORAL DISTRICT OF ENFIELD.

Commencing at the intersection of Grand Junction Road with North Arm Road; thence north-westerly along latter road; generally easterly following Port Adelaide loop line, Adelaide and Gawler railway and Dry Creek and Northfield railway; north-easterly along Adelaide and Dry Creek Main Road and Main North Road; generally easterly along road north of sections 690, 685, 3028, 3033 and 1570, Hundred of Yatala; southerly along the eastern boundaries of section 1570 and part section 1566 to centre of Dry Creek; generally south-westerly following said creek to intersect the eastern boundary of section 313; southerly along the eastern boundary of section 313 and part preliminary section 504; easterly and southerly along the northern and eastern boundaries of part preliminary section 508 and production of latter boundary to River Torrens; easterly following said river; south-westerly along the Lower North-Eastern Main Road; southerly along Glynde Road; westerly along Marion Road and Cook Road; northerly along Wellington Road; south-westerly along Payneham Road; north-westerly along Battams Road; north-westerly along Lansdowne Terrace, Walkerville; south-westerly along Main North-East Road; northerly along Hampstead Road; westerly along McInnes and Third Avenues, Sefton Park; northerly along Main North Road; westerly along the northern boundaries of sections 354 and 367; southerly along Churchill Road; westerly along the northern boundaries of sections 377 and 394; northerly along Days Road; westerly along Chapman Road, Woodville Gardens; northerly along Hanson Road; thence easterly along Grand Junction Road to the point of commencement.

ELECTORAL DISTRICT OF TORRENS.

Commencing at the intersection of the River Torrens with the production south-westerly of Park Terrace, Bowden; thence north-easterly along said production and Terrace; north-westerly along Torrens Road; northerly along Churchill Road; easterly along the northern boundaries of sections 367 and 354, Hundred of Yatala; southerly along Main North Road; easterly along Third Avenue, Sefton Park, and McInnes Avenue; southerly along Hampstead Road; north-easterly along Main North-East Road; south-easterly along Lansdowne Terrace; thence south-westerly and north-westerly following the River Torrens to the point of commencement.

ELECTORAL DISTRICT OF FLINDERS.

Comprising the whole of County Flinders, and the Hundreds of Butler and Dixon, and including Gambier Islands, Neptune Islands and all adjacent islands together with jetties along the sea coast.

ELECTORAL DISTRICT OF EYRE.

Commencing at the south-western corner of the State; thence north to the 31st parallel of south latitude; east by said parallel to the 133rd meridian of east longitude; south by said meridian; east along the north boundaries of Counties Kintore, Way and production to the western shore of Lake Everard; southerly along said shore to a point true north Nuckulla Hill; south to the north boundary of County Dufferin; east to its north-east corner; south along the east boundaries of Counties Dufferin and Robinson; east along the north boundaries of Counties LeHunte and Buxton; south along the east boundary of latter county; east along the south boundary of County York to the sea coast; south-westerly along said sea coast; west along the north boundaries of Hundreds of Dixon and Butler; south along the west boundary of latter hundred; west along the north boundary of County Flinders to the sea coast; thence generally north-westerly and westerly following the said sea coast to the point of commencement, and including Flinders Island, St. Peters Island and all adjacent islands, together with jetties along the sea coast.

ELECTORAL DISTRICT OF WHYALLA.

Commencing at the intersection of the west boundary of the State with the 31st parallel of south latitude; thence east by said parallel to the 133rd meridian of east longitude; south by said meridian; east along the north boundaries of Counties Kintore, Way and production to the western shore of Lake Everard; southerly along said shore to a point true north of Nuckulla Hill; south to the north boundary of County Dufferin; east to its north-east corner; south along the east boundaries of Counties Dufferin and Robinson; east along the north boundaries of Counties LeHunte and Buxton; south along the east boundary of latter county; east along the south boundary of County York to the sea coast; north-easterly and northerly following the said sea coast; west, north and east following the boundaries of the Hundred of Copley; northerly along the eastern boundary of County Manchester and the western boundaries of Counties Newcastle, Blachford and Taunton; north-westerly along the north-eastern shore of Lake Torrens; north by a true north and south line through Yarra Wurta Cliff Trig. station to the 30th parallel of south latitude; west by said latitude to the 135th meridian of east longitude; north by said meridian to the north boundary of the State; west along said boundary; thence south along the west boundary of the State to the point of commencement, and including all wharves and jetties along the sea coast.

ELECTORAL DISTRICT OF STUART.

(1) Comprising the whole of the Hundreds of Copley, Davenport, Woolundunga, Winninowie, Baroota, Telowie, Napperby, Howe and the Hundred of Pirie, exclusive of an area bounded as follows:—

Commencing at the north-western corner of section 603, hundred of Pirie; thence southerly along road west of sections 603, 533, 38, 80 and 87; easterly along road south of sections 87 and 88; southerly, easterly and northerly following the roads west, south and east of recreation grounds; easterly along road south of sections 119 and 136; north-easterly along the Wallaroo and Port Pirie Main Road and its production to Port Pirie Creek; generally westerly and northerly following the boundaries of said creek to intersect the production easterly of the northern boundary of section 647; westerly along said production; southerly along road east of sections 647 and 648 and the western boundaries of roads closed 10th December, 1953, and 13th May, 1897; westerly along the northern boundaries of sections 592, 595, 599 and 603 to the point of commencement.

(2) Together with the Port Pirie Creek and all wharves and jetties along the sea coast.

ELECTORAL DISTRICT OF PORT PIRIE.

Comprising that portion of the Hundred of Pirie bounded as follows:—Commencing at the north-western corner of section 603, hundred of Pirie; thence southerly along road west of sections 603, 533, 38, 80 and 87; easterly along road south of sections 87 and 88; southerly, easterly and northerly following the roads west, south and east of recreation grounds; easterly along road south of sections 119 and 136; north-easterly along the Wallaroo and Port Pirie Main Road and its production to Port Pirie Creek; generally westerly and northerly following the boundaries of said creek to intersect the production easterly of the northern boundary of section 647; westerly along said production; southerly along road

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east of sections 647 and 648 and the western boundaries of roads closed 10th December, 1953, and 13th May, 1897; westerly along the northern boundaries of sections 592, 595, 599, and 603 to the point of commencement, and including all adjoining wharves.

ELECTORAL DISTRICT OF FROME.

Commencing at the north-east corner of the State; thence south along the east boundary of the State; west along the north boundaries of Counties Hamley, Young, Burra and the south boundary of the Hundred of Whyte; northerly in said hundred along road west of sections 2, 16, 23, 34, 124, 489 and 477; west along the south boundary of the Hundred of Yongala; northerly along the western boundaries of the Hundreds of Yongala and Morgan; east along the north boundary of latter hundred; north along the east boundary of Hundred of Erskine; west along the south boundaries of Hundreds of Yalpara, O'Laddie and Eureka; south, west and north following the boundaries of the Hundred of Pinda; south-westerly and westerly in the Hundred of Willochra along road south-east of sections 126 and 93 and south of sections 93 and 85; north along the west boundary of said hundred; west along the south boundaries of the Hundreds of Pichi Richi and Crozier; northerly along the western boundaries of Counties Newcastle, Blachford and Taunton; north-westerly along the north-eastern shore of Lake Torrens; north by a true north and south line through Yarra Wurta Cliff Trig. station to the 30th parallel of south latitude; west by said latitude to the 135th meridian of east longitude; north by said meridian to the north boundary of the State; thence east along said boundary to the point of commencement.

ELECTORAL DISTRICT OF ROCKY RIVER.

Comprising the whole of the Hundreds of Gregory, Willowie, Coomooroo, Walloway, Erskine, Black Roock Plain, Pekina, Booleroo, Wongyarra, Darling, Appila, Tarcowie, Caltowie, Booyoolie, Yangya, Bundaleer, Narridy, Crystal Brook, Wandearah, Koolunga, Yackamoorundie and that portion of the Hundred of Willochra south-east and south of road south-east of sections 126 and 93 and south of sections 93 and 85.

ELECTORAL DISTRICT OF BURRA.

Commencing at the north-western corner of the Hundred of Mannanarie; thence southerly along the western boundaries of the Hundreds of Mannanarie, Belalie, Reynolds, Andrews, Milne and Clare; easterly along southern boundary of latter hundred to the south-eastern corner of section 496; southerly in the Hundred of Upper Wakefield, along the western boundary of section 584 to the northern boundary of section 585; westerly along said boundary; southerly along the western boundaries of sections 585 and 587; easterly along the southern boundaries of sections 587 and 190; southerly along the western boundaries of sections 192 and 353; easterly along road south of sections 353 and 33; thence in the Hundred of Stanley along the northern boundaries of sections 305 and 307; southerly along road west of section 309; easterly along road north of sections 308 and 220; southerly along road to the northern boundary of the Hundred of Saddleworth; easterly along the northern boundaries of the Hundreds of Saddleworth, Waterloo, English and Bower; north and east along the west and north boundaries of Hundred of Maude; east and south along the north and east boundaries of the hundred of Lindley; east and south along the north and east boundaries of Hundred of Stuart to the south-western corner of section 26, Hundred of Markaranka, easterly along the southern boundaries of sections 26 and 79; northerly along the eastern boundary of latter section; south-easterly along the north-eastern boundaries of sections 81, 11 and 14; easterly along the northern boundaries of sections 17 and 4 and sections 13, 7, 10 and 23, Hundred of Pooginook, and sections 30 and 31, Hundred of Parcoola, and said boundary produced to the west boundary of County Hamley; north along the latter boundary; west along the north boundaries of Counties Young and Burra and the south boundary of Hundred of Whyte; northerly in said hundred along road west of sections 2, 16, 23, 34, 124, 489 and 477; west and north along the south and west boundaries Hundred of Yongala; thence west along the north boundary of Hundred of Mannanarie to the point of commencement.

ELECTORAL DISTRICT OF CHAFFEY.

Comprising the whole of County Hamley and that portion of County Young, east of portion of the Hundred of Stuart and south of the following boundary:— Commencing at the south-western corner of section 26, Hundred of Markaranka; thence easterly along the southern boundaries of section 26 and 79; northerly along the eastern boundary of latter section; south-easterly along the north-eastern boundaries of sections 81, 11 and 14; easterly along the northern boundaries of sections 17 and 4 and sections 13, 7, 10 and 23, Hundred of Pooginook, and sections 30 and 31, Hundred of Parcoola, and said boundary produced to the west boundary of County Hamley.

ELECTORAL DISTRICT OF GOUGER.

Commencing at the north-western corner of the Hundred of Munderoo; thence easterly along the northern boundaries of Hundreds of Munderoo and Red Hill; southerly along the eastern boundary of latter hundred; easterly along the northern boundaries of Hundreds of Boucaut and Hart; generally southerly along the eastern boundaries of Hundreds of Hart, Blyth, Hall, Dalkey, Grace and Port Gawler; southerly in the Hundred of Munno Para along road to the north-west corner of section 3888; westerly along road to the east corner of section 3883; south-westerly along road south-east of sections 3883, 3067, 3053, and 4260; southerly along the Main Yorke Peninsula Road to Little Para River; easterly along said river; south-easterly along road north-east of section 2272, Hundreds of Munno Para and Yatala, and sections 2222 and 3005 in latter hundred; east along road north of sections 3004 and 3002; southerly along the eastern boundaries of sections 3002, 3010 and 1572; westerly along road north of sections 1570, 3033, 3028, 685 and 690; south-westerly along Main North Road and Adelaide and Dry Creek Main Road; generally westerly following the Dry Creek and Northfield railway, the Adelaide and Gawler railway and the Port Adelaide loop line to the North Arm Road; north-westerly along said road; north-easterly and northerly following the south-eastern and eastern sides of creek south-east and east of Garden and Torrens Islands; north-westerly along the north-eastern shore of Gulf St. Vincent to the western boundary of Hundred of Goyder; northerly along said boundary; westerly along the northern boundary of Hundred of Kulpara; northerly along the eastern boundaries of Hundreds of Ninnos and Wiltunga; westerly along the northern boundary of latter hundred; northerly along the western boundary of Hundred of Wokurna to the sea coast; thence generally northerly following the sea coast to the point of commencement, together with all jetties along the sea coast.

ELECTORAL DISTRICT OF WALLAROO.

Comprising the whole of the Hundreds of Tickera, Wiltunga, Kadina, Ninnos, Kulpara and Wallaroo, the lighthouse on the Tiparra Reef and including the jetties on the sea coast.

ELECTORAL DISTRICT OF YORKE PENINSULA.

Comprising the whole of County Fergusson, together with the Hundreds of Tiparra and Clinton, Wardang Island, Althorpe Islands, Troubridge Shoal and including the jetties along the sea coast.

ELECTORAL DISTRICT OF LIGHT.

Commencing at the north-western corner of Hundred of Upper Wakefield; easterly along the northern boundary of said hundred to the north-eastern corner of section 583, southerly along the western boundary of section 584 to the northern boundary of section 585; westerly along said boundary; southerly along the western boundaries of sections 585 and 587; easterly along the southern boundaries of sections 587 and 190; southerly along the western boundaries of sections 192 and 353; easterly along road south of sections 353 and 33; thence in the Hundred of Stanley along the northern boundaries of sections 305 and 307; southerly along road west of section 309; easterly along road north of sections 308 and 220; southerly along road to the northern boundary of the Hundred of Saddleworth; easterly along the northern boundaries of the Hundreds of Saddleworth, Waterloo, English and Bower; north and east along the west and north boundaries of Hundred of Maude; east and south along the north and east boundaries of Hundred of Lindley; east and south along the north and east boundaries of Hundred of Stuart; south and west along the east and south boundaries of Hundred of Cadell; southerly along the eastern boundary of Hundred of Hay; west along the south boundaries of Hundreds of Hay and Brownlow; south and west along the east and south boundaries of Hundred of Dutton to the north-west corner of Hundred of Jellicoe; southerly along the western boundary of said hundred to Kapunda and Truro Main Road; generally westerly and north-westerly in the Hundred of Belvidere along said main road to the northern boundary of said hundred (River Light); generally westerly following the said River Light to the south-western corner of the Hundred of Alma; thence generally northerly along the western boundaries of Hundreds of Alma and Upper Wakefield to the point of commencement.

ELECTORAL DISTRICT OF BAROSSA.

Commencing at the south-west corner of Hundred of Mudla Wirra; thence generally easterly along the southern boundary of said hundred to road intersecting section 8; northerly along said road and north-easterly along the Gawler Station Main Road to the Gawler and Roseworthy railway; north-westerly along said railway; north-easterly along road south-east of sections 453 and 458; northerly along road east of section 459; north-easterly along road south-east of

sections 427 and 436; south-easterly along road south-west of sections 438 and 439; southerly along the eastern boundary of the hundred to the North Para River; generally southerly, northerly and easterly along said river; southerly along the western boundary of section 12, Hundred of Nuriootpa; easterly along the northern boundary of section 3076, Hundred of Barossa; southerly along the eastern boundaries of sections 3076 and 3073 and the eastern boundaries of sections 5 and 3, Hundred of Nuriootpa; thence generally southerly and westerly following the boundaries of Hundred of Munno Para to the north-eastern corner of section 2136, Hundred of Yatala; south-westerly along road south-east of sections 2136 and 521 to the southern corner of latter section; southerly by a straight line to the north-eastern corner of section 3002 and along the eastern boundaries of sections 3002, 1572 and part section 1566 to centre of Dry Creek; generally south-westerly following said creek to intersect the eastern boundary of section 313; southerly along the eastern boundaries of section 313 and part preliminary section 504; easterly and southerly along the northern and eastern boundaries of part preliminary section 508 and production of latter boundary to the southern boundary of the Hundred of Yatala (River Torrens); generally easterly following the said River Torrens to the eastern boundary of section 6110, Hundred of Talunga; southerly along the eastern boundaries of sections 6110, 44, 6200 and 228 to the southern boundary of the Hundred of Talunga; generally south-easterly along the southern boundary of said hundred and the south-western boundary of the Hundred of Tungkillo to the southern corner of section 153 of latter hundred; northerly along road east of sections 153, 121 and 52; westerly and northerly along road south and west of section 55 to the western boundary of the Hundred of Tungkillo; thence in a northerly and north-easterly direction along said boundary to the Adelaide and Mannum Main Road; westerly in the Hundred of Talunga along said main road to the western boundary of section 1303; northerly along the western boundaries of sections 1303 and 7116; north-westerly along road north-east of sections 7117 and 126; northerly along road east of section 8 and westerly along the northern boundary of Hundred of Talunga to the Williamstown and Birdwood Main Road; northerly and north-westerly along the said main road to the southern boundary of the Hundred of Barossa; generally north-easterly and westerly following the boundaries of said hundred to the south-western corner of section 934, Hundred of Moorooroo; north-westerly along road south-west of section 934 to the eastern boundary of Hundred of Barossa; generally north-westerly along latter boundary to road east of section 455, Hundred of Barossa; generally north-easterly in the Hundred of Nuriootpa, along the eastern boundary of section 37, the southern and eastern boundaries of sections 804, 1697, 1680 and 626, the south-eastern boundaries of sections 561, 516, part section 84 and section 289, the eastern boundaries of sections 283 and 79; the southern boundaries of sections 200 and 125; the western boundaries of sections 196, 197, 175 and 139; the southern and eastern boundaries of section 757; the western and northern boundaries of sections 158 and 48 and along the south-eastern boundary of the Hundred of Belvidere to Kapunda and Truro Main Road; generally westerly and north-westerly in said hundred along said main road to the northern boundary of the hundred (River Light); generally westerly following said River Light to the north-western corner of the Hundred of Mudla Wirra; thence southerly along said boundary to the point of commencement.

ELECTORAL DISTRICT OF ANGAS.

Commencing at the north-east corner of the Hundred of Skurray; thence generally southerly along the eastern boundaries of the Hundreds of Skurray, Fisher, and Ridley to a point north-east of the eastern corner of section 365, Hundred of Ridley; south-westerly to said corner and along the eastern boundary of said section and section 55; westerly along road south of sections 55, 164, 160 and 158 to the eastern boundary of Hundred of Angas; southerly to its south-eastern corner; westerly along the northern boundaries of the Hundreds of Finnis and Tungkillo and southerly along the western boundary of latter hundred to the north-east corner of section 262; westerly along the northern boundaries of sections 262 and 261 to the road through the latter section; generally southerly along road through sections 261, 260, 258, 256, 179 and part section 182, and along the north-western and western boundaries of sections 477 and 478; along the western boundaries of sections 479, 482, 483 and portion of section 484; westerly along the northern boundaries of sections 244, 236 and 122 to the north-east corner of section 121; northerly along road east of sections 5 and 52 to the southern boundary of section 50; westerly and northerly along road south and west of section 55 to the western boundary of the Hundred of Tungkillo; thence in a northerly and north-easterly direction along said boundary to the Adelaide and Mannum Main Road; westerly in the Hundred of Talunga along said main road to the western boundary of section 1303; northerly along the western boundaries of sections 1303 and 7116; north-westerly along road north-east of sections 7117

and 126; northerly along road east of section 8 and westerly along the northern boundary of Hundred of Talunga to the Williamstown and Birdwood Main Road; northerly and north-westerly along said main road to the southern boundary of Hundred of Barossa; generally north-easterly and westerly following the boundaries of said hundred to the south-western corner of section 934, Hundred of Moorooroo; north-westerly along road south-west of section 934 to the eastern boundary of Hundred of Barossa; generally north-westerly along latter boundary to road east of section 455, Hundred of Barossa; generally north-easterly in the Hundred of Nuriootpa, along the eastern boundary of section 37, the southern and eastern boundaries of sections 804, 1697, 1680 and 626; the south-eastern boundaries of sections 561, 516, part section 84, and section 289, the eastern boundaries of sections 283 and 79; the southern boundaries of sections 200 and 125; the western boundaries of sections 196, 197, 175 and 139; the southern and eastern boundaries of section 757; the western and northern boundaries of sections 158 and 48; and along the south-eastern boundary of Hundred of Belvidere; northerly and easterly along the western and northern boundaries of Hundred of Jellicoe; northerly along the western boundary of Hundred of Anna; thence easterly along the northern boundaries of the Hundreds of Anna and Skurray to the point of commencement.

ELECTORAL DISTRICT OF RIDLEY.

Commencing at the north-east corner of County Chandos; thence west along its north boundary; south along the east boundaries of Hundreds of McPherson and Molineux; west along the south boundaries of Hundreds of Molineux and Marmon Jabuk; north and west along the east and north boundaries of the Hundred of Sherlock; north and east along the west and north boundaries of Hundred of Hooper; north along the west boundaries of Hundreds of Vincent and Bandon; west along the south boundary of Hundred of Nildottie; generally northerly along the western boundaries of the Hundreds of Nildottie, Paisley and Marbko; east and north along the south and east boundaries of Hundred of Cadell to the centre of the River Murray; generally easterly, south-easterly and north-easterly following the centre of said river to the eastern boundary of the State; thence south along said boundary to the point of commencement.

ELECTORAL DISTRICT OF GAWLER.

Commencing at the south-western corner of Hundred of Munno Para; thence northerly along its western boundary; north-easterly along road north-west of sections 4251, 3054 to the eastern corner of section 3883; easterly along road to the north-west corner of section 3888, northerly along road to the southern boundary of Hundred of Mudla Wirra; thence generally easterly along said boundary to the road intersecting section 8, Hundred of Mudla Wirra; northerly along said road and north-easterly along the Gawler Station Main Road to the Gawler and Roseworthy railway; north-westerly along said railway; north-easterly along road south-east of sections 453 and 458; northerly along road east of section 459; north-easterly along road south-east of sections 427 and 436; south-easterly along road south-west of sections 438 and 439; southerly along the eastern boundary of the hundred to the North Para River; generally southerly, northerly and easterly along said river; southerly along the western boundary of section 12, Hundred of Nuriootpa; easterly along the northern boundary of section 3076, Hundred of Barossa; southerly along the eastern boundaries of sections 3076 and 3073 and the eastern boundaries of sections 5 and 3, Hundred of Nuriootpa; thence generally southerly and westerly following the boundaries of Hundred of Munno Para to the north-east corner of section 2136, Hundred of Yatala; south-westerly along road south-east of sections 2136 and 521 to the southern corner of latter section; southerly by a straight line to the north-eastern corner of section 3002; westerly along road north of sections 3002 and 3004; north-westerly along road north-east of sections 3005, 2222 and 2272 to the northern boundary of the hundred (Little Para River); thence westerly along latter boundary to the point of commencement.

ELECTORAL DISTRICT OF MURRAY.

Commencing at the north-western corner of the Hundred of Forster; thence in a south-westerly and south-easterly direction following its western boundary to a point north-east of the eastern corner of section 365, Hundred of Ridley; south-westerly to said corner and along the eastern boundary of said section and section 55; westerly along road south of sections 55, 164, 160 and 158 to the eastern boundary of the Hundred of Angas; southerly to its south-eastern corner; westerly along the northern boundaries of Hundreds of Finnis and Tungkillo; southerly along the western boundary of latter hundred to the north-east corner of section 262; westerly along the northern boundaries of sections 262 and 261 to the road through latter section; generally southerly along road through sections 261, 260, 258, 256, 179 and part section 182, and along the north-western

and western boundaries of sections 477 and 478; along the western boundaries of sections 479, 482, 483 and portion of section 484; westerly along the northern boundaries of sections 244 and 236; south-westerly along the north-western boundary of latter section; southerly along the western boundaries of sections 237, 238, 239 and 240; easterly along the southern boundary of section 252; southerly along the western boundaries of section 309 and portion of section 321; south-easterly along the north-eastern boundary of road intersecting latter section and easterly along its southern boundary; southerly along the western boundary of section 331; south-easterly along the south-western boundaries of sections 416, 415 and 421, along the south-western boundary of the Hundred of Tungkillo to the north-western corner of section 370, Hundred of Monarto; south-easterly along road south-west of sections 370, 368 and 365; south-westerly along road north-west and north of sections 349, 446 and 441; generally westerly along road south of sections 424, 421 and 419; south-westerly through section 2001, Hundreds of Monarto and Kanmantoo, to road opened 21st October, 1869; southerly along said road; south-westerly through said section to the western boundary of Hundred of Monarto; then westerly and north-westerly in the Hundred of Kanmantoo along roads opened 26th August, 1869, and 21st October, 1869, for about $1\frac{1}{2}$ miles; south-south-westerly through section 2001 to its southern boundary; east-south-easterly along the northern boundary of section 1296, Hundreds of Strathalbyn and Kanmantoo; southerly along the eastern boundary of section 1297 of said hundreds to the southern boundary of latter hundred; south-easterly and easterly following the boundaries of the Hundreds of Kanmantoo, Monarto and Mobilong; thence in a generally southerly direction along the western boundary of Hundred of Seymour; easterly and northerly along the southern and eastern boundaries of the said hundred; northerly along the eastern boundary of Hundred of Ettrick to the south-west corner of Hundred of Bowhill; easterly and northerly along the southern and eastern boundaries of said hundred; northerly and westerly along the eastern and northern boundaries of Hundred of Forster to the point of commencement.

ELECTORAL DISTRICT OF ALEXANDRA.

1. Commencing at a point on the sea coast opposite the south-western corner of section 569, Hundred of Noarlunga; thence easterly along the southern boundaries of sections 569, 506 and 510 to the main south road; thence north-easterly along said main road; easterly along road north of sections 511 and 514; southerly along the western boundaries of sections 515, 529 and along road west of sections 543, 700 and 818; easterly along road south of sections 818 and 819 to the north-east corner of section 834, Hundred of Willunga; south-easterly and southerly along the north-eastern and eastern boundaries of Hundred of Willunga to the north-western corner of section 95, Hundred of Kuitpo; generally south-easterly along road south-west of sections 21, 3454, 247, 276 and 301; generally south-westerly along the south-eastern boundaries of Hundreds of Kuitpo and Myponga to the south-western corner of section 51, Hundred of Encounter Bay; south-easterly along road south-west of said section and southerly along road west of sections 614, 61 and 62, through section 85 and portion of section 404, west of section 147 and through section 189 to the south-western corner of section 258; westerly along road south of section 48 and cemetery; southerly and south-westerly through sections 315, 314, north-west of section 418 to the western corner of section 564; south-easterly along road south-west of sections 564, 405 and 402 to the northern boundary of the Hundred of Waitpinga; south-westerly along roads north-west of section 312 of latter hundred and section 313 and 306 to the northern corner of section 286; southerly along road west of sections 286, 288 and 1333 to the sea coast; thence westerly, north-easterly and northerly along the sea coast to the point of commencement, together with the jetties along the sea coast.

2. Comprising the whole of Kangaroo Island, together with the jetties along the sea coast.

ELECTORAL DISTRICT OF ONKAPARINGA.

Commencing at the intersection of southern boundary of Hundred of Adelaide (River Sturt) with the Main South Road; thence generally southerly along said main road to the north-western corner of section 511, Hundred of Noarlunga; easterly along road north of sections 511 and 514; southerly along the western boundaries of sections 515, 529 and along road west of sections 543, 700 and 818; easterly along road, south of sections 818 and 819 to the north-east corner of section 834, Hundred of Willunga, south-easterly and southerly along the north-eastern and eastern boundaries of Hundred of Willunga, to the north-western corner of section 95, Hundred of Kuitpo; generally south-easterly along road south-west of sections 21, 3454, 247, 276 and 301 to the eastern boundary of the hundred; thence in a north-north-easterly direction along said boundary to the southern corner of section 8, Hundred of Macclesfield; thence easterly along roads

south of sections 8, 4, 3006, 3008 and 2212, south-west of section 2884, south of sections 2880 and 2876, thence in the Hundred of Strathalbyn south of sections 2877 and 2878, and south-easterly along road through sections 2873 and 2872; along road south-west of sections 1401 and 1396 to the south corner of latter section; north-easterly along road south-east of sections 1396, 1378 and through sections 2202 and 2201 to the northern boundary of the hundred; generally north-westerly along the south-western boundary of Hundred of Kamantoo; south-westerly along the north-western boundary of Hundred of Macclesfield to the centre of the Adelaide and Nairne railway; north-westerly in the Hundred of Onkaparinga along said railway; south-westerly along railway and road north-west of section 4101; southerly along the Ambleside Railway Station Main Road to the main south-eastern road; generally westerly and north-westerly along said main road to the eastern boundary of the Hundred of Adelaide; thence generally south-westerly, westerly and north-westerly following the boundaries of the hundred to the point of commencement.

ELECTORAL DISTRICT OF STIRLING.

Commencing at the eastern corner of Hundred of Nangkita; thence south-westerly along south-eastern boundary of said hundred to the sea coast; thence in a generally westerly direction along the sea coast to road west of section 1333, Hundred of Waitpinga; northerly along road west of sections 1333, 288 and 286; north-easterly along road north-west of sections 306, 313 and 312 to road south-west of section 402, Hundred of Encounter Bay; thence north-westerly in latter hundred along road south-west of sections 402, 405 and 564; north-easterly and northerly along road north-west of sections 564 and 418, through sections 314 and 315; easterly to the south-western corner of section 258; northerly through section 189 and west of section 147, through sections 404 and 85, west of sections 62, 61 and 614; north-westerly along road south of section 51 to the north-western boundary of the hundred; thence generally north-easterly along the north-western boundaries of Hundreds of Encounter Bay, Nangkita, Kondoparinga and Macclesfield to the southern corner of section 8 of latter hundred; easterly along roads south of sections 8, 4, 3006, 3008, and 2212, along the south-western boundary of section 2884, along road south of sections 2880 and 2876, and in the Hundred of Strathalbyn south of sections 2877 and 2878 and south-easterly along road through sections 2873 and 2872, along road south-west of sections 1401 and 1396 to the southern corner of latter section; north-easterly along road south-east of sections 1396, 1378 and through sections 2202 and 2201 to the northern boundary of the hundred; thence in an easterly direction along the southern boundaries of the Hundreds of Kamantoo, Monarto and Mobilong to the north-eastern corner of the Hundred of Brinkley; thence south-easterly and south-westerly along the north-eastern and south-eastern boundaries of said hundred and along the south-eastern boundaries of Hundreds of Freeling and Alexandrina, to the point of commencement, together with Granite Island and all other adjacent islands and the jetties along the sea coast.

ELECTORAL DISTRICT OF GUMERACHA.

Commencing at the intersection of the eastern boundary of Hundred of Adelaide with the River Torrens; thence generally easterly following said River Torrens to the eastern boundary of sections 6110, Hundred of Talunga; southerly along the eastern boundaries of sections 6110, 44, 6200 and 228, to the southern boundary of Hundred of Talunga; generally south-easterly along the southern boundary of said hundred and the south-western boundary of Hundred of Tungkillo to the southern corner of section 153 of latter hundred; northerly along road east of sections 153 and 121; easterly along the northern boundaries of sections 122, 123 and 236; south-westerly along the north-western boundary of latter section; southerly along the western boundaries of sections 237, 238, 239 and 240; easterly along the southern boundary of section 252, southerly along the western boundaries of section 309 and portion of section 321; south-easterly along the north-eastern boundary of road intersecting latter section and easterly along its southern boundary; southerly along the western boundary of section 331; south-easterly along the south-western boundaries of section 416, 415 and 421, along the south-western boundary of the Hundred of Tungkillo to the north-western corner of section 370, Hundred of Monarto; south-easterly along the road south-west of sections 370, 368 and 365; south-westerly along road north-west and north of sections 349, 446 and 441; generally westerly along road south of sections 424, 421 and 419; south-westerly through section 2001, Hundreds of Monarto and Kamantoo to road opened 21st October, 1869, southerly along said road, south-westerly through said section to the western boundary of Hundred of Monarto; thence westerly and north-westerly in the Hundred of Kamantoo along roads opened 26th August, 1869 and 21st October, 1869, for about 1½ miles; south-south-westerly through section 2001 to its southern boundary; east-south-easterly along

Constitution Act, 1934-1961.

the northern boundary of section 1296, Hundreds of Strathalbyn and Kanmantoo; southerly along the eastern boundary of section 1297 of said hundreds to the southern boundary of latter hundred; generally north-westerly along the south-western boundary of Hundred of Kanmantoo; south-westerly along the north-western boundary of the Hundred of Macclesfield to centre of Adelaide and Nairne railway; north-westerly in the Hundred of Onkapinga along said railway; south-westerly along railway and road north-west of section 4101; southerly along the Ambleside Railway Station Main Road to main south-eastern road; generally westerly and north-westerly along said main road to the southern corner of section 1286, Hundred of Adelaide; westerly and northerly along the southern and western boundaries of said section; north-easterly and north-westerly along the south-eastern and north-eastern boundaries of section 1284; northerly, easterly and southerly following the boundary of section 1001; easterly along the southern boundaries of sections 1053 and 1954; northerly along the eastern boundaries of sections 1054, 1056, and 1057; easterly along the southern boundaries of sections 906 and 919; northerly and easterly along the western and northern boundaries of section 1180; northerly along the western boundaries of sections 1107 and 484; easterly and northerly along the southern and eastern boundaries of section 1104; south-easterly, north-easterly and westerly following the boundaries of section 855; north-easterly along the north-western boundary of section 991; northerly along the western boundaries of sections 826 and 827; westerly and north-easterly along the southern and north-western boundaries of section 997; thence generally northerly along the eastern boundary of Hundred of Adelaide, to the point of commencement.

ELECTORAL DISTRICT OF ALBERT.

Commencing at the north-eastern corner of County Chandos; thence south along the eastern boundary of the State to the south-east corner of Hundred of Geegeela; west along the south boundary of hundreds of Geegeela and Becamma; north, west and south following the boundaries of Hundred of Glen Roy; west and north along the south and west boundaries of Hundred of Marcollat, west along the south boundary of County Cardwell to the sea coast; north-westerly along sea coast to the southern corner of Hundred of Nangkita; north-easterly along the south-eastern boundaries of Hundreds of Nangkita, Alexandrina, Freeling and Brinkley to the south-western corner of Hundred of Seymour; east and north along the south and east boundaries of said hundred; east and south along the north and east boundaries of Hundred of Sherlock; east along the north boundaries of Hundreds of Peake and Price; north along the east boundaries of Hundreds of Molineux and McPherson; thence east along the north boundary of County Chandos to the point of commencement.

ELECTORAL DISTRICT OF MILLICENT.

Commencing at the south-eastern corner of the State; thence north along the east boundary of said State to the south-east corner of Hundred of Gambier; west and north along the south and west boundaries of latter hundred to intersect a line 5 chains south-west of and parallel to the north-eastern boundary of section 18, Hundred of Blanche; north-westerly along said line to its intersection with a line 10 chains south-east of and parallel to the north-western boundary of sections 18 and 478; south-westerly along said line to road north-east of part section 545; westerly along road north of sections 14, 243 and part section 548; north-westerly along road north-east of sections 752, 766 and 859 to the Mount Gambier and Kongorong Main Road; generally south-westerly and westerly following said main road to the west boundary of Hundred of Blanche; north along the west boundaries of Hundreds of Blanche, Young, Grey, Monbulla and Killanoola to the road south of section 72, Hundred of Coles; westerly along road south of sections 72, 55 and 49 of latter hundred, and sections 108, 104, 34 and 64, Hundred of Fox; north and west along the east and north boundaries of Hundred of Smith; north along the west boundaries of Hundreds of Commurra and Townsend; east and north along the south and east boundaries of Hundred of Minecrow; north along the east boundary of Hundred of Peacock; west along the south boundary of County Cardwell to the sea coast; thence generally southerly, south-easterly and easterly along said sea coast to the point of commencement, including Penguin Island, Cape Jaffa Lighthouse and the jetties along the sea coast.

ELECTORAL DISTRICT OF VICTORIA.

Commencing at the north-east corner of Hundred of Binnum; thence south along the east boundary of the State to the south-east corner of Hundred of Mingbool; west along the south boundaries of Hundreds of Mingbool and Young; north along the west boundaries of Hundreds of Young, Grey, Monbulla and Killanoola to the road south of section 72, Hundred of Coles, westerly along road south of sections 72, 55 and 49 of latter hundred and sections 108, 104, 34 and 64, Hundred of Fox;

north and west along the east and north boundaries of Hundred of Smith; north along the west boundaries of Hundreds of Conmurra and Townsend; east and north along the south and east boundaries of Hundred of Minecrow; east along the north boundary of Hundred of Woolumbool; north, east and south following the boundaries of Hundred of Glen Roy; thence east along the north boundaries of Hundreds of Hynam and Binnun to the point of commencement.

ELECTORAL DISTRICT OF MOUNT GAMBIER.

Commencing at the north-east corner of Hundred of Gambier; thence south, west and north following the boundaries of said hundred to intersect a line 5 chains south-west of and parallel to the north-eastern boundary of section 18, Hundred of Blanche; north-westerly along said line to its intersection with a line 10 chains south-east of and parallel to the north-western boundary of sections 18 and 478; south-westerly along said line to road north-east of part section 545; westerly along road north of sections 14, 243 and part section 548; north-westerly along road north-east of sections 752, 766 and 859 to the Mount Gambier and Kongorong Main Road; generally south-westerly and westerly following said main road to the west boundary of Hundred of Blanche; north along said boundary; thence east along the north boundaries of Hundreds of Blanche and Gambier to the point of commencement.



LAND TAX ACT, 1936-1961

BEING

LAND TAX ACT, 1936 No. 2318 OF 1936 [ASSENTED TO
26TH NOVEMBER, 1936.]

AS AMENDED BY

LAND TAX ACT AMENDMENT ACT, 1942, No. 34 OF 1942 [ASSENTED
TO 26TH NOVEMBER, 1942.]

LAND TAX ACT AMENDMENT ACT, 1948, No. 16 OF 1948 [ASSENTED
TO 23RD SEPTEMBER, 1948.]

LAND TAX ACT AMENDMENT ACT, 1952, No. 47 OF 1952 [ASSENTED
TO 4TH DECEMBER, 1952.]

AND

LAND TAX ACT AMENDMENT ACT, 1961, No. 8 OF 1961 [ASSENTED
TO 19TH OCTOBER, 1961.]

An Act to consolidate the enactments relating to the imposition, assessment, and collection of taxes upon land.

BE IT ENACTED by the Governor of the State of South Australia, with the advice and consent of the Parliament thereof, as follows:

PART I.

PART I.

PRELIMINARY.

Short title
and com-
mencement.

1. This Act may be cited as the "Land Tax Act, 1936-1961," and shall come into operation on a day to be fixed by the Governor by proclamation.

Repeal and
savings.

2. (1) The enactments set out in the first schedule to this Act are repealed so far as they apply to land tax and matters incidental thereto.

(2) Such repeal shall not, except as provided in this section—

Application of amending Acts: Section 18 of the Land Tax Act Amendment Act, 1952, provides that that Act shall apply to the land tax levied in aid of the general revenue of the State for the financial year 1952-1953 and subsequent financial years. Section 13 of the Land Tax Act Amendment Act, 1961, provides that that Act shall apply to the land tax levied or payable in aid of the general revenue of the State for the financial year ending on 30th June, 1962, and subsequent financial years.

- i. affect the operation prior to the passing of this Act of any enactment hereby repealed:
- ii. affect any inquiry, assessment, appeal, contract, certificate, notice, determination, adjudication, payment, remission, or extension made, entered into, or given under any enactment hereby repealed:
- iii. affect any estate, right, title, interest, privilege, power, duty, obligation, liability, or penalty created, acquired, accrued, accruing, exercisable, incurred, imposed, or liable to be imposed by or under any enactment hereby repealed:
- iv. affect any proclamation, act, proceeding, matter, or thing made or done, under or in pursuance of, any enactment hereby repealed:
- v. except so far as in this section provided, alter any legal or other proceeding commenced before or after the passing of this Act or relating to any of the matters or things mentioned in this subsection.

(3) Notwithstanding such repeal, and without limiting the generality of subsection (1)—

(a) any assessment which might have been made under any repealed enactment but was not so made, may be made under this Act, and all proceedings may be taken thereon, and all other consequences shall ensue thereon, as if this Act had been in force when the liability to assessment arose:

(b) any assessment made under any repealed enactment and any assessment made under paragraph (a) may be re-opened, altered, amended, or otherwise dealt with and all proceedings may be taken thereon, and all other consequences shall ensue thereon, as if this Act had been in force when the liability to assessment arose and the assessment had been made under this Act.

(4) Every appointment to an office made under the repealed enactments and in force at the passing of this Act shall continue to have effect as if it were an appointment to a corresponding office under this Act.

(5) All regulations which were confirmed by any of the repealed enactments and were in force at the passing of this Act, are hereby confirmed and continued in force to the extent to which they relate to land tax, but may be revoked or amended, or added to, by the Governor.

(6) Any proceeding which at the passing of this Act is pending in any court, or before any other authority, may be proceeded with, heard, and determined, and the decision and any order made therein may be enforced, as if this Act had been in force when the proceeding was commenced and it had been commenced and prosecuted under this Act.

(7) Every offence committed, and every liability, forfeiture, and penalty incurred or imposed, or liable to be imposed, under any repealed enactment, may be tried, punished, inquired into, and enforced, as if this Act had been in force when it was committed, incurred, or imposed, or became liable to be imposed.

(8) Wherever in any Act, or any regulation, or any other document or instrument of any kind, any reference is made to any repealed enactment, that reference shall be read and construed as a reference to this Act, or to the corresponding provision of this Act.

(9) The mention of particular matters in this section shall not affect the applicability to this Act of the Acts Interpretation Act, 1915, to the extent that that Act is not inconsistent with any provision of this Act.

Division of Act.

3. This Act is divided into Parts as follows:—

PART I.—Preliminary: sections 1 to 4.

PART II.—Administration: sections 5 to 9.

PART III.—The Taxes on Land: sections 10 to 19.

PART IV.—Assessments and Liability: sections 20 to 44.

PART V.—Objections and Appeals: sections 45 to 55.

PART VI.—Collection and Recovery of Tax: sections 56 to 58.

PART VII.—Miscellaneous: sections 69 to 81.

4. In this Act, and in all regulations continued in force by or made under this Act, unless inconsistent with the context—

Interpretation.
1787, 1927,
s. 3.
1960, 1930,
ss. 3, 4.
Cf. U.K. 21 &
22, Geo. 5,
c. 28,
ss. 31, 32.

s. 4. (Definition of "unimproved value.") *BASEY AND HOWIE v. COMMISSIONER OF TAXES* (1919) S.A.L.R. 53. A right given by statute and entitling the owner of land to be supplied with water for domestic and irrigation purposes from the River Murray and from irrigation works is not an improvement within the meaning of the definition of unimproved value.

* * * * *

Definitions of
"absentee"
and
"absentee
land tax"
repealed by
8, 1961,
s. 3 (a).

* * * * *

Definition of
"additional
land tax"
repealed by
47, 1952,
s. 3 (a).

"business of primary production" means the business of agriculture, pasturage, horticulture, viticulture, apiculture, poultry farming, dairy farming or any other business (excluding forestry) consisting of the cultivation of soils, the gathering in of crops or the rearing of livestock:

Inserted by
8, 1961,
s. 3 (b).

"the Commissioner" means The Commissioner of Land Tax appointed pursuant to this Act:

Substituted
by 16, 1948,
s. 3.

"company" includes every corporate body:

"contribution" means any contribution provided for by section 36:

"contributor" includes every person who is liable to pay any contribution:

"declared rural land" means land in respect of which a declaration by the Commissioner under section 12c of this Act is in force:

Inserted by
8, 1961,
s. 3 (c).

"defined rural area" means an area declared by the Governor under section 12c of this Act:

Inserted by
8, 1961,
s. 3 (c).

"general notice" means a notice published in the *Gazette*:

"land used for primary production" means any parcel of land of not less than two acres in area as to which the Commissioner is satisfied that it is used mainly for the business of primary production:

Inserted by
8, 1961,
s. 3 (d).

"land tax" means any tax imposed by this Act:

Amended by
47, 1952,
s. 3 (b) and
by 8, 1961,
s. 3 (e).

"liquidator" means the person who, whether or not appointed as liquidator, is the person required by law to carry out the winding up of a company:

"notice" means any notice, written or printed, or partly written or partly printed:

"owner" used with reference to any estate or interest in land includes any person (not being a mortgagee) legally or equitably seised or possessed of, or entitled to or to purchase or acquire, the estate or interest referred to:

Land Tax Act, 1936-1961.

- “particular notice” means a notice served personally, or by leaving it at, or posting it addressed to, the usual or last known place of abode or business of the person to whom or to which the notice is intended to be given, or, by affixing it conspicuously on any land to the tax whereon the notice refers:
- “regulation” means regulation continued in force by or made under this Act:
- “returns” includes all returns, declarations, statements, and information which are required under this Act to be furnished:
- “tax” means land tax and all interest payable in respect thereof:
- “taxpayer” includes every person who is liable to pay any tax pursuant to this Act:
- “taxpayer in a representative capacity” means every taxpayer in respect of land to which that taxpayer is not beneficially entitled:
- “trade” includes every profession, trade, business and avocation:
- “Treasurer” means the Treasurer for the time being of the State:
- “unimproved value” of any land means the capital amount for which the fee simple of that land might be expected to sell if free from encumbrances, assuming the actual improvements (if any) thereon had not been made. In this definition the term “improvements” means houses and buildings, fixtures, or other building improvements of any kind whatsoever, fences, bridges, roads, tanks, wells, dams, fruit trees, bushes, shrubs, or other plants, whether planted or sown for trade or other purposes, draining of land, ringbarking, clearing from timber or scrub, and any other visible improvements, the benefit of which is unexhausted at the time of valuation.
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PART II.

PART II.

ADMINISTRATION.

4a. (1) For the purposes of this Act there shall be an officer called The Commissioner of Land Tax.

Appointment of Commissioner.
Inserted by 16, 1948, s. 4.

(2) The Governor shall, as soon as possible after the passing of this Act, and whenever a vacancy occurs in the office of the Commissioner appoint a fit and proper person to hold that office.

(3) Until the first appointment is made under this section, the Commissioner of Taxes for the time being in office under the laws of the State relating to income tax shall be deemed to be the Commissioner.

5. The Commissioner shall have the general administration of this Act.

Administration by Commissioner.
Cf. 1787, 1927, s. 54.

6. The Governor may appoint any acting and deputy commissioners, assessors, collectors, officers, clerks, and persons whom he thinks proper for the purpose of carrying this Act into effect; and he may assign to them any duties which he thinks fit.

Officers.
1787, 1927, s. 55.

7. (1) Every Commissioner, assessor, collector, officer, clerk, and other person appointed under this Act shall maintain the secrecy of all matters which come to his knowledge in the course of his duty or employment, and shall not communicate any such matter to any person, or reveal it in any way, except for the purpose of carrying into effect the provisions of this Act.

Secrecy.
1787, 1927, s. 60.
1830, 1927, s. 19.
1943, 1929, s. 9.

(2) Any person who is guilty of any contravention of subsection (1) of this section shall be liable to imprisonment for any term not exceeding two years.

(3) Notwithstanding anything contained in this section, the Commissioner, or any other person authorized by him so to do may communicate any matter that comes to the knowledge of the Commissioner in the course of his duty or employment whether as an officer of the State or of the Commonwealth, or to the knowledge of any such other person, to—

(a) The Commissioner of Succession Duties for the State; or

PART II.

- (b) any Commissioner, Assistant Commissioner, or Deputy Commissioner of Taxation appointed under any law of the Commonwealth; or
- (c) any person authorized by them or any of them to acquire information concerning such matters; or
- (d) to the Commissioner of Taxes of any State.

Provision as to Auditor-General.
2176, 1934, s. 7.

8. (1) Nothing in this Act shall prevent the Auditor-General from inspecting, examining, and auditing any books, accounts, or documents in the office of the Commissioner.

(2) The Auditor-General shall not disclose any matter which comes to his knowledge in the course of inspecting, examining, or auditing any books, accounts, or documents in the office of the Commissioner, except for the purpose of carrying into effect the provisions of the Audit Act, 1921.

Access to books and papers.
1787, 1927, s. 61.
Cf. U.K. 43 & 44, Vict. c. 19, s. 39.

9. The Commissioner, or any officer authorized by him in that behalf, shall at all times have full and free access to all buildings, places, books, documents, and other papers for any of the purposes of this Act, and for any such purpose may make extracts from or copies of any such books, documents, or papers.

PART III.

PART III.

THE TAXES ON LAND.

Imposition of land taxes.
1787, 1927, ss. 5, 10.
1896, 1929, s. 3.
2283, 1935, s. 7.
Cf. U.K. 21 & 22, Geo. 5, c. 28, s. 24.

10. (1) Taxes are hereby imposed on all land in the State, with the following exceptions:—

- (a) Subject to section 19, land of the Crown, which, for the time being, is not subject to any agreement for sale or right of purchase:
- (b) park lands, public roads, public cemeteries, and other public reserves:
- (c) Land used solely for religious purposes, or used solely for the purposes of a hospital subsidized by the Government of the State, or used by any institute under the Libraries and Institutes Act, 1939.

Amended by 34, 1942, s. 3 (1).

s. 10. The expression "Libraries and Institutes Act, 1939," substituted for "Public Library, Museum, and Art Gallery, and Institutes Act, 1909" pursuant to the Amendments Incorporation Act, 1937.

(d) Land which is—

Inserted by
34, 1942,
s. 3 (2).

- (i) owned by an association whose objects are or include the supplying to necessitous or helpless persons of living accommodation, food, clothing, medical treatment, nursing, pre-maternity or maternity care, or other help, either without cost to such persons or in return for payments or services the amount or value of which is in the Commissioner's opinion substantially less than the value of the accommodation, food, clothing, treatment, nursing, care or help supplied; and
- (ii) solely or mainly used for all or any such purposes:

(e) Land which is—

Inserted by
34, 1942,
s. 3 (2).

- (i) owned by an association which receives an annual grant or subsidy from money voted by Parliament; and
- (ii) in the Commissioner's opinion, solely or mainly used for the purposes for which the grant or subsidy is made:

(f) Land which is let to or occupied by any such association as mentioned in paragraph (d) or paragraph (e) of this subsection, and which is used solely or mainly for purposes mentioned in those paragraphs, and for which the association pays either no rent or other sum or a rent or other sum which in the Commissioner's opinion is a nominal one:

Inserted by
34, 1942,
s. 3 (2).

(g) Land which is owned or occupied without payment by any person or association carrying on an educational institution otherwise than for pecuniary profit, and which is occupied and used solely or mainly for the purposes of such an institution. This exemption shall not extend to land or buildings held as an investment and not being the site or grounds of the institution.

Inserted by
47, 1952, s. 4.

(2) The taxes so imposed shall be raised and levied pursuant to this Act in aid of the general revenue of the State for every financial year.

(3) In this section and in the corresponding provision of any previous Act relating to land tax "charitable purposes" means, and always has meant, the purposes of affording gratuitous tuition, assistance, or relief to poor or helpless persons.

(4) Land of the Crown, subject to any agreement for sale or right of purchase, whilst so subject is liable to taxation, whether that agreement or right is absolute or conditional, and whether it is capable of completion or exercise immediately or at any future time.

(5) Nothing in this Act shall be held to interfere with any exemption, by special legislation, of land from taxation.

Taxable
value.
Substituted
by 8, 1961,
s. 4.

11. (1) The taxable value of any land shall be the unimproved value of that land less the statutory exemption provided for by this section.

(2) Where the unimproved value of all land owned by the taxpayer does not exceed £2,500 there shall be a statutory exemption equal to the unimproved value of so much of the land as is land used for primary production.

(3) Where the unimproved value of all land owned by the taxpayer exceeds £2,500, but does not exceed £6,250 and all that land is land used for primary production, there shall be a statutory exemption of £2,500 less a sum equal to two-thirds of the amount by which the unimproved value exceeds £2,500.

(4) Where the unimproved value of all land owned by the taxpayer exceeds £2,500 but does not exceed £6,250, and part thereof is land used for primary production, there shall be a statutory exemption which bears to the statutory exemption which would have been applicable under subsection (3) of this section if all the land owned by the taxpayer were land used for primary production the same proportion as the unimproved value of that part of the land which is land used for primary production bears to the unimproved value of all the land owned by the taxpayer.

12. (1) The taxes on land shall be computed in accordance with the following rates:—

Amount of Land Tax.

Taxes on
land and
rates.
Substituted
by 47, 1952,
s. 5.
Subsection
(1) substituted
by 8,
1961,
s. 5 (a).

Taxable Value.	Amount of Tax.
Not exceeding £5,000 . . .	¾d. for each £1.
Exceeding £5,000 but not exceeding £10,000 . . .	£15 12s. 6d. plus 1d. for each £1 over £5,000.
Exceeding £10,000 but not exceeding £20,000 . . .	£36 9s. 2d. plus 2d. for each £1 over £10,000.
Exceeding £20,000 but not exceeding £35,000 . . .	£119 15s. 10d. plus 3d. for each £1 over £20,000.

Taxable Value.	Amount of Tax.
Exceeding £35,000 but not exceeding £50,000 . . .	£307 5s. 10d. plus 4d. for each £1 over £35,000.
Exceeding £50,000 but not exceeding £65,000 . . .	£557 5s. 10d. plus 5d. for each £1 over £50,000.
Exceeding £65,000 but not exceeding £80,000 . . .	£869 15s. 10d. plus 6d. for each £1 over £65,000.
Exceeding £80,000 but not exceeding £100,000 . . .	£1,244 15s. 10d. plus 7d. for each £1 over £80,000.
Exceeding £100,000 . . .	£1,828 2s. 6d. plus 7½d. for each £1 over £100,000.

* * * * *

Subsections (2) and (3) repealed by 8, 1961, s. 5 (a).

(4) Except as otherwise provided in this Act the amount of the land tax payable by a taxpayer shall be based upon the taxable value of all land owned by the taxpayer.

Amended by 8, 1961, s. 5 (b) (c).

12a. (1) Where the Commissioner is satisfied with respect to any land which is not exempt from land tax under section 10 of this Act—

Partially exempt land. Inserted by 47, 1952, s. 6.

- (a) that land is used or has been acquired for the purpose of being used and is intended to be used wholly or mainly for any purpose which in the Commissioner's opinion is a charitable, educational, benevolent, religious or philanthropic purpose (whether or not the purpose is charitable within the meaning of any rule of law); or
- (b) that the whole of the net income from the land is or will be applied to any such purpose as mentioned in paragraph (a) of this subsection; or
- (c) that part of the land is used or has been acquired for the purpose of being used and is intended to be used as mentioned in paragraph (a) of this subsection and the whole of the net income from the other part is or will be applied as mentioned in paragraph (b) of this subsection,

he may by notice in the *Gazette* declare that land to be partially exempt from land tax.

PART III.

Amended by
8, 1961,
s. 6 (1).

(2) The land tax on any land which is so declared to be partially exempt shall be three farthings in the pound.

(3) Land which is partially exempt from land tax under this section—

(a) shall be separately assessed and taxed and shall not be taken into account in fixing the rate of tax on any other land owned by the same owner;

Paragraph
(b) repealed
by 8, 1961,
s. 6 (2).

* * * * *

(4) If the Commissioner is of opinion that any land declared to be partially exempt from land tax has ceased to be used for any such purpose as mentioned in subsection (1) of this section or that the net income from any land is not or will not be applied to purposes mentioned in that subsection he may by notice in the *Gazette* cancel the declaration made under that subsection in relation to that land, and the partial exemption of the land shall thereupon cease.

(5) No proceedings shall be taken in any court to compel the Commissioner to make any declaration under this section, or to review, set aside or vary any decision or notice of the Commissioner under this section.

Land of local
authorities.
Inserted by
17, 1952, s. 6.

12b. Land which is owned by a municipal corporation or district council and is not wholly exempt from land tax under any enactment shall be deemed to be partially exempt from land tax and shall be taxable at the rates prescribed by section 12a of this Act.

Special
provision for
rural land.
Inserted by
8, 1961, s. 7.

12c. (1) The Governor may by proclamation declare any area in the State to be a defined rural area for the purposes of this section. The Governor may at any time amend or revoke any such proclamation.

(2) Any taxpayer liable to pay tax in respect of any land within a defined rural area may apply to the Commissioner for a declaration or a renewal of a declaration that any such land is declared rural land for the purposes of this section.

(3) Where the Commissioner is satisfied with respect to any such land that that land is land used for primary production he may make or renew a declaration that that land is declared rural land. A declaration or renewal of a declaration under this subsection shall be deemed to be in force as at midnight on the 30th day of June next preceding the date thereof and shall, unless sooner revoked by the

Commissioner under subsection (4) of this section, remain in force until midnight upon the 30th day of June immediately preceding the making by the Commissioner of the next following new assessment pursuant to section 20 of this Act.

(4) If the Commissioner is satisfied that any declared rural land or any part thereof has ceased to be land used for primary production he may by notice given by post to the taxpayer revoke the declaration in respect thereof.

(5) Notwithstanding anything in this Act contained a taxpayer in respect of declared rural land shall be liable to pay and shall pay only an amount of tax computed in accordance with the provisions of this Act upon the taxable value based upon the unimproved value of that land assessed as land used for primary production.

(6) If—

- (a) the Commissioner revokes a declaration in pursuance of subsection (4) of this section; or
- (b) the Commissioner refuses to renew a declaration in respect of any land within a defined rural area or any part thereof; or
- (c) any declared rural land or any part thereof is transferred or conveyed by the taxpayer to any other person and the transfer or conveyance is not in pursuance of a gift or devise to the spouse, a parent, grandparent or descendant of the taxpayer; or
- (d) a taxpayer has not before the 31st day of March next following the date of expiration of a declaration applied for a renewal of that declaration in respect of the land or any part thereof (excepting any case where the land has before the said 31st day of March ceased to be within a defined rural area),

the difference between the amount of any tax paid under subsection (5) of this section and the land tax which, but for the provisions of that subsection, would have been payable in respect of the land or part thereof (as the case may be) shall forthwith become due and payable and all of the provisions of this Act concerning and relating to the liability for recovery and collection of land tax shall apply in respect of such difference: Provided that such difference shall be calculated in respect of the period (not exceeding

PART III.

five years) immediately preceding the date upon which the difference becomes due and payable in accordance with the provisions of this subsection.

Minimum tax. 2176, 1934, s. 3. Amended by 47, 1952, s. 7, and by 8, 1961, s. 8. S. 14 repealed by 8, 1961, s. 9.

13. Where the total amount of land tax payable by any taxpayer in respect of any year would, apart from this section, be less than one pound, no land tax shall be payable.

* * * * *

Land tax in case of more owners than one. 1787, 1927, s. 13. Amended by 47, 1952, s. 9.

15. (1) Where more persons than one are owners of any land, the same amount of land tax shall be payable in respect of that land as if only one person were the owner thereof.

(2) If any of those persons is owner of any other land, his interest in the first-mentioned land shall not be taken into account in computing the amount of land tax to which he is liable in respect of that other land.

Land tax in case of trustees. 1787, 1927, s. 14. Amended by 47, 1952, s. 10.

16. (1) Where any persons are the owners of land as trustees under the same trust, whether those persons have or have not a beneficial interest in the land, the same amount of land tax shall be payable in respect of the land as if one person were the sole beneficial owner thereof; but that land shall not be taken into account in computing the amount of land tax for which those trustees, or their beneficiaries, are liable in respect of any other land.

(2) This section shall not apply to any land in which persons under the age of twenty-one years are beneficially interested under any trust created by the will of any person who died before the twenty-first day of December, eighteen hundred and ninety-four.

Ss. 17 and 18 repealed by 8, 1961, s. 9.

* * * * *

Perpetual leases without revaluation of rent. 1787, 1927, s. 17. Amended by 47, 1952, s. 12 and by 8, 1961, s. 10.

19. All land held under—
(a) any perpetual lease, not subject to revaluation of rent, granted under or pursuant to the Crown Lands Amendment Act, 1893, which lease subjects the lessee to pay yearly, in addition to the rent, an amount equal to the land tax, whether such lease was granted originally or on the surrender of an existing lease:

- (b) any perpetual lease granted after the twentieth day of December, eighteen hundred and ninety-four, and before the first day of January, nineteen hundred and four:
- (c) any perpetual lease, not subject to revaluation of rent, granted after the thirty-first day of December, nineteen hundred and three,

shall be liable to, and shall be assessed for land tax; and all the provisions of this Act shall apply to that land and to the holder of that lease.

PART IV.

ASSESSMENTS AND LIABILITY.

20. (1) The Commissioner shall, as of the first day of July, nineteen hundred and forty, and as of the first day of July in every fifth year thereafter make an assessment of the unimproved value expressed in pounds of Australian currency of all land liable to land tax.

Quinquennial assessment of land.
1787, 1927, s. 68.
2233, 1935, s. 17.
Cf. U.K. 21 & 22, Geo. 5, c. 28, s. 19 (2).

(2) General notice of the making of every assessment shall be given as soon as conveniently may be after it has been made.

(3) Immediately after the publication of that notice, the assessment shall be and remain in force, except so far as it is at any time altered, until a new assessment is made.

(4) Until the assessment is made as of the first day of July, nineteen hundred and forty, the assessment in force at the commencement of this Act shall subject to this Act be the assessment for purposes of this Act.

21. The assessment shall be written in a book, wherein shall be specified in separate columns the following particulars:—

Assessment book.
1787, 1927, s. 69.
2233, 1935, s. 18.
Cf. U.K. 21 & 22, Geo. 5, c. 28, s. 12.

- (a) A short description of or reference to the land assessed:
- (b) The unimproved value of the land assessed:
- (c) The names of the taxpayers in respect of the land assessed, so far as those names can be readily ascertained.

PART IV.

Public inspection of assessment book. 1787, 1927, s. 70.

22. As soon as any assessment has been made by the Commissioner, the assessment-book, or a true copy thereof, shall—

- (a) be deposited in the office of the Commissioner; and
- (b) be open, free of charge, to public inspection, between the hours of ten o'clock in the forenoon and three o'clock in the afternoon on every day except Sundays, Saturdays, and public holidays.

Power to add land to assessment. 1787, 1927, s. 71.

23. The Commissioner shall, from time to time, assess, and add to the assessment all lands that become liable to land tax after the time for the making of any quinquennial assessment, and before the time for the making of the next such assessment.

Notice on new assessment. 1787, 1927, s. 73.

24. (1) It shall not be necessary for the Commissioner, upon the making of any land tax assessment, pursuant to section 20, to give particular notice thereof to a taxpayer, unless some alteration directly affecting that taxpayer has been made in respect of the unimproved value of the land assessed.

(2) Where no such alteration has been made, the following words:—"New assessment. The taxpayer has the right to object," shall be written at the head of every notice applying for payment of the tax.

(3) Such a notice shall for all purposes be deemed to be a particular notice of the assessment.

(4) In every subsequent notice for payment of the tax based upon the same assessment it shall be sufficient to set out the assessment number and the amount of the tax payable under that assessment.

Notices of land tax assessment after alteration made. 1787, 1927, s. 74. 2233, 1935, s. 19.

25. (1) After the making of any land tax assessment, except an assessment pursuant to section 20, and after the alteration of any land tax assessment, the Commissioner shall give particular notice to the taxpayer in respect of the land assessed of the particulars of the assessment.

(2) In every notice for payment of the tax based upon the same assessment, it shall be sufficient to set out the assessment number and the amount of the tax payable under that assessment.

26. For the purpose of making any land tax assessment, the Commissioner may, if he thinks proper, adopt, or avail himself of, so much of any assessment which is in force at the time of making the land tax assessment and has been made by, or by the authority of, the Minister of Works, or any municipal corporation, district council, or drainage board, as is applicable to the land tax assessment, or useful for the purpose of making that assessment.

Power to use existing assessments. 1787, 1925, s. 75.

27. (1) The Commissioner, or any person having an order for that purpose under the hand of the Commissioner, shall be entitled as of right, at all reasonable times—

Power to inspect rate books and other documents. 1787, 1927, s. 76.

(a) to inspect, free of charge, all rate-books and assessment-books relating to any land, and all other books and documents concerning any assessment, and all deeds, instruments of title, books, returns, accounts, and documents, in the Lands Titles Registration Office, or the General Registry Office for the Registration of Deeds, or in the office of the Registrar of Probates, or any other public office; and

(b) to make and take copies of or extracts from any such books or documents.

(2) Any person who wilfully neglects or refuses to permit the Commissioner, or any person having an order for that purpose under the hand of the Commissioner, to exercise any right conferred by subsection (1) hereof, shall be guilty of an offence, and liable to a penalty not exceeding fifty pounds.

28. The Commissioner may at any time, alter or correct any assessment and assessment-book in any manner he thinks fit; and, as soon as he conveniently can thereafter, the Commissioner shall give general notice that the assessment has been altered or corrected, as the case may be.

Power to correct assessment. 1787, 1927, s. 77. Cf. U.K. 43 & 44, Vict. c. 19, s. 52.

29. The Commissioner may, whether notice of appeal has been given or not, alter or reduce any assessment, or class of assessment, and order a refund of any excess of tax that has been paid in respect thereof.

Power to reduce or alter assessment without appeal. 1787, 1927, s. 81.

30. The Commissioner shall, in all cases of disputed assessment, render to the taxpayer a full and particular account of his claim.

Disputed assessment. 1787, 1927, s. 82.

s. 26. The expression "Minister of Works" substituted for "Commissioner of Waterworks" pursuant to the Amendments Incorporation Act, 1937.

Liability to Tax.

Taxpayers
as to land
tax.

1787, 1927,
s. 38.

Cf. U.K. 21
& 22, Geo. 5,
c. 28, s. 17.

31. The taxpayers in respect of the land tax shall be—

- (a) the owner of the fee simple:
- (b) as regards land of the Crown subject to any agreement for sale or right of purchase, the person entitled to the benefit of that agreement or right of purchase:
- (c) as regards land held under perpetual lease as mentioned in section 19, the holder of that lease.

Change of
ownership.

1787, 1927,
s. 39.

Amended by
47, 1952,
s. 13 and by
8, 1961, s. 11.

32. (1) No land and no person assessed for land tax, shall be relieved from charge or liability by reason of change in the ownership of any land, or any part thereof, subsequent to the day as of which the assessment was made, or on account of any matter happening subsequently to that day.

(2) The Commissioner may refuse to recognize any change in the ownership of any land, or any part thereof, until the amount of the tax on that land, together with fines and interest thereon (if any), have been paid.

Taxpayers in
representative
capacity.

1787, 1927,
ss. 41, 44, 45.

33. (1) The following shall be taxpayers in their representative capacity:—

- (a) The public officer of every company;
- (b) Every attorney or agent for every person permanently or temporarily absent from the State;
- (c) Every trustee, executor, administrator, guardian, committee, Public Trustee, or receiver.

(2) (a) The public officer of a company, as regards the land of that company; and

- (b) every other taxpayer in a representative capacity as regards the land to which in that capacity he is entitled, or of which in that capacity he has the management, receipt, care, or control,

shall be subject to the same liabilities as if that land were the property of the taxpayer in his own individual right, except that no such taxpayer, not being the public officer of a company, shall be personally liable for the payment of any tax to any extent beyond the amount or value of any property over which he has any controlling power after the tax becomes payable.

(3) The account of every taxpayer as to the tax payable in his representative capacity shall be kept separate and distinct from the account of that taxpayer as to the tax payable in his individual right.

(4) The account of taxpayers jointly, whether as partners or otherwise, entitled to or interested in the same land, as regards the tax payable in respect of that land, shall be kept jointly, and separate and distinct from the sole accounts of those taxpayers.

Distribution of Burden of Taxation.

34. Every taxpayer in respect of any land tax shall be liable to the Treasurer for the full payment of the whole amount of that tax. Liability of taxpayer. 1787, 1927, s. 47.

35. (1) The burden of the land tax shall be distributed between the taxpayers in the relative proportions of the value of their interests in the land taxed. Distribution of burden. 1787, 1927, s. 48.

(2) Every taxpayer who has paid any land tax shall be entitled to recover from every other taxpayer in respect of the land tax of the same land a proper proportion of the amount paid.

36. Every person having paid any money by way of land tax (other than absentee land tax or additional land tax), or any contribution thereto, shall be entitled to contribution towards that payment from the owner of every freehold estate, and the owner of every term of years, in the land taxed: Provided that— Right of contribution. 1787, 1927, s. 49.

i. that estate or term was granted or created at some time prior to the fourteenth day of November, eighteen hundred and eighty-four, and the immediate reversion on that estate or term is owned by the party claiming contribution, and that term had, on the said fourteenth day of November more than seven years to run:

ii. the Crown shall in no case be liable to contribution.

37. The amount of the contribution to be made pursuant to the next preceding section shall be a sum which bears the same proportion to the whole amount of the tax as the value Amount of contribution. 1787, 1927, s. 50.

s. 37. *TUCKER v. HOWARD SMITH & Co. LTD.* (1904) S.A.L.R. 165. As regards lessors and lessees, section 37 means that the burden of land tax is distributable between lessor and lessee in the ratio which the lessor's interest in the unimproved value of the fee simple bears to the lessee's interest in the unimproved value of the fee simple. If the lessee has no interest in the unimproved value, he is not liable under section 37 to contribute towards land tax.

of the estate or term owned by the contributor, and of all subsequent contributors, bears to the value of the fee simple.

Recovery of contribution.
1787, 1927,
s. 51.
Cf. U.K. 8
& 9, Geo. 5,
c. 40, 1st Sch.,
Sch. A, No.
VIII.

38. (1) Every contribution to which any party is entitled shall be a debt due from the party liable to the contribution to the person entitled thereto, payable on demand.

(2) Every such contribution may also be added to any rent becoming due from the person liable to the contribution to the person entitled thereto, and shall be deemed part of that rent.

(3) Every remedy, by distress, re-entry, or otherwise, exercisable by the person entitled to the contribution in the case of non-payment of the rent, shall be exercisable in case of the non-payment of that additional rent or any part thereof.

Rules for calculating contribution.
1787, 1927,
s. 52.

39. The calculation of values required to be made for the purpose of fixing the amount of any contribution or payment shall be made in accordance with any tables and rules which are prescribed.

Indemnity to representative taxpayer or contributor.
1787, 1927,
s. 53.

40. Every taxpayer and every contributor who pays any tax or contribution in any representative capacity shall be entitled—

(a) to recover from the persons entitled to the land taxed, in the proportions in which they are so entitled; or

(b) to retain out of any money that comes to him in his representative capacity sufficient to indemnify him against the payments which by this Act he is required to make in his representative capacity.

Contracts shall not relieve from burden of taxation.
1787, 1927,
s. 120.

41. (1) No contract or covenant made, or entered into before the fourteenth day of November, eighteen hundred and eighty-four, shall bind any person to relieve any other person of the burden or incidence of any tax for which that last-mentioned person is made liable under this Act, nor shall any contract or covenant made or entered into after that date so bind unless the tax in question is expressly mentioned in the contract or covenant.

(2) No person shall be liable to pay, or to contribute to the payment of, any absentee land tax or additional land tax to the exoneration of any other person, by reason of any contract or covenant made or entered into before the twenty-first day of December, eighteen hundred and ninety-four.

42. (1) If any person has made, after the first day of October, eighteen hundred and ninety-four, or makes, after the commencement of this Act, any conveyance, assignment, transfer, settlement, declaration of trust, gift, or other non-testamentary disposition of land, whether in writing or otherwise, or any agreement affecting land, not *bona fide* for valuable consideration, but with intent to evade the payment or to lessen the amount of the land tax payable by that person—

Conveyance with intent to evade land tax. 1787, 1927, s. 121. Amended by 47, 1952, s. 14 and by 8, 1961, s. 11.

(a) that disposition or agreement shall be deemed fraudulent and void as between that person and the Commissioner; and

(b) that person shall be guilty of an offence, and liable to a penalty of five times the amount of the taxes which ought to have been paid in respect of the land so disposed of or affected by the agreement from the date of the disposition or agreement until the date of conviction.

(2) On any prosecution by the Commissioner under this section the onus of proving that any such disposition or agreement was made *bona fide*, or was not made to evade the payment or lessen the amount of tax, shall lie upon the defendant, and if the defendant proves his *bona fides* the cost of that proof shall be borne by the Commissioner.

(3) The person making the disposition or agreement shall, as between himself and any other person affected by the disposition or agreement, be estopped in all courts from raising the question of or disputing the effectiveness and validity of the disposition or agreement.

43. If any person makes any disposition or agreement as mentioned in the next preceding section not *bona fide* for valuable consideration, but with intent to evade the payment or to lessen the amount of the land tax payable by him, and accepts any mortgage, incumbrance, or other instrument, for the purpose of giving a security over the land, or any declaration of trust, with reference to the land, or any bond, agreement, bill of exchange, promissory note, or other security for money, that mortgage, incumbrance, instrument, declaration, bond, agreement, bill of exchange, promissory note, or other security for money shall be deemed illegal and void.

Securities from transferee for evasion of land tax void. 1787, 1927, s. 122. Amended by 47, 1952, s. 15 and by 8, 1961, s. 11.

PART IV.

Judgments recovered to secure evasion of land tax void. 1787, 1927, s. 123.

Amended by 47, 1952, s. 16 and by 8, 1961, s. 11.

44. (1) Any judgment, decree, or order recovered or made against any person for the purpose of effecting a security to any person who has made, after the first day of October, eighteen hundred and ninety-four, or makes, after the commencement of this Act, any disposition or agreement as mentioned in section 42, not *bona fide* for valuable consideration, but with intent to evade the payment or to lessen the amount of the land tax payable by that person, shall be deemed fraudulent and void.

(2) Any court, or a judge or special magistrate of any court, wherein any such judgment, decree, or order has been recovered, may, upon application made by summons by any person affected, set aside that judgment, decree, or order, and all writs of execution and other proceedings issued or taken thereunder, and shall make such order as to costs as appears just.

PART V.

PART V.

OBJECTIONS AND APPEALS.

Valuation boards. 1787, 1927, s. 98a.

Cf. U.K. 43 & 44, Vict. c. 43, s. 57. Cf. U.K. 21 & 22, Geo. 5, c. 28, s. 14.

45. (1) For the purposes of this Part there shall be such valuation boards as the Governor determines.

(2) There shall be three members of each board, consisting of a chairman and two other members, who shall be appointed by the Governor.

(3) The members of a board shall hold office for such period, not exceeding seven years, as the Governor determines, but shall be eligible for re-appointment.

Quorum and voting. 1787, 1927, s. 98b.

46. (1) For the conduct of the business of a board any two members shall form a quorum.

(2) At a meeting of a board the decision of the majority shall prevail.

(3) The chairman of a board shall have a deliberative but not a casting vote.

(4) Where, at any meeting of a board at which one of the members is not present, the members present are divided in opinion upon any question, the determination of that question shall be postponed until a meeting at which all the members are present.

Board may not be sued. 1787, 1927, s. 98c.

47. No action or suit shall be brought or maintained against any person who is or has been a member of a board for any act or omission in connection with his duties.

48. The salary or fees and travelling allowances of the board shall be such as the Governor determines.

Remuneration of members.
1787, 1927,
s. 98d.

49. (1) The Governor may suspend the chairman or any member of a board from office for misbehaviour or incapacity.

Removal or suspension of members.
1787, 1927,
s. 98c.

(2) Where a person has been suspended under this section, a statement of the cause of the suspension shall be laid before both Houses of Parliament within seven days after the suspension, if Parliament is then sitting, or, if Parliament is not then sitting, then within seven days after the next meeting of Parliament, and if within sixty days thereafter an address is presented to the Governor by the Legislative Council and the House of Assembly praying for the restoration of the suspended person to office, that person shall be restored accordingly, but if no such address is so presented the Governor may declare the office of the suspended person to be vacant, and the office shall thereupon be vacant.

50. A chairman or a member of a board shall be deemed to have vacated his office if—

Vacation of office.
1787, 1927,
s. 98f.

- (a) he becomes bankrupt or insolvent, or applies to take the benefit of any Act for the relief of bankrupt or insolvent debtors, or compounds with his creditors or makes an assignment of his salary for their benefit; or
- (b) he is sentenced to imprisonment for any offence.

51. (1) A taxpayer who is dissatisfied with any assessment for land tax may, within sixty days after the giving of the notice of assessment, post to or lodge with the Commissioner an objection in writing against the assessment, stating fully and in detail the grounds on which he relies.

Objections.
1787, 1927,
s. 98g.
2233, 1935,
s. 20.
Cf. U.K. 21
& 22, Geo. 5,
c. 28, ss. 14,
19 (4).

(2) The Commissioner shall, with all reasonable despatch, consider the objection, and may either disallow it or allow it either wholly or in part.

(3) The Commissioner shall give to the objector written notice of his decision on the objection.

(4) A taxpayer who is dissatisfied with the decision of the Commissioner may within sixty days after the service by post of notice of that decision in writing request the Commissioner to refer the decision to a valuation board for review of the value assigned to the land in the assessment.

PART V.

References
to board.

1787, 1927,
s. 98h.

52. (1) Where a taxpayer has, in accordance with the last preceding section, requested the Commissioner to refer a decision to a valuation board, the Commissioner shall, if the taxpayer's request is accompanied by a deposit of ten shillings refer the decision to the board not later than thirty days after the receipt of the request.

(2) A taxpayer shall be limited on the review to the grounds which he has stated in his objection as being those upon which he objects to the value assigned to his land.

(3) The Commissioner and the taxpayer shall, on the review before the board, be entitled to appear before the board either personally or by counsel or other representative.

(4) The board, on review, shall give a decision and may either confirm the value assigned to the land in the assessment or reduce or increase that value.

(5) If the value assigned to land in the assessment has been reduced by the Commissioner after considering the objection, the reduced value shall be the value dealt with by the board under the preceding subsection.

(6) The board may, if it considers the reference to be frivolous or unreasonable, order the forfeiture of the whole or part of the amount deposited in accordance with subsection (1) of this section. If no order for forfeiture is made, the deposit shall be returned when the board has given its decision.

(7) The Commissioner or a taxpayer may, within thirty days after the date of the board's decision, appeal to the Supreme Court from any decision of the board under this section which, in the opinion of the court, involves a question of law, and the board may refer to the Supreme Court any question of law arising before the board. On any such appeal or reference the Supreme Court may make any order touching the matter in dispute, and any order as to costs, which it deems just.

(8) Where the board has reduced or increased the value assigned to land in an assessment, and no appeal has been made against the decision of the board, the Commissioner shall forthwith amend the assessment accordingly, and the Commissioner shall refund to the taxpayer any tax overpaid by him, or, as the case may be, the taxpayer shall become liable to pay the tax due by him in consequence of any increase in the value assigned to his land.

PART V.

53. The right of the Commissioner to recover any land tax shall not be suspended by any objection or appeal.

Right to recover tax notwithstanding objection.
1787, 1927, s. 98i.

54. At the hearing of the objection or appeal, the particulars contained in any notice as to any change of ownership of any land (whether the value of such land is the subject-matter of the appeal or not) furnished in the prescribed form by the Registrar-General of Deeds to the Commissioner, shall be receivable as evidence, and such notice shall be *prima facie* evidence of the truth of the particulars contained therein.

Notice of sales to be *prima facie* evidence on appeals against assessment.
1787, 1927, s. 98j (1).

55. At the hearing of the objection or appeal the assessment-book, or a copy of so much thereof as relates to the assessment appealed against certified under the hand of the Commissioner, shall be produced by or on behalf of the Commissioner, and shall be received as evidence of the matters therein stated.

Production of assessment book at hearing.
1787, 1927, s. 98j. (2).

PART VI.

PART VI.

COLLECTION AND RECOVERY OF TAX.

Time for Payment.

56. (1) Land tax shall be calculated as at midnight upon the thirtieth day of June immediately preceding the financial year for which the tax is levied.

Time for calculation and payment of tax.
2233, 1935, s. 4.

(2) Land tax shall be due and payable thirty days after the service of a particular notice showing the amount payable.

(3) When the Commissioner has reason to believe that a taxpayer may leave Australia before the tax due on any assessment will be due and payable, the tax shall be due and payable on such date as the Commissioner fixes and notifies to the taxpayer.

57. The Commissioner may, if sufficient reason is shown, postpone for such period as he thinks proper the day upon which any land tax will become due and payable.

Power of Commissioner to extend time for payment.
1787, 1927, s. 7.
2233, 1935, s. 5.

58. (1) If any land tax is not paid within thirty days after it falls due, interest at the rate of ten pounds per centum per annum from the time when it falls due until payment thereof, shall be added to the amount of that tax, and shall be paid

Fine and interest in default of payment.
1787, 1927, s. 9.
2127, 1933, s. 9.
2233, 1935, s. 6.

by the taxpayer: Provided that the Commissioner may remit any such interest in whole or in part, if sufficient reason is shown.

(2) The Commissioner may also remit any fine or interest on overdue land tax which has become payable before the court, to the purchaser, his heirs and assigns, in such form Act.

Postponement
of payment of
tax in cases of
hardship.
Inserted by
8, 1961, s. 12.

58a. Where the Commissioner is satisfied upon application by a taxpayer that payment of the land tax in respect of any financial year by that taxpayer would cause hardship, the Commissioner may postpone payment of the said land tax or any portion for such period or periods as the Commissioner thinks fit. The Commissioner may, if he is of the opinion that the circumstances of the taxpayer have changed and that payment of any land tax so postponed would not in the changed circumstances result in hardship to the taxpayer, require the taxpayer forthwith to pay such land tax or portion thereof. Notwithstanding anything contained in this section, any land tax or portion of land tax, payment of which has been postponed by the Commissioner, shall be and remain a first charge upon the land taxed and shall be recoverable forthwith by the Commissioner upon any change of ownership of land taxed or in the event of the death of the taxpayer from his personal representatives. No penalty for late payment shall be added to any land tax payment of which has been postponed in pursuance of this section in respect of any period of postponement.

Recovery of Taxes.

Recovery
by ordinary
process.
1787, 1927,
s. 99.

59. (1) If any tax is in arrear, the Commissioner, without prejudice to his right to recover that tax in any other way, may sue for and recover it in any court of competent jurisdiction as a debt due to the Commissioner.

(2) Any action for tax may be maintained in the name of the Commissioner, without specifying the name of the person holding the office, and shall not be liable to be abated by any vacancy or change occurring in the office of the Commissioner or otherwise.

Recovery
by distress.
1787, 1927,
s. 100.
Cf. U.K. 38,
Geo. 3,
c. 5, s. 40.
Cf. U.K. 43
& 44, Vict.,
c. 19, s. 86.

60. (1) If any tax is in arrear for twenty-one days after particular notice has been given to the taxpayer to pay it, the Commissioner or any person authorized by the Commissioner, may thereupon without any warrant distrain the goods and chattels of that taxpayer, wherever they are, for payment of the tax in arrear.

(2) If the sum for which the distress is taken, together with the reasonable costs of distress, is not paid within five days after the distress has been made, then the goods and chattels distrained, or so much as is sufficient to pay that sum and costs, may be sold, and the proceeds, after deducting that sum and costs and all expenses, shall be returned to the taxpayer.

61. (1) The Commissioner may by notice in writing (a copy of which shall be forwarded to the taxpayer to the last place of address known to the Commissioner) require—

Power to collect tax from persons owing money to taxpayer.
1787, 1927, s. 105a.
1830, 1927, s. 23.
1960, 1930, s. 34.
2127, 1933, s. 9.

- (a) any person by whom any money is due or accruing due or may become due to a taxpayer;
- (b) any person who holds, or may subsequently hold, money for or on account of a taxpayer;
- (c) any person who holds or may subsequently hold money on account of some other person for payment to a taxpayer; or
- (d) any person having authority from some other person to pay money to a taxpayer,

to pay to him forthwith, or upon the money becoming due or being held, or within such further time as the Commissioner allows the money or so much thereof as is sufficient to pay the land tax due by the taxpayer and the interest and costs (if any) imposed by this Act or any court on him in respect of any omission or offence against this Act.

(2) Any person who fails to comply with any notice under this section shall be liable to a penalty not exceeding fifty pounds.

(3) Where the amount payable by a person to whom a notice under subsection (1) of this section has been given is less than the amount of land tax and interest due by the taxpayer, that person shall pay to the Commissioner in reduction of that tax and interest the amount payable by that person to the taxpayer.

(4) Any person making payment in pursuance of this section shall be deemed to have been acting under the authority of the taxpayer and of all other persons concerned, and is hereby indemnified in respect of that payment.

(5) If the land tax and interest are paid before any payment is made under any notice given under subsection (1) of this section, the Commissioner shall forthwith give notice of the payment to the person to whom the notice under subsection (1) was given.

PART VI.

Notice of
intention to
let or sell.
1787, 1927,
s. 101.

62. Whenever any land tax in respect of any land is in arrear for the space of two years, the Commissioner may cause to be published three consecutive weeks in the *Government Gazette* a notice specifying that land, and the amount of the land tax due in respect thereof, and stating that if that tax is not paid within one year from the first publication of the notice, the Commissioner will let the land from year to year as provided by this Act, or will apply to the Supreme Court for a sale thereof.

Letting from
year to year.
1787, 1927,
s. 102.
Cf. U.K. 38,
Geo. 3,
c. 5, s. 17.

63. If, after one year from the first publication of the notice, all or any part of the tax due at the time of the first publication is still unpaid, the Commissioner may let the land from year to year and—

- (a) receive the rents; and
- (b) apply the rents towards the payment of the tax, and costs, and expenses; and
- (c) hold any surplus for the persons entitled to the income of the land.

Sale by order
of the
Supreme
Court.
1787, 1927,
s. 103.

64. (1) The Commissioner, in lieu of letting the land, may, by petition to the Supreme Court, or any judge thereof, apply for the sale of the land, or of so much thereof as is necessary for the purposes mentioned in subsection (2) of this section.

(2) The court or judge, on being satisfied, by affidavit or otherwise, that the amount of the tax is lawfully due, and was in arrear at the time of the first publication of the notice, and that all acts required by this section to be done by the Commissioner have been done, shall order—

- (a) that the land, or so much thereof as is sufficient to pay all arrears due up to the time of sale, together with all costs of and attending the application, and of and attending the sale by public auction, be sold; and
- (b) that the proceeds be paid into court.

(3) The court or a judge shall order payment of the tax, costs, and expenses to be first made out of the proceeds of the sale.

s. 64. In *re* a petition by the Commissioner of Taxes (1937) S.A.S.R. 356. Where notices preparatory to the sale of land for arrears of land tax wrongly described the ownership as being in one person whereas it was owned by him and another person as tenants in common and the land was sold under order of Court, which also wrongly described it as being owned by the one person, held that there was no jurisdiction to amend the description of the title to the land in the order.

(4) The conveyance or transfer, as the case may be, shall be executed by the Master, or some other officer of the court, to the purchaser, his heirs and assigns, in such form as is approved by the court or a judge.

(5) The conveyance or transfer shall vest the land sold in the purchaser for an estate in fee simple, free from all encumbrances.

(6) If the land is under The Real Property Act, 1886, the purchaser shall be entitled to receive a certificate of title to the land purchased.

(7) The balance arising from the proceeds of the sale shall be subject to any orders of the court for the benefit of the persons interested therein.

65. (1) The owner in fee simple of land unencumbered, except by land tax due thereon, may transfer or convey that land, and deliver the title therefor, to the Commissioner, who shall accept the land on behalf of the Crown.

Transfer to the Crown and cancellation of title.
1787, 1927, s. 104.

(2) Where any land which is subject to The Real Property Act, 1886-1939, has been transferred as mentioned in subsection (1) of this section, the Commissioner shall deliver the transfer and the certificate of title to the land to the Registrar-General with a written request that the Minister of Lands shall be registered as the proprietor of the land. The Registrar-General shall thereupon make an indorsement on the certificate of title and in the Register Book to the effect that the land is vested in the Minister of Lands pursuant to this Act and upon the making of such an indorsement the land shall vest accordingly.

Substituted by 34, 1942, s. 4.

(3) Where any land which is not subject to The Real Property Act, 1886-1939, has been conveyed as mentioned in subsection (1) of this section the Registrar-General of Deeds shall register the conveyance under the Registration of Deeds Act, 1936. On being satisfied as to the title of the Commissioner and on payment of all such fees and production of all such plans and maps as would have been required to be paid or produced on an application to bring the land under The Real Property Act, 1886-1939, the Registrar-General shall forthwith issue a certificate of title to the said land in the name of the Minister of Lands.

Substituted by 34, 1942, s. 4.

(4) Where before the passing of the Land Tax Act Amendment Act, 1942, any land subject to The Real Property Act, 1886-1939, has been transferred to the Commissioner and the certificate of title thereto has not been cancelled, the Commis-

Substituted by 34, 1942, s. 4.

s. 65. The expression "Minister of Lands" substituted for "Commissioner of Crown Lands" pursuant to the Amendments Incorporation Act, 1937.

sioner shall upon the coming into operation of the Land Tax Act Amendment Act, 1942, deliver the certificate of title to the Registrar-General with a written request that the Minister of Lands shall be registered as the proprietor of the land. The Registrar-General shall thereupon make an indorsement on the title and in the Register Book to the effect that the land has been vested in the Minister of Lands and upon the making of such indorsement the land shall vest accordingly.

Inserted by
34, 1942, s. 4.

(5) Where before the passing of the Land Tax Act Amendment Act, 1942, any land subject to The Real Property Act, 1886-1939, has been transferred to the Commissioner and the certificate of title thereto has been cancelled, the Minister of Lands may in writing request the Registrar-General to annul the cancellation of the certificate and to register the Minister of Lands as the proprietor of the land.

The Registrar-General shall thereupon make an indorsement on the certificate and in the register book to the effect that the cancellation of the certificate has been annulled and that the land has been vested in the Minister of Lands and upon the making of such indorsement the land shall vest accordingly, and the Registrar-General shall forward the duplicate certificate of title to the Minister of Lands.

Inserted by
34, 1942, s. 4.

(6) All land transferred or conveyed under this section shall be under the control of the Minister of Lands who may sell, lease or otherwise dispose of the land to such persons, and in such manner and upon such terms and conditions as the Minister of Lands approves upon the recommendation of the Land Board.

Inserted by
34, 1942, s. 4.

(7) The Minister of Lands may execute any transfer, lease, conveyance or other document necessary to carry out any transaction entered into under this section. Any such transfer, lease, conveyance or document which relates to land which is subject to The Real Property Act, 1886-1939, shall comply with that Act.

Inserted by
34, 1942, s. 4.

(8) The Registrar-General shall, if so requested by the Minister of Lands, cancel the certificate of title relating to any land vested in the Minister of Lands under this section by making an indorsement on the certificate and in the Register Book of the words "Cancelled at the request of the Minister of Lands". Thereupon the land shall for all purposes be deemed to be Crown land and may be dealt with as though it had never been alienated from the Crown.

(9) The proceeds of every lease, sale or other disposition under this section shall be paid to the Treasurer in aid of the general revenue of the State.

Inserted by
34, 1942, s. 4.

(10) For the purposes of this section land shall be regarded as unencumbered if it is not subject to any mortgage, charge, encumbrance or lease, whether statutory or otherwise, and the expression "certificate of title" shall include "land grant".

Inserted by
34, 1942, s. 4.

(11) This section shall apply notwithstanding any provisions of The Real Property Act, 1886-1939.

Inserted by
34 1942, s. 4.

66. (1) All land tax shall, until payment, be a first charge upon the land taxed, in preference to all rates, mortgages, charges, and encumbrances.

Land tax to
be a first
charge upon
land.
1787, 1927,
s. 106.

(2) If land tax is payable on land included in more than one land tax assessment, that land tax shall be charged on the land included in each assessment in the proportion that the amount of that assessment bears to the total amount of all the assessments.

Amended by
47, 1952,
s. 17.

67. No statute of limitation shall bar or affect any action or remedy for recovery of tax.

No statute of
limitation to
apply.
1787, 1927,
s. 107.

68. (1) If the Commissioner is satisfied that an overpayment of any tax has been made, he shall, whether an application for refund is made or not, refund the taxpayer the sum overpaid.

Refund of
overpaid
taxes.
1787, 1927,
s. 117,
2127, 1933,
s. 10.

(2) This section, without any further appropriation or warrant, shall be sufficient authority for the Commissioner to make any such refund.

PART VII.

PART VII.

MISCELLANEOUS.

69. Every company which, for the time being, carries on business in the State shall at all times be represented for the purposes of this Act by a person residing in the State; and the following provisions shall apply:—

Public officer.
1787, 1927,
s. 108.

- i. That person shall be called the public officer of the company:
- ii. The public officer shall be appointed within three months after the company has commenced to carry on business in the State:

- III. The office of public officer shall be kept constantly filled by making fresh appointments thereto from time to time as may be necessary:
- IV. No appointment shall be deemed to be duly made until after notice thereof specifying the name of the officer and an address for service, has been given to the Commissioner:
- V. Every company failing, or neglecting, within the time hereinbefore limited in that behalf, to duly appoint a public officer, or to keep the office of such officer constantly filled as aforesaid, shall be liable to a penalty not exceeding fifty pounds for every day during which the failure or neglect continues:
- VI. Everything done by any public officer, which he is required to do in his representative capacity, shall be deemed to have been done by the company:
- VII. Every service made at the address for service, or on the public officer, or on any person acting, or appearing to act in the business of the company, shall be sufficient for all the purposes of this Act:
- VIII. Every company, on any default by the public officer, shall be liable to pay all taxes and do all acts which, pursuant to this Act, should be paid or done by the public officer.

70. Every company owning land in the State shall, for the purposes of the next preceding section, be deemed to carry on business in the State.

Company owning land deemed to carry on business.
1787, 1927,
s. 109.

71. Any company in course of being wound up, and which at the commencement of the winding-up carried on business in the State, shall be deemed to carry on business in the State so long as the winding-up continues in the State, or with relation to any assets of the company in the State, and shall comply with section 69.

Companies in liquidation.
1787, 1927,
s. 110.

72. (1) Where a company is being wound up, the public officer of that company shall give notice of the winding-up to the Commissioner within fourteen days after the approval of the shareholders for the winding-up has been given, or the order for the winding-up has been made.

Notice by public officer of liquidation of company.
1787, 1927,
s. 111.
1830, 1927,
s. 24.

(2) Any public officer who fails to comply with this section shall be guilty of an offence against this Act, and shall be liable to a penalty not exceeding fifty pounds.

73. If the occupier of any land, or the person in possession of any property, when requested by the Commissioner, or by any other officer appointed or holding office under this Act, to disclose the name of the owner of that land or property, or of the person entitled to receive the income of that land or property—

Duty of occupier to give the name of the owner of land.
1787, 1927, s. 124.
Cf. U.K. 21 & 22, Geo. 5, c. 28, s. 27.

- (a) refuses or wilfully omits to disclose that name; or
- (b) wilfully misstates that name; or
- (c) neglects and refuses to give any information in his possession which is required by the Commissioner, or any such officer,

that occupier or person shall, for every offence, be liable to a penalty not exceeding twenty pounds.

74. (1) The Commissioner may cause any person whom he considers, or suspects, to be capable of giving information which may assist in carrying out this Act—

Commissioner may cause person to be examined before a local court.
1787, 1927, s. 125.

- (a) to appear for examination at the local court nearest to the place where that person dwells or carries on business before any special magistrate sitting as a local court of limited jurisdiction; and
- (b) to answer, on oath, all questions in aid of the purposes of this Act that may, by way of cross-examination or otherwise, be put to him by, or on behalf of, the Commissioner; and
- (c) to produce any documents he may be required by the Commissioner to produce.

(2) The Commissioner may, for the purposes of this section give written notice under his hand, in the prescribed form, to any person to attend before any such special magistrate sitting as a local court of limited jurisdiction, and, if so required, to produce any documents.

(3) Any person receiving such notice, and being paid such sum as he would be entitled to as a witness upon subpoena from a local court, and not attending or producing documents within his custody or power in accordance therewith, or refusing to answer any such questions as aforesaid, shall be liable to a penalty of not less than ten pounds nor more than one hundred pounds.

(4) Any person who wilfully gives false testimony on being examined under this section shall be guilty of perjury.

(5) The proceedings under this section shall be conducted privately.

PART VII.

Evidence.
1787, 1927,
s. 127.

75. (1) The production of the *Government Gazette* containing—

- (a) any regulations purporting to be regulations under this Act, or any previous Act relating to taxation; or
- (b) any notice purporting to be published by the Commissioner in pursuance of this Act, or any previous Act relating to taxation; or
- (c) any notice of the appointment of any officer under this Act, or any previous Act relating to taxation,

shall be conclusive evidence of that regulation, publication, or appointment.

(2) The production of any assessment-book, or of any document under the hand of the Commissioner purporting to be a copy of, or extract from, any assessment-book, shall be conclusive evidence of the making of the assessment, and, except in the case of proceedings on appeal against the assessment, when such a book or document shall be *prima facie* evidence, shall be conclusive evidence that the amount and all the particulars of the assessment appearing in that book or document are absolutely correct.

Summary disposal of proceedings.
1787, 1927,
s. 128.

76. Every proceeding under this Act, for any omission, default, offence, or act to which any penalty is attached, where no other mode of proceeding is by this Act provided, shall be disposed of summarily.

Prosecution may be commenced within three years.
1787, 1927,
s. 128.
Cf. U.K. 43 & 44, Vict. c. 19,
s. 21 (4).

77. A prosecution for any offence against this Act may be commenced at any time within three years after the happening of the circumstances alleged to constitute that offence.

Punishment in default of payment of penalty.
1787, 1927,
s. 130.

78. (1) In every case of the adjudication of a fine or pecuniary penalty under this Act, and of the non-payment thereof, any justice may commit the offender, or the person making default in payment, to any gaol in the State for any time not exceeding six calendar months: Provided that the imprisonment shall cease on payment of the sum due and the costs of any proceedings which have been taken for the recovery thereof.

(2) This section shall not affect any other remedy under the Justices Act, 1921.

79. (1) Any action brought against any officer or person for anything done in pursuance of this Act, or in the execution of the powers or authorities of this Act, shall be brought in the local court nearest to the place where the cause of action arose.

Action against officers, etc. 1787, 1927, s. 131.

(2) The defendant in any such action may plead the general issue, and give this Act and the special matter in evidence, at the trial.

80. (1) The Governor may, from time to time, make regulations not inconsistent with this Act for the following purposes, or any of them, that is to say:—

Regulations. 1787, 1927, s. 131.

- (a) Prescribing the duties of all persons engaged, or employed, in the administration of this Act:
- (b) Regulating the security to be given by any such persons, and defining the limits of districts and places within which any such persons are to act:
- (c) Prescribing tables and rules for fixing values in order to ascertain the amount of any tax or contribution:
- (d) Prescribing returns to be furnished by any party to the Commissioner, and the form and contents thereof, and the time and mode of furnishing the same:
- (e) Imposing a penalty, not exceeding fifty pounds, for any breach of any regulation.

(2) The Governor may, from time to time, make all such other regulations not inconsistent with this Act, either applicable generally or to meet particular cases, as are necessary or desirable to carry out the objects and purposes of this Act, or convenient for the administration thereof.

(3) All such regulations—

- (a) shall be published in the *Government Gazette*;
- (b) within fourteen days after the making thereof shall be laid before both houses of Parliament if Parliament is then sitting, and, if Parliament is not then sitting, then within fourteen days after the beginning of the next session of Parliament; and
- (c) shall have the force of law from the date of such publication.

PART VII.

Sale of
regulations.
1787, 1927,
s. 114.

81. The Commissioner shall, on payment of a fee of five shillings, furnish to every applicant a printed copy of all regulations for the time being in force.

SCHEDULES.

THE FIRST SCHEDULE.

No. and Year of Act.	Name of Act.
No. 1787 of 1927	Taxation Act, 1927
No. 1830 of 1927	Taxation Amendment Act, 1927
No. 1896 of 1929	Taxation Act Amendment Act, 1929
No. 1960 of 1930	Taxation Act, 1930
No. 1999 of 1931	Land Tax Act, 1931
No. 2127 of 1933	Taxation Act, 1933
No. 2176 of 1934	Taxation Act, 1934
No. 2233 of 1935	Taxation Act, 1935