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Local Government in Palestine

comprising the

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of

MUNICIPALITIES and LOCAL COUNCILS, LOCAL AUTHORITIES
(BUSINESS TAX), RATES and TAXES (EXEMPTION), TOWN
PLANNING, TRADE and INDUSTRIES (REGULATION),

collection of

ORDINANCES, RULES and ORDERS

and a

DIGEST

OF CASES DECIDED BY THE
SUPREME COURT AND DISTRICT COURTS.



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by

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A/Attorney General of Palestine.



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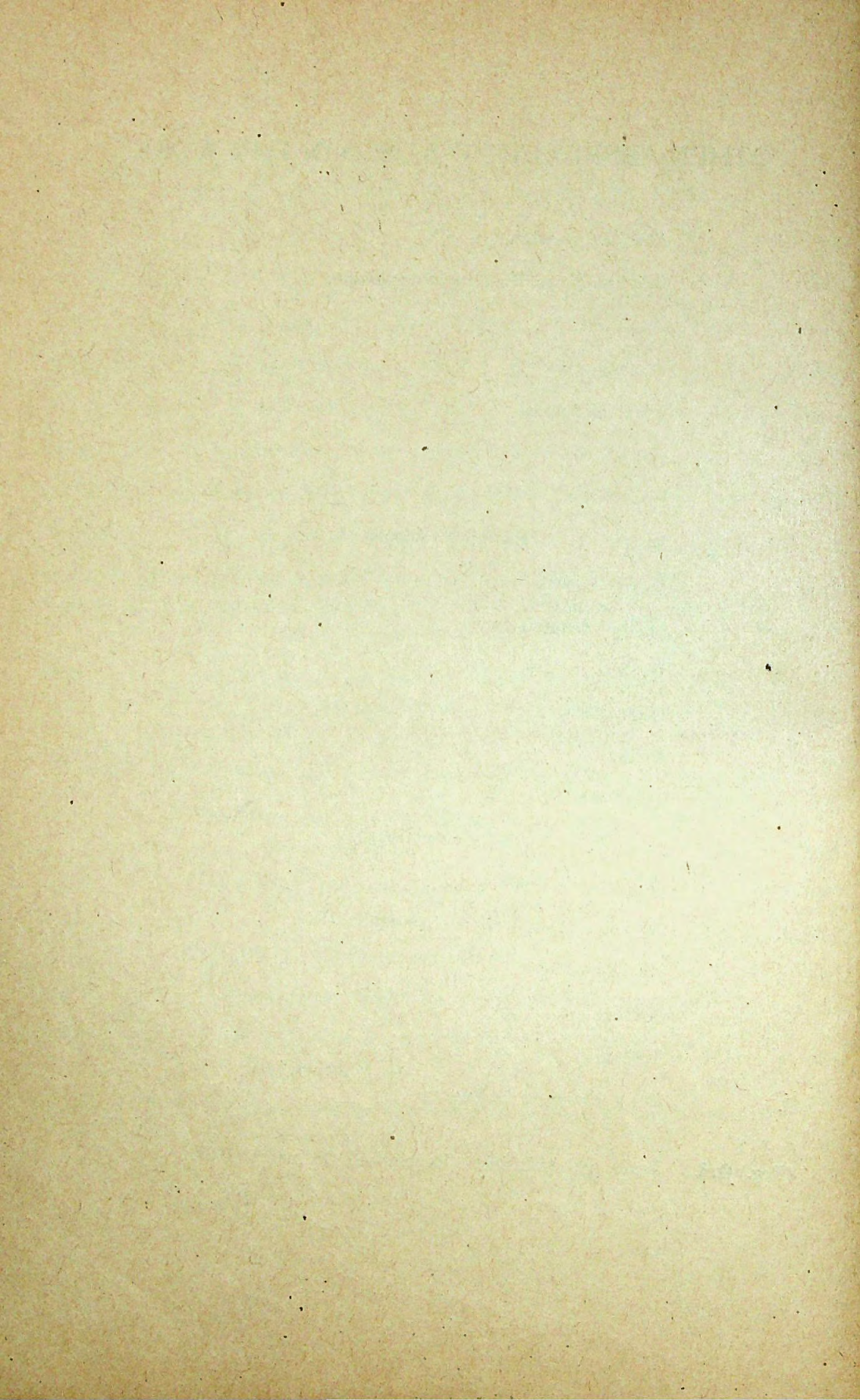
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g. On the relation between the Town Planning Ord. and other legislation (contracts, expropriation, eviction)	15 cases; reference No. 229-243.
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REPORTS AND TEXT BOOKS INCLUDED IN THIS WORK AND THEIR ABBREVIATIONS.

ALL E.R.	All England Law Reports.
ALR	Annotated Law Reports, 1943—
BEATTIE	On Local Government, 1946.
CREW	On Rates and Rating, 1935.
CLR	Current Law Reports, 1937-42; Levanon.
CLARKE	On Local Government in the United Kingdom, 1945.
DIGEST	The English and Empire Digest.
EYLES	On Parliamentary and Local Government Elections, 1936.
HAMISHPAT	Hamishpat, Law Reports of the District Courts in Palestine, (Hebrew) 1946—, Appelbom & ors.
HLR	Collection of judgments of the District and Land Courts of Haifa, 1942-1943 and Haifa Law Reports, 1944—, edited by C. Cohen.
NORTHERN LAW REP.	Northern Law Reports, January-March 1938; edited by A. Liphshitz.
PLR	Palestine Law Reports, 1920—, edited by Mc Donell, C.J., H. Baker and S. Azouri.
ROSE	English Local Government Law, 1938.
ROTENBERG (C. of J.)	Collection of Judgments, 1919-1936.
SCJ	Supreme Court Judgments, 1937-1942; edited by Appelbom.
SELECTED	Selected Cases of the District Courts of Palestine, 1943—, edited by Appelbom & ors.
TALR	Law Reports of the District Court of Tel-Aviv, (1937-1941/42), published by Bursi.

OTHER ABBREVIATIONS USED IN THIS WORK.

Att. Gl.	Attorney General.
BTPC	Building Town Planning Commission.
CC	Civil Case.
CrC	Criminal Case.
CrA	Criminal Appeal.
C-cc	Committee.
C-ssion	Commission.
DstTPC	District Town Planning Commission.
DC	District Court.
Dst. C-er	District Commissioner.
Ha	Haifa.
HC	High Court.
Ja	Jaffa.
Jm. Jlem	Jerusalem.
LTPC	Local Town Planning Commission.
Mg	Magistrate's Court.
M.C.O.	Municipal Corporations Ordinance, 1934.
N.R.	Not Reported.
S.	Section.
TA	Tel-Aviv.
T.P.O.	Town Planning Ordinance.
Tr. & Ind. (Reg.) Ord.	Trade and Industries (Regulation) Ordinance, 1927.



PREFACE.

The idea of writing this book came to me as a result of many difficulties met when dealing with the numerous amendments of the Municipal and Local Councils legislation, to mention f.i. the Municipal Corporations Ordinance, 1934, which has been amended not less than fourteen times.

2. Thus, in writing this book, I have endeavoured to meet a need for a handbook which will provide —

- a. Judges, Magistrates, Lawyers,
 - b. The Staff of the Administrative Service and of the District Administration of the Government,
 - c. Members of Municipal and Local Councils acting as such or as members of Local Town Planning Commissions,
 - d. Heads and senior Officers of Municipal Departments —
- with a guide and quick means of reference to the many provisions of law and decisions of Courts which govern the conduct of Local Government in Palestine.

3. The book is divided in two parts. The first contains the Palestine legislation on the law of local government, i.e. the Municipal Corporations Ordinance, the Local Councils Ordinance, the Rates and Taxes (Exemption) Ordinance, the Local Authorities (Business Tax) Ordinance, the Trade and Industries (Regulation) Ordinance, and all their Rules and Orders. It includes also the full text of the penalty sections of the Town Planning Ordinance, 1936, and short references of those parts of that Ordinance which were the subject matter of decided cases. In view of the recent draft of the Town and Country Planning and Building Ordinance, 1947, which is understood to come into force in the near future comparative references have been made between the 1936 and 1947 Ordinances so that that part of the "Digest" dealing with Town Planning cases will remain of actual interest even after the Draft Ordinance of 1947 is enacted.

In preparing this book an opportunity has been afforded for a consolidation of the principal Ordinances with all their amend-

ments. Such amendments are printed in italics and the number and year of the amending Ordinance is given in the marginal part of the page.

The second part of the book contains a digest of about three hundred cases decided by the Supreme Court and District Courts of Palestine arranged according to subject matter and following in the same time the text of the law. In addition reference is made to English cases and to some judgments of the Magistrates' Courts in Palestine. Almost all reported cases and a number of unreported cases have been included in the Digest. The serial numbers inserted in the marginal part of the page indicate the cases decided in connection with that part of the law marked with a star and reference to them may easily be made in the Digest.

Comparative lists of the By-laws in force of the five biggest Municipalities (Jerusalem, Haifa, Jaffa, Tel-Aviv and Petach-Tiqva) are given at the end of the book.

4. I am grateful to the Government of Palestine for the permission to reproduce the legislation contained in the first part of the book; I am also much obliged to Mr. M. Levanon, Dr. A. Gorali, Mr. A. M. Apelbom, Mr. Cohen (Haifa) and Mr. Bursi for their permission to reproduce the head-notes of their reported publications as shown by the list of abbreviations and cited in the Digest.

I convey special thanks to Saba Eff. Said, Municipal Advocate, of whose wide experience in Municipal matters I have been fortunate to avail myself in writing this book.

Finally, I shall be much obliged to everybody who will draw my attention to any mistakes or omissions which inevitably may have occurred in this book.

A. S. Kandel.

Jerusalem, October 1947.

PART I.

MUNICIPAL CORPORATIONS ORDINANCE.

No. 1 of 1934.

AN ORDINANCE TO ESTABLISH MUNICIPAL CORPORATIONS.

BE IT ENACTED by the High Commissioner for Palestine, with the advice of the Advisor Council thereof:—

1. This Ordinance may be cited as the Municipal Corporations Ordinance, 1934.

2. In this Ordinance, unless the context otherwise requires, the following expressions have the meanings respectively assigned to them, that is to say:—

“Council” means the council of the municipal corporation constituted under the provisions of this Ordinance.

“Councillor” means a duly elected member of the council.

“Commissioner” means *District Commissioner*.

59/46.

MUNICIPAL CORPORATIONS.

3.—(1) The inhabitants of the areas set out in the first schedule to this Ordinance shall upon the commencement of this Ordinance be municipal corporations. The inhabitants of certain areas to be municipal corporations.

(2) If it should appear to the High Commissioner by reason of the wish of the majority of the inhabitants in any area, whether such area or any part thereof is, or is not, within the area of a municipal corporation, or for any other reason, that it is desirable that the inhabitants of an area should become a municipal corporation, he may order an enquiry to be made concerning such area and the

wishes of the inhabitants thereof, by a commission upon which there shall be at least one member who is not an officer of the Government of Palestine, and may, after considering the report of such commission, at his discretion, declare by proclamation the inhabitants of such area to be a municipal corporation.

(3) When the High Commissioner declares the inhabitants of any area to be a municipal corporation under the provisions of sub-section (2) hereof, he shall fix such dates, times and places and nominate such officers and persons for the purpose of an election, or otherwise, and do such other acts and give such directions as to the manner of holding the first and subsequent elections under this Ordinance, and as to the persons qualified to vote or to be elected at such elections, or otherwise, and as to the vesting of any property in such municipal corporation, or otherwise, as may appear to him to be necessary for applying this Ordinance to such corporation upon the constitution thereof.

Power to
abolish
municipal
corporations.

4. If it should appear to the High Commissioner by reason of the wish of the majority of the townsmen of any area, or for any other reason, that it is desirable that the inhabitants of any such area should no longer be a municipal corporation, he may order an enquiry to be made concerning such area and the wishes of the townsmen thereof by a commission upon which there shall be at least one member who is not an official of the Government of Palestine, and may, after considering the report of such commission, at his discretion, by proclamation abolish such municipal corporation, and shall give such directions as shall be necessary for the vesting of any property of such municipal corporation, and such property shall thereupon vest in accordance with such directions.

Variation of
municipal
area.
59/46.

5(1) If for any reason it should appear to the High Commissioner that by reason of the wishes of the majority of the townsmen or otherwise, the area of any municipal corporation set out in the first schedule to this Ordinance, or declared by the High Commissioner under the provisions of sub-section (2) of section 3 of this Ordinance, should be altered, extended or diminished, he may order an enquiry to be made concerning such area, regard being had to any undertaking or development which is being carried out by the municipal corporation, by a commission upon which there shall be at least one member who is not an official

of the Government of Palestine, and after considering the report of such commission may, at his discretion, alter *by proclamation*, extend or diminish such area. 59/46.

(2) *The High Commissioner may, by proclamation, alter the description of a municipal area without holding an enquiry as provided in subsection (1), if such alteration of the description of such area does not alter, extend or diminish such area.* 59/46.

Nothing in subsection (1) shall be taken as invalidating any alteration of any municipal area or of any description of any municipal area effected or purporting to be effected before the commencement of this Ordinance in any manner other than the manner provided by section 5 of the principal Ordinance as amended by subsection (1) of this section; and, in particular, no such alteration shall be invalid by reason only that it was effected by order.*

CONSTITUTION AND ORGANISATION OF MUNICIPAL CORPORATIONS AND COUNCILS.

6. The municipal corporation of an area shall bear the name of the mayor, councillors and townsmen of the area, and shall have perpetual succession, and the right to sue and be sued in its corporate name. Name of municipal corporation.

7.—(1) A person shall not be deemed to be a townsman* for any purpose of this Ordinance unless he is enrolled as a townsman. * 1. Qualification of township.

(2) A person shall not be enrolled as a townsman unless such person is possessed of the qualifications respectively set out in the second* and third** schedules to this Ordinance or if the municipal corporation was created under the provisions of sub-section (2) of section 3 of this Ordinance, the qualifications set out in any direction given by the High Commissioner under sub-section (3) of section 3 of this Ordinance. * 2. ** 1, 149, 151

(3) The High Commissioner may, if requested so to do by a resolution of a council of any municipal corporation passed by a majority of not less than two-thirds of the total number of councillors of such council,

* "of this Ordinance" means the Amendment Ordinance No. 59/46.

(a) if the municipal corporation is included in the second or third schedules to this Ordinance, vary any of the qualifications set out in those schedules respectively in respect of the municipality concerned, or

(b) if the municipal corporation was created under the provisions of subsection (2) of section 3 of this Ordinance, vary any direction as to the qualifications of persons to vote given by him under sub-section (3) of section 3 of this Ordinance.

Municipal corporations to act by a council.

8.—(1) Municipal corporations shall be capable of acting by a council, and such council shall exercise all the powers lawfully vested in the municipal corporation.

(2) The council shall consist of the number of councillors set out in the first schedule to this Ordinance, one of whom shall be mayor and one whom shall be deputy mayor.

(3) Where any municipal corporation is created under the provision of sub-section (2) of section 3 of this Ordinance the High Commissioner shall give directions as to the number of councillors for such corporation.

(4) The High Commissioner ~~in Council~~ may by order increase or decrease the number of councillors for any municipal corporation.

(5) (a) Notwithstanding anything contained in this Ordinance with regard to the qualifications of townsmen and councillors the High Commissioner may, at his discretion, if it appears to him necessary in the interests of the good government of Jerusalem or Haifa, having regard to the conditions prevailing therein, nominate a number of persons not exceeding two to be councillors of the municipal corporation of Jerusalem and Haifa respectively, and may at his discretion dismiss from the office of councillor any person so nominated.

(b) The number of councillors set out in the first schedule to this Ordinance shall be deemed to be increased by the number of councillors so nominated until such nominated councillors cease to hold office.

(c) A councillor so nominated shall be a councillor for all the purposes of this Ordinance and shall have all the powers and be subject to the liabilities of an elected councillor and shall, sub-

ject to the provisions of paragraph (a) hereof, hold office for the life of the council to which he is nominated.

9. The councillors shall be fit persons elected by the townsmen Councillors.
as in this Ordinance provided.

10.—(1) In this section, the expression "date of completion of election", in relation to the election of a Council, means the date following the day on which the filling of all places on the Council is finally completed by election in pursuance of section 18 or sub-section (2) of section 38, as the case may be, in such circumstances that the election of none of the councillors can any longer be questioned by or by reason of an election petition. Duration of Council.
59/46.

For the purposes of this section, a place on a Council shall be deemed to be filled in such circumstances that the election of the councillor can no longer be questioned as aforesaid, on the date on which —

(a) a period of fifteen days contemplated by paragraph (b) of section 36 has expired, if no election petition is presented within that period, or

(b) if an election petition has been presented and is dismissed otherwise than on the merits, the date on which notification of his due election is published in accordance with subsection (1) of section 38, or

(c) if his due election has been determined by the Court under paragraph (b) (i) or (b) (ii) of sub-section (2) of section 37, on the date on which notification of his due election has been published in accordance with subsection (2) of section 38.

(2) Subject to the provisions hereafter in this Ordinance contained, the duration of a council elected under the provisions of this Ordinance shall be—

(a) in the case of the first council of any of the municipal corporations set out in the first schedule, until and including the 31st day of December, 1939;

(b) in the case of the first council of a municipal corporation which has been created or is hereafter created under subsection (2) of section 3, until the expiry of five years from the date of completion of election of that council;

(c) in the case of a council of any of the municipal corporations referred to in paragraph (a) or (b) of this subsection elected subsequently to the election of the first council thereof, until the expiry of five years from the date of completion of election of that council :

Provided that if for any reason any election of a new council is not held in accordance with the provisions of this Ordinance, or if the date of completion of election of the new council is subsequent to the expiry of the period provided for above in this subsection, the duration of the council shall extend until the date of completion of election of the new council.

No act which before the commencement of this Ordinance was done by any body purporting to act as a municipal council under the principal Ordinance, or by any person on behalf of such body, shall be invalidated by reason only that at the time such act was done the duration of such council had expired under section 10 of the principal Ordinance, whether as in force before the commencement of this Ordinance or as enacted by subsection(1) of this section.*

Qualifica-
tion of
councillors.

11. —(1) A person shall not be qualified to be elected or to be a councillor for any area if —

(a) he is an undischarged bankrupt, or

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(b) he is a paid servant or officer of the Government of Palestine, or is an officer or employee of any municipal corporation or other local authority, or

(c) he is not enrolled, or entitled to be enrolled, as a townsman of the area,

and unless he is possessed of the qualifications set out in the fourth and fifth schedules to this Ordinance.

(2) The High Commissioner may, if requested so to do by a resolution of a council of any municipal corporation passed by a majority of not less than two-thirds of the total number of councillors of such council,

(a) if the municipal corporation is included in the fourth and fifth schedules to this Ordinance, vary any of the

* "of this Ordinance" means the Amendment Ordinance No. 59/46.

qualifications set out in those schedules in respect of the municipality concerned, or

(b) if the municipal corporation was created under the provisions of sub-section (2) of section 3 of this Ordinance, vary any direction as to the qualifications of the townsmen to be elected given by him under sub-section (3) of section 3 of this Ordinance.

(3) For the purposes of the fourth and fifth schedules to this Ordinance, a person is said to reside in any dwelling in which he sometimes uses a sleeping apartment although he does not use it uninterruptedly or has elsewhere a dwelling where he has, and sometimes uses, another such apartment. A person does not, for the purposes aforesaid, cease to reside in a dwelling where he has such an apartment merely because he is absent from it, if there is the liberty of returning at any time and no abandonment of the intention to return at pleasure.

12. The High Commissioner may, whenever it appears to him desirable that the election of councillors for any municipal area should be by divisions, by Order to be published in the Gazette, divide such municipal area into such divisions as shall appear to him to be convenient, and determine the number of councillors to represent each such division.

Division of
municipal
areas for
purposes of
election.

13. —(1) The Commissioner shall as soon as may be possible after the commencement of this Ordinance and thereafter from time to time appoint for each municipal corporation within his District a committee to be known as the electoral committee to prepare or to revise the register of voters and to supervise the elections. All expenses in connection with the preparation or revision of the register of voters, and the nomination and election of candidates by poll or otherwise, shall be defrayed from the municipal fund.

Electoral
committee.

59/46.

(2) The electoral committee * shall consist of such number of persons who are entitled to vote at the elections of councillors for the municipal corporation as the Commissioner shall appoint:

* 3, 11, 12.

Provided that the Commissioner may appoint thereto one or more officers of the Government of Palestine.

(3) The Commissioner shall appoint one member thereof to be chairman of the electoral committee.

59/46.

(4) *The Commissioner may at any time appoint one or more new or additional members of an electoral committee or a new electoral committee and, in the later case, may, without prejudice to his powers under subsection (1), appoint such committee to do or complete the work which was assigned to any electoral committee which has ceased to function.*

Preparation of register of voters.

14. —(1) There shall be for each municipal corporation a list of townsmen entitled to vote at the election of the councillors which shall be called the register of voters for the municipal corporation.

* 5, 12, 16c.

(2) The electoral committee* shall, on a date to be prescribed by the Commissioner, commence to prepare the register of voters from the assessment list of the municipal corporation, and from any applications which may be made to them or otherwise, and shall in like manner *commence to* revise such register in each year on a date prescribed by the Commissioner.

59/46.

The electoral committee may call upon any person to produce receipts for any rates or taxes *which such person claims to have paid.

* 151.

Any person desiring so to do, may send particulars of his claim to be enrolled to the electoral committee in the form contained in the sixth schedule to this Ordinance.

59/46.

(2A) *If an electoral committee in the opinion of the Commissioner, after warning by him—*

(a) *has ceased to perform the functions imposed upon it by this Ordinance, or*

(b) *is acting in such manner as will render it unable efficiently to discharge all or any of such functions, or*

(c) *is carrying out such functions so dilatorily or otherwise in such a manner as to defeat the purposes for which it was appointed,*

the Commissioner may terminate the appointment of such committee.

(3) The register of voters shall be in the form set out in the sixth schedule to this Ordinance and shall contain the full name, age and place of abode of each townsman entitled to vote, and

shall show whether each townsman is eligible for election as a member of the council, and shall be arranged alphabetically:

Provided that where the municipal area has been divided into divisions the register of voters shall be prepared so as to show alphabetically the townsmen entitled to vote in each division in respect of premises in such division:

Provided also that where the name of the person appears in the register of voters as entitled to vote in more than one division, such person shall elect by giving notice to the electoral committee the division in which he desires to vote and the electoral committee shall, thereupon, record such election in the register of voters. Such election may be changed by such person upon any revision of the register of voters but not otherwise.

(4) So soon as it shall have been prepared or revised the register of voters* shall be posted at the municipal offices in such a manner * 4. that the public may have convenient access thereto, and on or near the door of such places of worship or other public buildings within the municipal area as shall be determined by the electoral committee.

✓ 15. —(1) Within fourteen days of the publication of the register of voters, Objections to register of voters.

(a) every person whose name is not in such register and who claims that it should be inserted therein,* and * 151.

(b) every person whose name is in such register who objects to the insertion of the name of any other person therein, may give notice in writing to the electoral committee* of such claim or objection stating the grounds therefor in the form in the sixth schedule to this Ordinance. * 6, 7, 8, 9, 10.

(2) *As soon as possible after the receipt of any such claim or objection, the electoral committee shall consider the same in the presence of the person making it, and in the case of an objection in the presence of the person objected to:* 37/47.

Provided that if the person making the claim or objection, or the person objected to, shall fail to appear before the committee at the time appointed by the committee for the consideration of the claim or objection the committee may proceed to consider the claim or objection notwithstanding such absence.* * 8.

Any consideration which has been given by any electoral committee to any claim or objection prior to the coming into force of this Ordinance shall be deemed to have been validly given if it would have been validly given if this section had been enacted immediately after the coming into force of the principal Ordinance.*

* 11, 12, 16c. (3) After considering such claim or objection the electoral committee shall give its decision thereon,* and shall if necessary amend the register of voters.

(4) The decision of the electoral committee shall be obtained by vote, each member thereof having one vote:

Provided that if there is an equality of votes the chairman shall have a second or casting vote.

Appeal to
District
Court. *8.

16. —(1) The claimant or objector or the person objected to may within seven days from the date of adjudication by the electoral committee appeal to a District Court* consisting of the President sitting alone on any question of law involved in the adjudication, but not on any other ground.

(2) The appellant in his appeal shall name as the respondent:

- (a) the electoral committee, if the appellant is a claimant,
- (b) the person objected to, if the appellant is an objector, or
- (c) the objector, if the appellant is a person objected to.

(3) The appellant shall within three days of filing his appeal serve the respondent with a copy thereof either personally or by leaving it at his last known place of abode and shall within three days of such service file in the District Court a declaration stating the time, place and circumstances of such service.

(4) The District Court, after hearing the appellant and the respondent or their respective advocates, shall make such order as to the insertion or omission of the name of the appellant or the erasure or continuance of the name of the person objected to in the register of voters and as to the payment of the costs as it thinks just, and the electoral committee shall forthwith comply with such order, if it directs the insertion or erasure of any name in such register.

* "of this Ordinance" means the Amendment Ordinance No. 37/47.

(5) The decision of the electoral committee if there is no appeal therefrom to the District Court and the decision of the District Court if there is an appeal thereto shall respectively be final, and no appeal shall lie therefrom to the Supreme Court or any court.

17 (1) After all claims or objections submitted in accordance with subsection (1) of section 15 have been considered by the electoral committee and the register of voters has, if necessary, been amended in accordance with subsection (3) of section 15, or, if no claims or objections have been submitted, after the register of voters has been posted for a period of fourteen days, the chairman of the electoral committee shall sign the register * by signing each page thereof.

Register of voters to be signed.
59/46.

* 16c.

Provided that if there is any appeal to the District Court the chairman of the electoral committee shall not sign the register of voters until the District Court has given its decision, when the register of voters shall be amended (if necessary) in accordance with the decision of the Court:

Provided also that if for any reason the chairman of the electoral committee shall refuse or neglect to sign the register the Commissioner may sign the register.

(2) When the chairman of the electoral committee or the Commissioner has signed the register of voters it shall thereupon become the register of voters for the municipal corporation.

18. The High Commissioner may by notice in the Gazette prescribe the date for the holding of elections for councillors either generally or in respect of any particular municipal corporation,

Holding of elections.

(a) for the first election after the commencement of this Ordinance:

Provided that the date prescribed for the holding of any such first election shall not be such as to curtail the term of office for which any municipal council or the local council of Tel Aviv was elected prior to the commencement of this Ordinance and which is current upon the commencement of this Ordinance.

(b) for the election of a council to replace the first, or any subsequent, council, in accordance with the provisions of this Ordinance,

(c) for any by-election to fill any vacancy in any council:

Provided that if an election is not held at the prescribed date it shall be held on the next day following (not being a public holiday) the prescribed date. If the election is not held on such next day, the High Commissioner shall prescribe a date upon which the election shall be held.

Returning officers.

19. The Commissioner shall appoint a returning officer for each municipal area in which an election is to be held, or:

Provided that if such area has been divided into divisions the Commissioner may,

(a) appoint a returning officer for each division, or

(b) appoint a returning officer for any group of divisions.

Nomination of candidates and method of election.

20. The High Commissioner may make regulations either generally or for any particular municipal corporation, providing,

(a) for the nomination of candidates for the council, and

(b) for the method of their election and matters incidental thereto, and

(c) for deposits by candidates, and

(d) for a return of election expenses by candidates:

* 13, 14, 15, 16.

Provided that until amended or revoked by any such regulations, the regulations in the seventh* and eighth schedules to this Ordinance shall apply to the nomination and election of councillors for the municipal corporations mentioned therein:

Provided also that no person shall be nominated for election as a councillor,

(a) for more than one municipal corporation, or

(b) for more than one division of a municipal area, or

(c) if he is a member of any local council.

Certain offences at elections.

21. Every person who,

(a) forges or fraudently defaces or destroys any nomination paper or party list, or delivers to the presiding officer any nomination paper or party list, knowing the same to be forged, or

(b) wilfully obstructs, or by threats or violence interferes with, any voter while on the way to vote or while in the polling station, or

(c) without due authority takes, opens or otherwise interferes with any ballot box, or

(d) in any way wilfully interrupts or impedes an election, shall be guilty of an offence and shall on conviction be liable to a fine not exceeding twenty pounds or to imprisonment for a term not exceeding three months, or to both such fine and imprisonment.

22. Any person who at an election held under this Ordinance applies to vote in the name of some other person, whether that name be that of a person living or dead or of a fictitious person, or who, having voted once in his own name at any such election, applies again at the same election to vote in his own name, shall be guilty of the offence of personation, and every person so guilty or who is guilty of the offence of aiding, abetting, counselling, or procuring the offence of personation, shall on conviction be liable to a fine not exceeding twenty pounds, or to imprisonment for a term not exceeding three months, or to both such fine and imprisonment.

Personation.

23.—(1) Any person who corruptly by himself or by any other person, either before, during or after an election held under this Ordinance, directly or indirectly, gives or provides, or pays wholly or in part the expense of giving or providing any meat, drink, entertainment or provision to or for any person, for the purpose of corruptly influencing that person, or any other person, to give or refrain from giving his vote at such election, or on account of such person or any other person having voted or refrained from voting, or being about to vote or refrain from voting, at such election, shall be guilty of the offence of treating, and shall on conviction be liable to a fine not exceeding twenty pounds, or to imprisonment for a term not exceeding three months, or to both such fine and imprisonment.

Treating.

(2) Every elector who corruptly accepts or takes any such meat, drink, entertainment or provision shall be guilty of the offence of treating, and shall on conviction be liable to the penalties specified in sub-section (1) hereof.

24. Every person who, directly or indirectly, by himself or by any other person on his behalf, makes use of or threatens to make use of any force, violence or restraint or inflicts or threatens to inflict, by himself or any other person any temporal or spiritual

Undue influence.

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injury, damage, harm or loss upon or against any person in order to induce or compel such person to vote or refrain from voting, or on account of such person having voted or refrained from voting at any election held under this Ordinance, or who by abduction, duress or any fraudulent device or contrivance impedes or prevents the free exercise of the franchise of an elector or thereby compels, induces or prevails upon any elector either to give or refrain from giving his vote at any such election, shall be guilty of the offence of undue influence, and shall on conviction be liable to a fine not exceeding twenty pounds, or to imprisonment for a term not exceeding three months or to both such fine and imprisonment.

Bribery.

25.—(1) The following persons shall be deemed guilty of the offence of bribery, and shall on conviction be liable to a fine not exceeding twenty pounds or to imprisonment for a term not exceeding three months or to both such fine and imprisonment:—

(a) Every person who, directly or indirectly, by himself or any other person on his behalf, gives, lends, or agrees to give or lend, or offers, promises, or promises to procure or to endeavour to procure, any money or valuable consideration to or for any elector, or to or for any person on behalf of any elector, or to or for any other person, in order to induce any elector to vote or refrain from voting, or corruptly does any such act as aforesaid on account of such elector having voted or refrained from voting at any election held under this Ordinance ;

(b) Every person who, directly or indirectly, by himself or by any other person on his behalf, gives or procures, or agrees to give or procure, or offers, promises to procure or to endeavour to procure, any office, place or employment to or for any elector or to or for any person on behalf of any elector or to or for any other person in order to induce such elector to vote or refrain from voting, or corruptly does any such act as aforesaid on account of any elector having voted or refrained from voting at an election held under this Ordinance;

(c) Every person who, directly or indirectly, by himself or by any other person on his behalf, makes any such gift, loan, offer, promise, procurement or agreement as aforesaid to or for any person in order to induce such person to procure or endeavour to procure the return of any person as a member of the council, or the vote of any elector at an election held under this Ordinance;

(d) Every person who, upon or in consequence of any such gift, loan, offer, promise, procurement or agreement, procures or engages, promises or endeavours to procure the election of any person as a member of the council, or the vote of any elector at an election held under this Ordinance;

(e) Every person who advances or pays or causes to be paid any money to or for the use of any other person, with the intent that such money or any part thereof shall be expended in bribery at any election held under this Ordinance or who shall knowingly pay or cause to be paid any money to any person in discharge or repayment of any money wholly or in part expended in bribery at any such election:

Provided always that the provisions of this section shall not extend or be construed to extend to any money paid or agreed to be paid for or on account of any legal expenses *bona fide* incurred at or concerning any election held under this Ordinance.

(2) The following persons shall also be deemed guilty of the offence of bribery, and shall on conviction be liable to the penalties specified in sub-section (1) hereof:—

(a) Every elector who, before or during an election held under this Ordinance, directly or indirectly, by himself or by any other person on his behalf, receives, agrees or contracts for any money, gift, loan or valuable consideration, office, place or employment, for himself or for any other person, for voting or agreeing to vote or for refraining or agreeing to refrain from voting at any such election;

(b) Every person who, after any election held under this Ordinance, directly or indirectly, by himself or by any other person on his behalf, receives any money or valuable consideration on account of any person having voted or refrained from voting or having induced any other person to vote or refrain from voting at any such election.

26. Any person who is convicted under this Ordinance of bribery, treating, undue influence, illegal practice or personation or of aiding, counselling or procuring the commission of the offence of personation, shall, in addition to any other punishment, Disqualification for bribery, etc.

(a) cease, if he shall be a member thereof, to be a member of the council in the election for which such offence was committed, and

(b) be disqualified from voting at and from being a candidate at any election for a council for such period, not exceeding seven years, as the court upon such conviction shall order.

Certain expenditure to be illegal practice.

27. —(1) No payment or contract for payment shall, for the purpose of promoting or procuring the election of a candidate to a council, be made,

(a) on account of the conveyance of the electors to or from the poll whether for the hiring of horses or carriages or motor vehicles or for railway fares or otherwise, or

(b) on account of the hire of any committee room or other premises in connection with the election in excess of the number of such rooms or premises as shall be authorised by the Commissioner for any election.

(2) If any payment or contract for payment is knowingly made in contravention of this section either before, during or after an election the person making such payment or contract shall be guilty of an illegal practice, and the person receiving such payment or being a party to any such contract knowing the same to be in contravention of this Ordinance shall be guilty of an illegal practice.

Certain expenditure to be illegal.

28. —(1) No payment or contract for payment shall for the purpose of promoting or procuring the election of a candidate to a council be made on account of bands of music, torches, flags, banners, cockades, ribbons or other marks of distinction.

(2) If any payment or contract for payment is made in contravention of this section either before, during or after an election the person making such payment shall be guilty of an illegal payment and any person being party to such contract or receiving such payment shall be guilty of illegal payment if he knew that the same was contrary to law.

Certain employment to be illegal. 6/45.

29.(1) No person shall, for the purpose of promoting or procuring the election of a candidate, be engaged or employed by or on behalf of such candidate for payment or promise of

payment for any purpose or in any capacity whatever, except as follows, that is to say:

(a) a number of person may be employed, not exceeding two as clerks and messengers, or in either capacity, and

(b) one polling agent may be employed in each polling station:

Provided that this section shall not apply to any engagement or employment for carrying into effect a contract *bona fide* with any person in the ordinary course of business.

(2) If any person is engaged or employed in contravention of this section, either before, during or after an election, the person engaging or employing him shall be guilty of illegal employment, and the person so engaged or employed shall also be guilty of illegal employment if he knew that he was engaged or employed in contravention of this Ordinance.

30. The provisions of this Ordinance prohibiting certain payments and contracts for payment, and the payment of any sum, and the incurring of any expense, in excess of a certain maximum, shall not affect the right of any creditor who, when the contract was made or the expense was incurred, was ignorant of the same being in contravention of this Ordinance.

Saving for
creditors.

31. —(1) No sum shall be paid and no expense shall be incurred by or on behalf of a candidate at an election for a council whether before, during or after an election on account of or in respect of the conduct or management of such election save that a sum may be paid and expenses incurred not in excess of fifteen pounds:

Limit of
election
expenses.

Provided that where there are two or more joint candidates the maximum amount of expenses shall, if there are two joint candidates, for each such joint candidate be reduced by one-fourth, or if there are more than two joint candidates by one-third.

(2) Where two or more candidates at an election, by themselves or any agent or agents, hire or use the same committee rooms or premises for such election, or employ or use the services of the same clerks, messengers or polling agent at such election, or publish a joint address or joint circular or notice at such election,

those candidates shall be deemed for the purposes of this section to be joint candidates at such election.

(3) Any candidate who acts in contravention of this section shall be guilty of an illegal practice.

Penalty for illegal practice.

32. Any person guilty of an illegal practice as in this Ordinance provided shall be guilty of an offence and shall on conviction be liable to a fine not exceeding twenty pounds or to imprisonment for a term not exceeding three months or to both such fine and imprisonment.

Penalty for illegal payment or employment.

33. —(1) Any person guilty of an offence of illegal payment or employment as in this Ordinance provided shall, on conviction, be liable to a fine not exceeding twenty pounds.

(2) Where an offence of illegal payment or employment is committed by a candidate, or with his knowledge and consent, such candidate shall be guilty of an illegal practice.

Limitation of prosecutions.

34. Notwithstanding anything in any other Ordinance contained prosecutions for personation, treating, undue influence or bribery or illegal practice, illegal payment or illegal employment under this Ordinance shall only be instituted,

(a) within fifteen days of the publication in the Gazette of the result of the election at which the offence is alleged to have been committed, and

(b) by the police, with the consent of the Commissioner.

Power to question municipal election by petition.
* 16c.

35. —(1) The election of any councillor to a council may be questioned by an election petition* on the ground,

(a) that the election was avoided by bribery, treating, undue influence or personation, as provided by this Ordinance, or

(b) that illegal practices or illegal payment or employment may be reasonably supposed to have affected the result of the election, or

(c) that the person elected was at the time of the election disqualified from being elected under this Ordinance, or

(d) that the person elected was not duly elected by a majority of lawful votes.

(2) Subject to the provisions of section 26 of this Ordinance, the election of a councillor shall not be questioned on any of the grounds set out in sub-section (1) hereof save by an election petition.

36. An election petition * shall be presented,

Presentation of election petition. * 16a, 16aa, 16b.

(a) to a District Court, and

(b) within fifteen days of the publication in the Gazette of the result of the election in respect of which the petition is presented, and

(c) by one or more of the following persons: —

(i) any person who voted or had a right to vote at the election in respect of which the petition is presented, or

(ii) any person who claims to have had a right to be returned or elected at such election, or

(iii) any person who alleges himself to have been a candidate at such election, or

(iv) the Attorney-General.

37. —(1) Every election petition shall be tried by a President of a District Court either alone or with such other judges as the Chief Justice may direct. Trial of election petition.

(2) *At the conclusion of the trial of an election petition the Court shall —* 59/46.

(a) *dismiss the petition otherwise than on the merits thereof, or*

(b) *determine—*

(i) *whether the candidate of whose election complaint has been made was duly elected, or*

(ii) *whether any other person, and, if so, which person, was duly elected, or*

(iii) *whether the election was void, and shall certify such dismissal or determination to the High Commissioner, and upon such certificate being given such dismissal or determination shall be final.*

Declaration
by High
Commis-
sioner.
59/46.

38. —(1) *Where under section 37 a certificate is given by a Court to the effect that an election petition is dismissed otherwise than on the merits, the High Commissioner shall notify such dismissal in the Gazette, and thereupon the person to whom the petition related shall be deemed to have been duly elected:*

Provided that the High Commissioner shall not notify such dismissal as aforesaid unless or until the time for filing election petitions in the case in question has passed, and shall not then notify such dismissal as aforesaid if another election petition is pending in the case in question or if a notification has already been made in the place in question in accordance with subsection (2) or (3).

(2) *Where under section 37 a certificate is given by a Court to the effect that an election petition has been determined as set out in paragraph (b) (i) or (b) (ii) of subsection (2) of that section, the High Commissioner shall, by notification in the Gazette, declare whether the candidate whose election was questioned by such petition or any other, and if so which, person is duly elected, and thereupon such person shall be deemed to have been duly elected accordingly.*

(3) *Where under section 37 a certificate is given by a Court to the effect that an election was void, the High Commissioner shall, by notification in the Gazette, appoint a date for the election of a candidate or candidates for the Council concerned, and thereupon an election shall be held accordingly.*

Power to
make rules
for conduct
of petition.

39. The Chief Justice, with the approval of the High Commissioner, may make rules of court for regulating the practice and procedure to be observed on election petitions.

Offences by
candidate.

40. —(1) The election of a candidate shall be avoided and shall be invalid if he commits in connection with his election any of the following offences as provided in this Ordinance, that is to say — personation, treating, undue influence, bribery or illegal practice.

(2) A candidate shall be deemed for the purpose of this section to commit an offence if it is committed with his knowledge and consent or by any person who is acting under the special authority of such candidate with reference to the election.

41. Where upon the trial of an election petition respecting a municipal election it is found by the court that illegal practices or offences of illegal payment or employment committed in reference to such election for the purpose of promoting the election of a candidate at that election have so extensively prevailed that they may be reasonably supposed to have affected the result of that election the court may certify, under the provisions of section 37 of this Ordinance, the election of such candidate, if he was elected, to be void.

Avoidance of election for extensive illegal practice, etc.

42. No election shall be invalid by reason only of any non-compliance with the regulations in the seventh and eighth schedules to this Ordinance if it appears that the election was conducted in accordance with the principles laid down in such regulations, or that such non-compliance did not affect the result of the election.

Non-compliance with regulations as to elections and polls. 2

43. Every bill, placard or poster having reference to a municipal election shall bear upon the face thereof the name and address of the printer and publisher thereof, and any person printing, publishing or posting, or causing to be printed, published or posted, any such bill, placard or poster as aforesaid, which fails to bear upon the face thereof the name and address of the printer and publisher, shall, if he is a candidate, be guilty of an illegal practice, and if he is not a candidate, on conviction be liable to a fine not exceeding twenty-five pounds.

Name and address of printer on placards, etc.

44. Any person,

(a) who knowingly accepts or enters upon and acts in the office of councillor without possessing the qualifications required by the provisions of section 11 of this Ordinance, or

Unqualified person acting as councillor.

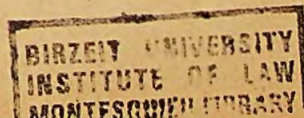
(b) who knowingly continues to act as a councillor after he has ceased to be qualified in accordance with the provisions of section 11 of this Ordinance,

shall be guilty of an offence and shall on conviction be liable to a fine not exceeding two hundred and fifty pounds, and in addition may be disqualified* from voting at or from being a candidate at any election for a council for such period not exceeding seven years as the court upon such conviction shall order.

* 16, 17.

45. Any councillor who is concerned directly or indirectly by himself, his wife or his agent or his partner in any loan or bargain

Councillor interested in contract.



* 18.

or contract * entered into with the municipal corporation of which he is a councillor, or participates in the profit of any such bargain or contract, or in the profit of any work done under the authority of such corporation, shall be guilty of an offence, and shall on conviction be liable to a fine not exceeding two hundred and fifty pounds:

Provided that a councillor shall not be guilty of an offence under this section by reason only,

6/45.

(a) That he is interested in any newspaper in which any advertisement relating to the affairs of such corporation is inserted, or

59/46.

(b) that he is interested in any contract between such corporation and any company with limited liability of which he is a shareholder, or any co-operative society of which he is a member, provided that he is not a director, manager, officer or agent of such company or of such co-operative society.

Provided further that a councillor shall not be guilty of an offence under this section if —

6/45.

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(a) he is not present at the meeting or meetings of the council or of a committee appointed under the provisions of section 60, at which the contract or other matter in which he is directly or indirectly concerned as aforesaid is being considered, and does not vote in connection therewith, and

59/46.

(b) before such meeting, or the first of such meetings, he gives notice in writing to the mayor or the town clerk, or, in the case of a committee as aforesaid, to the chairman of such committee, to the effect that he is so concerned in the contract or other matter as aforesaid, and such notice is notified to the other councillors, or, in the case of a committee as aforesaid, to the other members of the committee, before or at the meeting and is recorded in the minutes of the meeting.

Resignation of councillor.
* 19.

46. A councillor may resign his office by giving notice in writing to the mayor. *

Absence of councillor from meeting of council.
* 20.

47. If any member of a council, including the mayor or deputy mayor, shall fail to attend at the ordinary meetings of the council for three consecutive months, such person shall thereupon become disqualified to sit as a councillor, * and his place upon the council shall be deemed to be vacant:

Provided that the provisions of this section shall not apply to any councillor whose absence from the council is due to illness or is with the permission of the council:

Provided also that any person who has become disqualified under the provisions hereof may within fourteen days of such disqualification appeal to the High Commissioner-~~in Council~~ whose decision shall be final and conclusive:

Provided also that where any person aggrieved appeals to the High Commissioner-~~in Council~~ his place on the council shall not be deemed to be vacant until the High-Commissioner-~~in Council~~ has given his decision.

48.—(1) If any councillor shall die or become disqualified or resign, or for any other reason cease to hold office, as a councillor, his place upon the council shall thereupon be filled by the holding of a by-election upon a date to be prescribed by the High Commissioner: Death, etc.
of councillor.
59/46.

Provided that if any councillor dies or otherwise becomes incapable as hereinbefore provided within three months prior to the date when the duration of the council expires, the High Commissioner may, at his discretion, refrain from prescribing a date for the holding of a by-election, and no by-election shall be held:

Provided also that if the councillor dying or vacating his seat was elected under a system of proportional representation the vacancy shall be filled by the candidate on the party list of such member at the preceding elections who obtained the largest number of votes after the last candidate on that list who was elected, or, if there was no such first-mentioned candidate, by a person to be nominated by the High Commissioner. 6/45.

(2) Any person who becomes a member of any municipal council by virtue of the provisions of subsection(1) shall hold office for the duration of the council of which he so becomes a member. 59/46.

49.—(1) The first council of any municipal corporation elected after the commencement of this Ordinance shall come into office on a date to be prescribed by the High Commissioner by notice published in the Gazette either generally or in respect of any council. Coming
into office
of council.
59/46.

(2) Any council elected at any election held in accordance with the provisions of this Ordinance subsequent to the first election so held shall come into office immediately after the expiration of the duration of the preceding council.

No act which prior to the commencement of this Ordinance* has been done by any body purporting to act as a municipal council under the principal Ordinance, or by any person on behalf of such body, shall be invalidated by reason only that at the time such act was done such body had not yet come into office as a municipal council.

Appoint-
ment and
dismissal of
mayor.

50. —(1) The High Commissioner shall from time to time appoint a councillor to be mayor who shall hold office as mayor for the duration of the council of which he is a member.

(2) The High Commissioner may if in his opinion it is in the interests of the municipal corporation so to do dismiss a mayor from the office of mayor.

Appoint-
ment, dis-
missal and
duties of
deputy
mayors.
59/46.

51. —(1) The High Commissioner may from time to time appoint more than one councillor to be deputy mayor and such hold office as deputy mayor for the duration of the council of which he is a member:

Provided that if, in the opinion of the High Commissioner, it is in the interests of any municipal corporation so to do, he may appoint more than one councillor to be deputy mayor and such councillors shall hold office as deputy mayors for the duration of the council of which they are members.

(2) The High Commissioner may, if in his opinion it is in the interests of the municipal corporation so to do, dismiss a deputy mayor from the office of deputy mayor.

(3) If for any reason the mayor is unable to act, or the office of mayor is vacant, then —

(a) where the High Commissioner has exercised the power vested in him by subsection (1), the deputy mayor shall perform the duties and exercise the powers assigned to the mayor by this Ordinance or by any other enactment or law;

* "of this Ordinance" means the Amendment Ordinance No. 59/46.

(b) where the High Commissioner has exercised the power vested in him by the proviso to subsection (1), the High Commissioner shall nominate the deputy mayor who shall perform the duties and exercise the powers assigned to the mayor by this Ordinance or by any other enactment or law;

(c) where the High Commissioner has not exercised any of the powers vested in him by subsection (1), or if, where the High Commissioner has exercised such powers, the deputy mayor or deputy mayors is or are for any reason absent from duty, a councillor to be appointed by the High Commissioner shall perform the duties and exercise the powers assigned to the mayor by this Ordinance or by any other enactment or law until such time as —

(i) if the High Commissioner has not exercised the powers vested in him by subsection (1), the mayor returns to duty, or

(ii) if the High Commissioner has exercised any of the powers vested in him by subsection (1), the deputy mayor, if one deputy mayor has been appointed, returns to duty, or a deputy mayor, if more deputy mayors than one have been appointed, is nominated by the High Commissioner under paragraph (b) of this subsection, as the case may be.

51A. A deputy mayor, or any official of the council appointed in accordance with the provisions of subsection (1) of section 85, may perform such of the duties and exercise such of the powers assigned to the mayor by this Ordinance or any other enactment or law as may be delegated to him by the mayor with the general or special approval of the council, ~~and of the Commissioner.~~

Delegation of duties and powers of mayor. 59/46.

52.—(1) The mayor may resign by giving notice in writing to the Commissioner and to the Council.

Resignation of mayor and deputy mayor.

(2) A deputy mayor may resign by giving notice in writing to the mayor.

53.—(1) The mayor and any deputy mayor respectively may receive from the municipal fund such salary as may from time to time be fixed by the High Commissioner.

Salary of mayor and deputy mayor.

(2) Where a mayor has died in office after having served as mayor for not less than five years, the council may, subject to

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the approval of the High Commissioner, which approval the High Commissioner may grant if satisfied that necessity exists, pay out of the municipal fund a gratuity or gratuities to any dependants or members of the family of such mayor up to an amount not exceeding in the aggregate his salary for one year.

CONDUCT OF MUNICIPAL BUSINESS.

• 21, 22, 23.
Meetings
and pro-
ceedings of
council.

54. The meetings * of councils and the calling of such meetings and the proceedings thereat shall be regulated by regulations from time to time to be made in that behalf by each council:

Provided that until such regulations are so made the meetings of councils and the calling of such meetings and the proceedings thereat shall be regulated by the regulations contained in the ninth schedule to this Ordinance,

Provided also that every regulation made by a council under this section shall be subject to the approval of the Commissioner, and shall not come into operation until it has been approved by him and published in the Gazette.

Number of
councillors
falling
below
quorum.

55. If for any reason and at any time the number of councillors falls below the number provided for a quorum by the regulations contained in the ninth schedule to this Ordinance, or if such regulations have been replaced by regulations made under the preceding section then by the regulations so made the High Commissioner may direct:—

(a) that the council shall be deemed to have expired, or

(b) that elections shall be held to fill the vacancies in the council, or

(c) may nominate persons qualified to be elected members of the council to be councillors to fill the vacancies.

Effect of
vacancy in
council or
committee.

56. Subject to the provision of the preceding section no act or proceedings of any council nor of any committee of any council shall be deemed to be invalid by reason only of any vacancy in the council.

Quorum.

57. For the purpose of ascertaining the number of councillors necessary to form a quorum of the council the total number of councillors to be elected shall be deemed to have been elected.

58. Unless and until the contrary is proved every meeting of a council or of a committee thereof at which a resolution * has been taken shall be deemed to have been duly convened and held and all persons present thereat ~~other than any officer of the Government of Palestine present at any meeting of a committee of a council to which he has been appointed as an advisory member by the Commissioner under sub-section (2) of section 60 of this Ordinance~~ shall be deemed to have been duly qualified councillors, and where the proceedings are the proceedings of a committee such committee shall be deemed to have been duly constituted and to have had power to deal with the matter set out in any record of any resolution taken, and the record of resolutions taken at meetings of a council kept in accordance with the regulations contained in the ninth schedule to this Ordinance or made under the provisions of section 54 of this Ordinance shall be received in evidence without further proof.

Presump-
tion of due
constitution
of council or
committee.
* 20.

59. It shall be the duty of the mayor or in his absence the deputy mayor,

Executing
decisions of
council.

(a) to see that every decision of the council is duly executed and,

(b) where such decision necessitates the expenditure of municipal funds to see that such decision is in accordance with the approved estimates, or is otherwise in accordance with the provisions of this Ordinance or any other Ordinance or law.

60.—(1) Subject to the provisions of the following sub-sections a council may from time to time appoint from among the members thereof such committees either special or general and consisting of such number of councillors as the council thinks fit for any purpose which in the opinion of the council would be better regulated or managed by means of a committee:

Committees
of the
council.

Provided that the appointment of members of such committees shall be subject to the approval of the Commissioner.

(2) The council may from time to time appoint from among the members thereof a committee or committees consisting of such number of councillors as the council thinks fit for the purpose of regulating and supervising all or any of the following matters, that is to say:—

- (a) streets and highways,
- (b) supply of water,
- (c) sewage and drainage,
- (d) town planning,
- (e) tenders received by the council:

Provided that the appointment of members of such committees shall be subject to the approval of the Commissioner:

~~Provided also that the Commissioner may from time to time appoint any person being an officer of the Government of Palestine to be an advisory member of any committee appointed under the provisions of this sub-section.~~

(3) The council shall appoint one member of any committee to be the chairman thereof. Where in the proceedings of any committee there is an equality of votes given the chairman of the committee shall have a second or casting vote.

(4) The council may from time to time discharge, alter, discontinue or re-constitute any committee and fill vacancies therein:

Provided that any appointment of a new member to any committee made by virtue of this subsection shall be subject to the approval of the Commissioner.

(5) The decisions and proceedings of the committees appointed under the provisions of this section shall be submitted to the council for its approval.

61.—(1) *If a council—*

(a) is deemed to have expired under section 55, or

(b) has, in the opinion of the High Commissioner, after warning by him, either ceased to perform the functions imposed upon it by this Ordinance or any other Ordinance or law, or is acting in such a manner as will render it unable to discharge all or any of such functions,
the High Commissioner may—

(i) order a general election to be held for the election of a new council and prescribe the date thereof, or

(ii) nominate a council from among persons qualified to be councillors, or

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Power of
High Com-
missioner in
certain cases.
59/46.

(iii) nominate a commission to perform the duties of the council.

(2) The duration of any commission or council nominated by the High Commissioner under subsection (1) shall be until the High Commissioner shall order the holding of an election or shall otherwise order.

(3) Any commission or council nominated by the High Commissioner under subsection (1) shall have all the powers and duties vested in the council by this Ordinance or by any other Ordinance or law.

(4) (a) Where a commission has been nominated by the High Commissioner under subsection (1), the High Commissioner shall appoint a member of such commission to be Chairman, and, if he see fit, a member of such commission to be Vice-Chairman thereof. Such Chairman or Vice-Chairman shall have all the powers and duties vested in or assigned to a mayor or deputy mayor respectively by this Ordinance or by any other Ordinance or law.

(b) A Chairman or Vice-Chairman respectively may receive from the municipal fund such salary as may from time to time be fixed by the High Commissioner.

62. —(1) If at any time it appears to the Commissioner that a council is omitting to fulfil any duty, or to carry out any work imposed upon it by this Ordinance or any other Ordinance or law, he may make an order requiring the council within the time to be specified therein to fulfil such duty or to carry out such work. Power of Commissioner in certain cases.

(2) If the council fails within such time to comply with such order the Commissioner may appoint the mayor or some fit person to fulfil such duty or carry out such work and may fix the remuneration to be paid to such other person and may direct that such remuneration and the cost of such work shall be defrayed out of the municipal fund.

(3) In case of emergency when it is not possible to call a meeting of a council the Commissioner may call upon the mayor to fulfil any duty or to carry out any work imposed upon the council by this Ordinance or any other Ordinance or law which in the opinion of the Commissioner is necessary for the safety or health of the municipal area or the inhabitants thereof.

URBAN COMMITTEES.

Power of
High Com-
missioner to
declare
urban
districts.

63. —(1) Where the High Commissioner ~~in Council~~ is satisfied that the inhabitants within any district included within a municipal area so desire he may declare such district to be an urban district.

(2) Where any district is declared to be an urban district under the provisions of this Ordinance there shall be for such district a committee which shall be known as the Urban Committee for District.

(3) Where it appears to any urban committee that it is desirable that additional expenditure should be incurred in respect of public works or conveniences or amenities of its district the committee shall forward particulars of such works, conveniences or amenities, together with an estimate of the cost thereof to the council of the municipal area in which the district is situated and to the Commissioner, and the Commissioner after considering any recommendation of the municipal council thereon may approve such expenditure.

(4) When such expenditure has been so approved the cost thereof may be collected from the inhabitants of the urban district by means of the addition of a percentage to the general rate payable by the inhabitants of such district. Such addition shall be assessed and collected by the municipal council within the area of which the district is situated and all the provisions of this Ordinance for the collection of rates shall apply to such percentage. The amount so collected shall be paid to the urban committee and expended by such committee upon the approved works or conveniences or amenities.

(5) Where any district is declared to be an urban district the High Commissioner shall by regulations provide,

- (a) for the method of election of the committee, and
- (b) for the qualifications of electors, and
- (c) for the qualifications of the members of the committee, and
- (d) for the meetings of and conduct of business by the committee, and

- (e) for the supervision of
- (i) any work undertaken by the committee and
- (ii) the expenditure of all moneys by the committee.

MUNICIPAL PROPERTY AND MUNICIPAL FUND.

64.—(1) All property of any kind whatsoever and all interest therein which was lawfully vested in the municipalities or townships existing immediately before the commencement of this Ordinance shall at the commencement of this Ordinance be vested in and held by the municipal corporations created under this Ordinance which respectively replace the municipalities and townships existing prior to the commencement of this Ordinance.

Rights and liabilities of existing municipal corporations.

(2) All debts and liabilities and obligations and all interest therein due to the municipalities and townships existing immediately before the commencement of this Ordinance shall be deemed to be transferred to the municipal corporations which respectively replace the municipalities and townships existing prior to the commencement of this Ordinance.

(3) All debts and liabilities and obligations of the municipalities and townships existing immediately before the commencement of this Ordinance shall be deemed to be transferred to the municipal corporations which respectively replace the municipalities and townships existing prior to the commencement of this Ordinance.

65.—(1) All immovable property owned by or vested in any municipality or in any township to which this Ordinance applies immediately before the commencement of this Ordinance and all immovable property which shall thereafter become vested in any municipal corporation shall be registered in the Land Registry in the name of the municipal corporation.

Registration and sale of immovable property.

(2) It shall not be lawful for a municipal corporation to sell, mortgage, lease or otherwise deal with any immovable property registered in its name under the provisions of this Ordinance save upon a resolution passed by not less than two thirds of the members of the council and with the approval of the Commissioner.

(3) Where any immovable property was registered immediately before the commencement of this Ordinance in the name of any

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Provided it shall be lawful for a Municipal Corporation to lease for a period of not more than three years any immovable property registered in its name under the provisions of this Ordinance

municipality or township and such property is re-registered within three months of the commencement of this Ordinance in the name of a municipal corporation by reason of the provisions of this section, no fee shall be paid upon such re-registration.

Municipal
fund.

* 24, 25.

66.—(1) All moneys received by or on behalf of a municipal council by virtue of the provisions of this Ordinance or any other Ordinance or law or otherwise shall constitute a fund* which shall be called the municipal fund.

(2) The municipal fund shall be applied to and charged with all expenses lawfully incurred by the council under the provisions of this Ordinance or any other Ordinance or law, and any other sums legally due and owing by the council:

Provided that no payment shall be made out of the municipal fund unless it has been authorised by the current estimates or has been specially authorised by the council with the approval of the Commissioner.

Security of
municipal
fund.

* 24.

67.—(1) The treasurer of the municipal corporation, or if there is no treasurer some officer specially appointed by the council, shall be responsible* for the security of the municipal fund.

(2) All moneys belonging to or received for and on account of the municipal fund shall forthwith be paid into the account of the municipal corporation at such bank as the council shall, with the approval of the Commissioner, appoint:

Provided that the council may from time to time authorise the treasurer to retain in his hands a sum sufficient for the daily expenses of the council:

Provided also that where there is no bank within the municipal area all such moneys shall be securely kept in accordance with rules to be made on that behalf by the council with the approval of the Commissioner.

(3) All orders, payment vouchers or cheques against the municipal fund shall be signed by the mayor or such other official as may be authorised by the council for the purpose and countersigned by the treasurer or such other official as may be appointed by the council for the purpose, and the bank may pay all such orders,

payment vouchers or cheques against such fund which are so signed and countersigned.

(4) Any moneys comprised in the municipal fund may be from time to time invested in such manner as the council may decide with the approval of the High Commissioner.

ACCOUNTS AND AUDIT.

68.—(1) Every council shall cause a true account to be kept by the treasurer of all moneys received and paid by or on behalf of the municipal corporation. Councils to keep accounts.

(2) Within eight days of the thirty-first day of March and the thirtieth day of September of every year the accounts of every municipal corporation up to and including such dates respectively shall be closed and shall be certified by the mayor and by the treasurer.

(3) *The mayor shall cause to be prepared, and shall during the first week in each quarter submit to the Commissioner, a statement showing the amount of revenue and expenditure during the preceding quarter under each head of the estimates and the balance remaining unspent under each such head.* 59/46.

Provided that if the High Commissioner has issued a notice under the proviso to sub-section (1) of section 69 of this Ordinance such statement shall not be submitted to the Municipal Auditor until after such date as the High Commissioner may have specified in such notice in respect of the municipal corporation concerned.

69.—(1) The accounts of all municipal Corporations shall be produced by the treasurer for audit* by an auditor to be appointed by the High Commissioner (in this Ordinance referred to as the Municipal Auditor) at such time as the Municipal Auditor may from time to time require and such accounts shall thereupon be audited by the Municipal Auditor: Accounts to be audited.
* 26, 27, 34.

Provided that the High Commissioner may, by notice in the Gazette, prescribe that the accounts of all municipal corporations or of any particular municipal corporation shall not be produced by the treasurer for audit by the Municipal Auditor until after such date as the High Commissioner may specify in such notice.

(2) The accounts for each half year ending the thirty-first day of March or the thirtieth day of September shall be certified by the Municipal Auditor, and shall be forwarded together with the Municipal Auditor's report thereon to the Commissioner not later than the thirtieth day of April and the thirty-first day of October in every year, and a summary of such accounts shall be published in the Gazette.

40/35.

Provided that the High Commissioner-in-Council may by Order provide that the provisions of this sub-section shall not apply either generally, or to any particular municipal corporation, and may by such Order in respect of any municipal corporation to which such Order applies, prescribe for all, or any, of the following matters, that is to say:—

(a) *The certificate of accounts by the Municipal Auditor.*

(b) *The forwarding of accounts together with the Municipal Auditor's report thereon to the Commissioner.*

(c) *Publication in the Gazette of a summary of accounts.*

Power of
Municipal
Auditor to
call for
books.

70.—(1) For the purposes of any audit under this Ordinance, the Municipal Auditor may, by summons in writing, require the production before him of all books, deeds, contracts, accounts, vouchers, receipts and other documents and papers which he may deem necessary, and may require any person holding or accountable for any such books, deeds, contracts, accounts, vouchers, receipts, documents or papers to appear before him at any such audit or any adjournment thereof, and to make and sign a declaration as to the correctness of the same.

(2) Any person who,

(a) neglects or refuses to appear before the Municipal Auditor or to produce any such books, deeds, contracts, accounts, vouchers, receipts or other documents or papers, or to make or sign such declaration, or

(b) falsely or corruptly makes or signs any such declaration knowing the same to be untrue in any material particular, shall be guilty of an offence and shall on conviction be liable to a fine not exceeding five pounds.

Surcharge
of illegal
payments.

71.—(1) The Commissioner upon the advice of the Municipal Auditor acting in pursuance of section 69 of this Ordinance

shall disallow every item of account contrary to law, and surcharge the same on the person making or authorising the making of the illegal payment,* and the Commissioner shall charge against any person accounting the amount of any deficiency or loss incurred by the negligence or misconduct of that person or of any sum which ought to have been but is not brought into account by that person, and he shall in every such case certify the amount due from such person. On the application by any party aggrieved thereby the Commissioner shall state in writing the reasons for his decision in respect of such disallowance or surcharge, and also of any allowance which he may have made:

* 25, 27, 28,
29, 30, 31,
32, 33, 35.

Provided that on the application of the person surcharged, and notwithstanding that the disallowance and surcharge are correct and legal, the High Commissioner ~~in Council~~ may, in his discretion, if he should consider that in all the circumstances he is warranted in so doing, cancel or reduce such disallowance and surcharge:

Provided also that any such application shall be made within fourteen days of the person surcharged being notified of the surcharge, or within such further period, if any, as the High Commissioner ~~in Council~~ may allow.

(2) If it does not appear from the resolutions of the Council which particular members of the council concurred in any particular expenditure, every member present at the meeting at which such expenditure was authorised shall be deemed to have so concurred until he proves the contrary.

72. Where any surcharge is not cancelled by the High Commissioner ~~in Council~~ on any application under the preceding section, and the amount surcharged, or such amount as reduced by the High Commissioner ~~in Council~~ on such an application as aforesaid, is not made good to the municipal corporation to the satisfaction of the Municipal Auditor within one month after such surcharge is reported to the council, or, in the event of such an application as aforesaid, within one month of the applicant being notified of the decision of the High Commissioner ~~in Council~~, the council shall sue for the same, and shall, if it appears to the court that such expenditure of the amount surcharged, or of such amount so reduced as aforesaid, was not authorised or was in contravention

Duty of council to sue for recovery of payments surcharged.

of any provisions of this Ordinance, be entitled to judgment for the amount surcharged or of such amount so reduced as aforesaid against any person or persons who appears or appear to have concurred in such expenditure. The amount so recovered by the council shall be paid forthwith into the municipal fund.

Remedy if council fails to sue for recovery of payments surecharged.
* 28, 31, 32.

73. If any municipal council neglects or refuses to sue for the recovery of the amount surcharged as provided in the preceding section, the Commissioner may appoint a suitable person to sue in the name and on behalf of the council for the recovery of such amount,* and the costs of such proceedings shall be payable out of the municipal fund.

Municipal Auditor may enter offices of council.

74. The Municipal Auditor may at all reasonable times enter any offices of a council and have access to all books, deeds, contracts, accounts, vouchers, receipts, and other documents and papers:

Provided that the provisions of this section shall not apply to any municipal corporation in respect of which the High Commissioner shall have issued a notice under the proviso to subsection (1) of section 69 of this Ordinance until after such date as the High Commissioner may have specified in such notice.

Power to High Commissioner-in-Council to make rules.

75. The High Commissioner-in-Council may, by Order to be published in the Gazette, make rules,

(a) fixing, either generally or in respect of any particular council, the fee to be paid into the general revenue of Palestine by councils on account of the services of the Municipal Auditor, and

6/45. (b) *regulating the finances and accounts of councils (subject to the provisions of this Ordinance) and prescribing the books and the form in which such accounts shall be kept, and*

(c) generally for carrying out any of the purposes or provisions of this Ordinance as to the audit of the accounts of councils.

ESTIMATES.

Annual estimates.

76. The annual estimates of the revenue and expenditure of a municipal corporation shall be prepared in accordance with the provisions of this Ordinance at such date as will admit of their consideration by the council, their submission to the Commissioner

and their re-consideration if necessary by the council before the beginning of the period to which the estimates relate. The financial year of all municipal corporations shall begin on the first day of April in each year.

77. The estimates of a municipal corporation shall be prepared by the mayor and when they have been passed by the council shall be submitted to the Commissioner. The High Commissioner may, after having taken into consideration the views of the council, modify or reject any item in the estimates or, if in his opinion exceptional circumstances connected with the municipal corporation make it essential in the public interest so to do, insert any item therein.

Preparation of estimates.

78.—(1) The estimates shall be prepared in accordance with the provisions of the tenth schedule to this Ordinance:

Form of estimates, etc.

Provided that the High Commissioner may vary or add to such provisions either generally or in respect of the preparation of the estimates of any particular municipal corporation.

(2) A summary of the approved estimates shall be published in the Gazette.

79. Supplemental estimates may in case of necessity be prepared and the provisions of section 77 of this Ordinance shall apply to such estimates.

Supplemental estimates.

80. A council may, in case of necessity, in any year with the approval of the Commissioner transfer moneys assigned by the estimates to one head of expenditure to another such head:

Transfers.

Provided that,

(a) the expenditure authorised by any such transfer is not inconsistent with this Ordinance or any other Ordinance or law, and

(b) the total expenditure sanctioned by the estimates and supplemental estimates, if any, approved by the Commissioner, is not exceeded.

LOANS.

81. Subject to the provisions of section 82 of this Ordinance a municipal council may under the authority of an Order of the High Commissioner-in-Council but not otherwise, and subject to

Power to raise loans.

the terms and conditions that may be imposed by such Order, borrow money from any person for any purpose approved by the High Commissioner-in-Council, and to secure the payment of the principal and interest of any such loan may mortgage any rates or other income of the municipal corporation to the lender.

Power to borrow temporarily.

82. A municipal corporation may, upon a resolution by the council with the approval of the Commissioner, but not otherwise, borrow temporarily from the bank at which the account of the municipal corporation is kept, any sum or sums:

Provided that the amount so borrowed shall at no time exceed five per centum of the estimated revenue of the municipal corporation for the period for which the current estimates are made; and

Provided also that all amounts so borrowed shall be repaid from the revenue of and during such period.

ANNUAL REPORT AND STATISTICS.

Annual report.

83.—(1) The mayor shall as soon as possible after the first day of April in each year prepare a detailed report of the administration of the municipal corporation for the previous twelve months.

(2) Such report shall be submitted to the council and together with any amendments made therein by the council or any resolutions thereon shall be forwarded to the Commissioner.

(3) Copies of such report shall be kept for inspection by the public at the municipal office and the mayor may cause such report to be published in any newspaper or otherwise.

Commissioner may call for statistics, etc.

84. The Commissioner may at any time call for such statistics or other information connected with the working, revenue or expenditure of any municipal corporation as he deems fit, and the mayor shall within a reasonable time comply with such request.

OFFICIALS AND SERVANTS OF COUNCILS.

Appointment of officials.
• 37.

85. (1) A municipal council may, and when required by the Commissioner so to do shall, with the approval of the Commissioner, appoint* fit persons to all or any of the following offices, that is to say:—

(a) town clerk,

(b) treasurer,*

* 24, 36.

(c) municipal engineer,

(d) sanitary surveyor,

(e) medical officer of health,

(f) veterinary officer.

Provided that one such person may be appointed to more than one such office.

(2) The persons so appointed shall receive such salary as shall be fixed by the council with the approval of the Commissioner.

(3) *Notwithstanding the provisions of subsection (1) and (2) hereof the High Commissioner may appoint any person to be town clerk of any municipal corporation to which the High Commissioner may from time to time by order direct that the provisions of this subsection shall apply. The person so appointed shall receive from the municipal fund such salary as shall be fixed by the High Commissioner.* 26/38.

86. *Officials of a municipal council, other than the officials mentioned in section 85, may be appointed* by the council to posts for which provision is made in the current estimates approved in accordance with the provisions of this Ordinance.* Appointment of subordinate officials. * 37, 38. 6/45.

87. *No official appointed in accordance with the provisions of section 85 or 86 shall be dismissed unless —* Dismissal of officials. 6/45.

(a) *the council has resolved to dismiss him after due notice has been given to all members of the council that his dismissal will be considered at the meeting of the council at which it has so resolved, or*

(b) *he has been convicted of a criminal offence, and the Commissioner has approved of his dismissal.*

88. *The council shall require every official appointed by them to an office involving financial responsibility to give such security as the council think proper for the due execution of his office, and the mayor shall satisfy himself from time to time as to the existence and sufficiency of such security.* Security to be given by officials.

Employment of servants or labourers.

89. The mayor may employ at the current rate of daily wages for the persons so employed any servants or labourers required in the service of the municipal corporation to carry out any work for which provision is made in the current estimates approved in accordance with the provisions of this Ordinance.

Power to make regulations respecting pensions, etc.

90. —(1) The council may, with the approval of the High Commissioner, make regulations providing, subject to the provisions of this Ordinance,

- (a) for the conditions of service of its officials,
- (b) for enquiry into the conduct of its officials,
- (c) for the grant of leave of absence to its officials,

22/38.

(d) for the grant of pensions or gratuities to its officials or servants, or to the dependants or legal personal representatives of its officials or servants.

59/46.

(1A) It shall not be necessary to publish in the Gazette any regulations made under subsection (1), but a notice that such regulations have been made shall be published in the Gazette and a copy or copies of the regulations shall, during the hours during which the council offices are open to the public, be available at the offices of the council, for perusal free of charge on demand by any official or servant of the council or any ratepayer.

(2) Any pension or gratuity granted in accordance with the provisions of sub-section (1) hereof shall be payable from the municipal fund, and no such pension or gratuity, or any part thereof, shall be assignable or liable to be attached in respect of any debt or claim other than a debt due to or claim by the municipal corporation granting such pension or gratuity.

Officials or servants not to be interested in contracts.

91. No official or servant of any council or municipal corporation shall be concerned or interested directly or indirectly by himself, his wife or his partner or his agent in any contract or work made with or executed for such council or municipal corporation. If any such official or servant be so concerned he shall be incapable of holding any office or employment under such council or municipal corporation, and shall, on conviction, be liable to a fine not exceeding ten pounds:

Provided that no person shall be so incapacitated or so liable to any fine by reason only that he is a shareholder, not being a director, manager, officer or agent, of any company which is a party to any contract with, or executes any work for, such council or municipal corporation.

CONTRACTS AND TENDERS.

92. —(1) The mayor may enter into any contract * which the council is authorised under the provisions of this Ordinance or any other Ordinance or law to make, * provided that,

* 37, 39.
Power to mayor to make certain contracts.
* 72a, 73.

(a) the expenditure involved does not exceed an amount to be prescribed by the Commissioner for each municipal corporation, and

(b) the contract can be completed within the financial year in which it is made.

(2) The particulars of such contracts shall be recorded in a book kept for that purpose.

93.—(1) Where any council proposes to enter into any contract for the execution of any work or service, or for the supply of any materials, or for any other purpose necessary for the performance of the duties of the council, and the expenditure involved exceeds the amount prescribed for the municipal corporation under the preceding section, the council shall call for tenders in accordance with the regulations in the eleventh schedule to this Ordinance, and after considering the recommendations of the committee appointed to consider tenders shall by resolution authorise the making of such contract.

Council to call for tenders.

(2) *Where any contract authorised under subsection (1) involves an expenditure exceeding an amount to be prescribed by the Commissioner for each municipal corporation but not exceeding five thousand pounds, it shall be submitted to the Commissioner for his approval, and where any such contract involves an expenditure exceeding five thousand pounds it shall be submitted to the High Commissioner for his approval.* 6/45.

(3) *Any contract authorised * under the provisions of subsection (1) and, where necessary, approved under the provisions of* * 37.

subsection (2) shall be entered into by the mayor on behalf of the council and the seal of the municipal corporation shall be affixed thereto.

Contracts which cannot be completed within a year, and concessions.

94. Notwithstanding anything contained in the preceding sections,

(a) no contract which can not or is not to be completed within the current financial year shall be entered into, by or on behalf of any council, or

(b) no concession or monopoly shall be granted to any person by any council, *

* 72a, 73.

without the consent in writing of the Commissioner.

CORPORATE SEAL.

Corporate seal.

95. —(1) Every municipal corporation shall have a corporate seal.

* 20.

(2) The corporate seal * shall be in the custody of the town clerk if a town clerk has been appointed under sub-section (1) of section 85 of this Ordinance or in that of the mayor if no such appointment has been made and shall not be affixed * to any document save in the presence of

* 40, 41, 42.

(a) the mayor, and

(b) some other councillor, and

(c) the town clerk or some other official authorised by the council,

who shall respectively sign their names to such document in token of their presence.

DUTIES AND POWERS OF COUNCILS.

Duties of a council.

96. Unless the High Commissioner shall otherwise order in respect of all or any of the following matters and subject to the provisions of this Ordinance or any other Ordinance or law, the municipal council shall, within the municipal area,

Streets.

* 45.

(1) As regards streets: *

* 61, 62.

(a) Control the alignment, level, width and construction of any street; *

(b) Make provision for the repairing, cleaning, watering and lighting and drainage of any public street;

(c) Prevent and abate obstructions and encroachments on any street;

(d) Name or rename where necessary all roads, streets, lanes and squares, such names to be affixed in conspicuous places therein and cause all buildings in such roads, streets, lanes and squares to be numbered.

(e) Take proper precautions against accidents during the construction or repair of any streets, sewers or drains.

(2) As regards buildings:

Buildings.

(a) Control the erection, demolition,* alteration and repair of buildings; * 43, 44.

(b) Control the paving of yards and open spaces in connection with buildings;

(c) Control the provision of cisterns and the construction thereof for securing the prevention of the breeding of mosquitoes;

(d) Control the line of frontage with neighbouring buildings, the side and rear set backs, the size of building plots, and the proportion of the area of plots upon which buildings may be erected;

(e) Control the front elevation of buildings where the building is one of a row of contiguous buildings abutting on a street;

(f) Control, by prohibition or otherwise, the erection of buildings of a particular class, design or appearance in particular districts or streets or portions thereof.

(g) Prescribe the precautions to be taken against accidents during the erection, demolition, alteration and repair of buildings.

(h) *control and regulate the construction and operation, and provide for the inspection, of lifts, lift shafts, elevators and escalators in any building, to such extent as the council may consider necessary to ensure against accidents in connection therewith, and provide for insurance covering risk of death or injury to any person from any lift, lift shaft, elevator or escalator;* 6/45.

For the purpose of this sub-section:—

“Building” means any construction whether of stone, concrete, mud, iron, wood or other material and includes any foundation, wall, roof, chimney, verandah, balcony, cornice or projection or part of a building, or anything affixed thereto, or any wall, earth-bank, fence, paling or other construction enclosing or delimiting or intended to enclose or delimit any land or space.

Drainage.

(3) As regards drainage, control the laying out, construction, alteration or use of sewers, drains, water closets, urinals, privies, cesspits, sinks, baths and sanitary appliances, the flushing of water closets and the paving of floors and courtyards and open spaces.

Water-works.
6/45.

(4) *As regards water-works established by the municipal council or any other public body or any private person for the supply of water within the municipal area.*

(a) Prevent waste, misuse, undue consumption or contamination of the water supplied for public or private use;

(b) Direct the use and prescribe the size, nature, strength and materials and the mode of arrangement, position, alteration, removal, renewal and repair of the pipes, valves, cocks, cisterns, soil pans, water closets and other apparatus and receptacles or any of them to be used respectively for carrying, delivering, regulating and storing water;

(c) Regulate the public supply of water by stand-pipes and the use of the same;

(d) Regulate the supply of water by measurement and the materials, meters, appliances and fittings used for such a purpose or in connection therewith;

* 136, 137.

(e) Regulate the terms and conditions* subject to which water will be supplied for domestic or other purposes and the price to be paid for any water so supplied and the charges in respect of the installation thereof.

Markets,
public
auction and
sale of
foodstuffs.
59/46.
59/46.

(5) As regards markets and the preparation, storage for sale, and sale of food and drink for human consumption:

(a) *Regulate public markets for the sale of any commodity and places of public auction for the auction of any movable or immovable property*

and prescribe the fees, rents and tolls to be paid for the use of such markets or places of public auction * and establish any such markets or places; * 46, 47, 48, 49, 58, 60.

(b) Provide for the inspection, seizure, forfeiture, removal and destruction of unwholesome liquids for human consumption and flesh, fish, fruit, vegetables or other perishable articles of food, the prevention of the sale or exposure for sale thereof, and the taking of samples thereof for analysis.

(6) As regards the slaughter of animals for human consumption, establish and regulate slaughter-houses, * and without prejudice to the generality of such power ensure:— Slaughter-houses, etc. * 50.

(a) the inspection for sanitary purposes of animals before being slaughtered and of their carcasses;

(b) the detention for observation of animals brought for slaughter and the disposal of those animals found to be diseased;

(c) the disposal of the carcasses of diseased animals which are slaughtered or die;

(d) the marking * of the carcasses of animals slaughtered in municipal slaughter-houses to denote that such animals have been so slaughtered. * 51, 52.

(7) As regards dangerous trades, classify and regulate any trade or business which may be injurious to public health or a source of public danger or which otherwise it is in the public interest expedient to regulate. Dangerous trades.

(8) As regards sanitation, public health and convenience: Sanitation, public health and convenience.

(a) Take steps to abate or prevent any nuisance, * and from time to time cause inspections to be made with a view to ascertaining what nuisances exist; * 53, 63, 64, 65, 66, 67,

(b) Provide for the removal of all night soil and refuse from every house and regulate the fees to be taken for such removal; 68, 69, 70, 71 72.

(c) Provide for the inspection, regulation, maintenance, cleansing and emptying of all sewers, drains, privies, water closets, earth closets, cesspools, culverts, gutters, watercourses, ashpits and sanitary appliances;

(d) Provide and maintain in good order and repair public dustbins and other receptacles for the temporary deposit and collection of rubbish and cause such public dustbins and other receptacles to be kept so as not to be a nuisance or injurious to health;

(e) Provide and maintain in good order public latrines, urinals and cesspits and cause the same to be so constructed and kept so as not to be a nuisance or injurious to health;

(f) Provide for the proper scavenging and cleaning of public streets;

(g) Prevent the accumulation in any public or private place of any filth or refuse so as to be dangerous to the public health and take measures for the abatement of any public nuisance arising from any public or private cesspool or drain, or otherwise;

(h) Prevent the pollution of streams, channels, watercourses or wells and the deposit on the banks of any stream, channel or watercourse or at the mouth of any well of refuse likely to cause pollution;

(i) Prevent pipes intended to carry off rain water from being used for the purpose of carrying off soil or drainage from any privy or water closet, and prohibit the making of unauthorised drains into public sewers;

(j) Provide for the inspection of houses and buildings in order to ascertain their state of cleanliness or otherwise, and provide measures for the destruction of rats, mice of other vermin.

Theatres.

(9) As regards theatres, regulate and inspect theatres and other places of public entertainment and provide for the protection of the public from danger by fire therein.

Hotels, etc.
6/45.

(10) *Regulate hotels, boarding houses, pensions, hostels, hospices, lodging houses and other similar establishments.*

Dogs.

(11) As to control of dogs, provide for the registration and keeping of dogs and the destruction of ownerless dogs, or dogs kept, or allowed to go abroad in public thoroughfares, otherwise than under and in accordance with the conditions prescribed.

Animals.

(12) As to animals, regulate or prevent the keeping of swine, regulate the keeping of animals and birds so that their keeping

shall not be a public nuisance or injurious to health, and regulate 6/45.
or prevent the pasturing, grazing or passage of animals.

(13) Provide for the licensing, registration and control of Porters, etc.
hawkers, pedlars, streetsellers, boot-blacks, seal-engravers, photo-
graphers and porters

(14) As to advertisements,* control or prohibit the exhibition Advertise-
of advertisements, signs and plates on places of business or hoard- ments.
ings or otherwise. * 54, 55, 56.

(15) As regards fires:— Fires.

(a) Provide and maintain appliances for extinguishing * * 57, 139.
fires, and

(b) Provide and maintain water-buckets, pipes, fire-escapes,
and other implements for safety or use in case of fire,

(c) Regulate the use of water in case of fire.

(16) Do any other act which a municipal council is required General.
by this Ordinance or any other Ordinance or law to do.

97. Every municipal council shall with regard to any of the Council to
matters enumerated in the preceding section and such powers as comply with
may be exercised by them under section 98 of this Ordinance directions
comply with the requirements and directions of the Commissioner: and require-
ments of

Provided that in such requirements and directions the Com- Council-
missioner shall have regard to the approved by-laws and the cur- sioner.
rent estimates.

98. Unless the High Commissioner shall otherwise order in Powers of
respect of all or any of the following matters and subject to the Council.
provisions of this Ordinance or of any other Ordinance or law, 59/46.
it shall be within the power * of the municipal council within the * 72a, 73.
municipal area or within any town planning area which includes
the municipal area—

(1) to establish, maintain and regulate public baths, swimming Public
pools and wash-houses; baths.

(2) to control bathing on the sea-shore; Bathing.

(3) to establish adequate poor-houses for the reception therein Poor-
of disabled or crippled poor persons and work places for giving houses.

work therein to such poor persons as may be able to work, and to prevent begging;

Public
parks.

(4) to provide, establish, lay out, plan, improve, maintain, regulate and control, parks, gardens and other places of resort or recreation for the use of the public, and to contribute to the cost of the maintenance of parks and gardens and other places of resort or recreation provided by any person for the use of the public;

Buildings
and works.

(5) to build and maintain public buildings and do other public works and build and maintain shops and houses;

Housing
accom-
modation
for persons
of small
means.

(6) to provide housing accommodation for persons of small means and for that purpose—

(a) to acquire or lease any land, including houses or other buildings thereon,

(b) to erect housing accommodation on any land,

(c) to acquire or lease any land for the purpose of the sale or lease or sub-lease thereof with a view to the erection thereon of housing accommodation for persons of small means by any person other than the council,

(d) to alter, enlarge, repair and improve any houses, build-ings or other accommodation acquired or erected as aforesaid,

(e) to fit out, furnish and supply any such land, house, building or other accommodation with all requisite furniture, fit-tings and conveniences:

Provided that there shall be no compulsory acquisition by the council of any land as defined in section 2 of the Land (Acqui-sition for Public Purposes) Ordinance, 1943,* except in accord-ance with the provisions of that Ordinance;

No. 24 of
1943.
* 59.

Sale and
prices of
foodstuffs.

(7) to regulate and control the sale and prices of foodstuffs in the event of any emergency;

Sale of
produce and
animals.
* 47, 48, 49,
58, 60.

(8) to regulate and control the sale of produce and animals by prohibiting the sale thereof elsewhere than in a public market* or otherwise;

Public un-
dertakings.

(9) to carry out undertakings certified by the High Commis-sioner to be undertakings of public utility;

- (10) to establish, maintain and regulate one or more labour exchanges; Labour exchanges.
- (11) to regulate or prohibit the deposit of disused machinery, scrap-iron and other articles in public places, and to provide for the removal and disposal of such articles when deposited in public or private places in circumstances so as to be detrimental to the amenities of the neighbourhood; Disused machinery, scrap-iron, etc.
- (12) to regulate cemeteries and prescribe the depth and length of graves; Cemeteries.
- (13) to sell, lease or exchange for other land any public street or part thereof which is no longer required for the purposes of this Ordinance; Sale etc. of streets.
- (14) to declare any street to be a public street or to construct * and maintain any public street; Public streets.
* 61 62.
- (15) to order the demolition * of any buildings which stop or impede ventilation or which are insanitary or otherwise injurious to public health or are dangerous; Demolition of buildings.
* 43, 44.
- (16) to require the owners of lands or premises to construct sewers, drains, privies, cesspools, latrines or urinals, and to require the owners or occupiers of lands or premises, without prejudice to any legal remedy which any occupier may have against any owner, to maintain and keep clean sewers, drains, privies, cesspools, latrines or urinals when constructed; * 67, 68, 69, 70, 71, 72.
- (17) to regulate and control the introduction within the municipal area of frozen meat and the sale thereof; Frozen meat.
- (18) to enter any house or building reasonably suspected to be insanitary, for the purpose of ascertaining its state of cleanliness or otherwise, and to issue an order to the occupier thereof * requiring him to take such measures as may be specified in such order; Sanitation.
* 53, 63, 64, 65, 66, 67, 68, 69, 70, 71, 72.
- (19) to plant trees in any street or public place and to erect tree-guards, provided that such street or place is not unduly obstructed thereby; Trees.
- (20) to act with the consent of the High Commissioner as trustees of any trust created for public purposes; Trusts.

Entertain-
ment charge. (21) to make a charge on tickets sold in respect of public en-
tertainments:

Provided that—

(i) no such charge shall be made except under by-laws made in accordance with the provisions of this Ordinance;

(ii) this paragraph shall have effect subject to such exemptions as may be provided for by order of the High Commissioner in Council;

Social wel-
fare charge. (22) to make a charge for social welfare on sums paid by guests in respect of accommodation, or boarding at any hotel, boarding-house, pension, hostel, hospice, lodging-house or other similar establishment, and on sums paid by customers in respect of food or drink consumed in any restaurant, café, coffee-house, tea-room, bar, buffet, club canteen or other similar establishment:

Provided that—

(i) no such charge shall be made except under by-laws made in accordance with the provisions of this Ordinance;

(ii) this paragraph shall have effect subject to such exemptions as may be provided for by order of the High Commissioner in Council;

Opening and
closing of
shops, etc.
• 84a. (23) to regulate and control the opening and closing, and, without prejudice to the generality of the foregoing power, to prescribe the opening and closing hours on any specific day, of shops*, and workshops, and of restaurants, cafés, coffee-houses, tea-rooms, bars, buffets, canteens, and other similar establishments, and of cinemas, theatres and other places of public entertainment or of any particular class thereof:

Provided that this paragraph shall have effect subject to such exemptions as may be provided for by order of the High Commissioner in Council;

Street col-
lections, etc.
Schemes to
benefit of-
ficials and
servants of
the council. (24) to control or prohibit the collection of money in public places by the selling of flags or ribbons or by similar means;

(25) to provide for, and carry out, any scheme approved by the High Commissioner which is designed to benefit officials and servants of the council;

(26) to issue certificates touching any of the matters it is required or empowered to do under this Ordinance or any other Ordinance or law; Certificates.

(27) generally to do such acts as may be necessary for the conservancy of the area, preservation of the public health therein and the safety thereof, and, with the permission of the Commissioner, to establish, maintain and contribute towards, public health and educational institutions. General power.

Any by-laws made under the principal Ordinance* and in force at the date of commencement of this Ordinance,** and any acts done under any such Ordinance or by-laws, shall be deemed to have been validly made or done if they would have been validly made or done had subsection (1) of this section been in force at the time they were made or done*.

BY-LAWS.

99. — (1) A municipal council may make by-laws* to enable or assist it to carry out any of the matters it is required or empowered to do under this Ordinance or any other Ordinance or law or to require any owner or occupier of property to carry out on such property such work as may be necessary for that purpose, and may by such by-laws provide for the payment of any fees or charges or contribution by any person other than the municipal corporation in connection with such matters, and for the grant or issue of licences or permits in connection with such matters, and for the fees to be paid for any such licence or permit, and may by such by-laws provide for the payment of compensation to any person affected thereby.

(2) Such by-laws may provide penalties* for the contravention thereof not exceeding a fine of twenty pounds for any one offence and in the case of a continuing offence an additional fine not exceeding two pounds for every day during which the offence is continued after written notice from the mayor of such contravention or after conviction. Where no penalty is specially provided for the contravention of any by-law it shall be punishable with

* "the principal Ordinance" means the Ordinance No. 1/34.

** "of this Ordinance" means the Amendment Ordinance. No. 59/46.

a fine not exceeding five pounds and in the case of a continuing offence with an additional fine not exceeding one pound for every day during which the offence is continued after notice or conviction as aforesaid.

59/46.

(3) *Without prejudice to any such penalty as aforesaid or to any other remedy, where any person is directed by or under the provisions of any by-laws to execute any work within a specified time and such person does not within such time execute or complete the execution of such work to the satisfaction of the council or of a person authorised by the council in that behalf, the council may execute or complete such work itself or cause it to be executed or completed, and any expense incurred by the council in connection with the execution or completion of such work shall be recoverable by the council from the person liable under the by-laws to execute the work:*

Provided that the council shall not proceed as aforesaid unless the person liable to execute such work has first been served with a notice, either under the by-laws under which he is liable to execute such work, or, where such by-laws do not provide for such notice to be given, then under this section, requiring him to execute such work within a time to be specified in such notice and warning him that, if he does not within such time execute or complete the execution of such work to the satisfaction of the council or of a person authorised by the council in that behalf, such work may, without prejudice to any penalty or other remedy, be executed by or on behalf of the council at his expense.

(3A) *Where, otherwise than in the circumstances provided in subsection (3), a council incurs any expense in consequence of the breach by any person of any by-law, such expense shall be recoverable by the council from the person committing such breach.*

(4) No by-law shall have effect until the same has been confirmed by the High Commissioner. All by-laws when so confirmed shall be published in the Gazette.*

* 84, 85, 85a.

(5) Such by-laws may contain such provisions as the municipal council may think necessary as to the giving of notices, as to the deposit of plans and sections by persons intending to lay out, construct, or alter any street, building, drain or other work, as to the inspection by the officials of the municipal council,

and as to the powers of such officials (subject to the provisions of this Ordinance or any other Ordinance or law) to remove, alter, or pull down any work begun or done in contravention of such by-laws and as to the licences to be obtained and the terms and conditions respecting the grant, forfeiture and cancellation thereof and as to the fees payable for such licences and for services rendered:

Provided that no requirement of any by-laws relating to the construction or alteration of streets, buildings, drains, or other works, shall apply to any such works which were so constructed or altered, as the case may be, before such by-laws came into force, except where expressly stated therein to the contrary.

(6) The municipal council may make by-laws which shall be in force in any town-planning area which includes the municipal area, or in any specified place or premises outside the municipal area, provided that such place or premises or the administration or management thereof are vested in the municipal council.

(6A) *The High Commissioner may make model by-laws for adoption by any municipal council as by-laws made by it under this section. Such model by-laws shall be published in the Gazette and any by-laws made by a municipal council under this section may adopt, with or without modifications, whether by way of addition, substitution, amendment or deletion or otherwise howsoever, all or any of the clauses of such model by-laws.* 6/45.

(7) Copies of the by-laws shall be kept at the municipal office and shall be available for sale to the public.

(8) Notwithstanding anything in any other Ordinance or law contained, in any prosecution before any court for the contravention of any by-law made under this Ordinance the municipal council may appear and prosecute by any official thereof authorised either generally or in respect of any special prosecution by resolution of such council.

100. The production of a copy of the Gazette containing any by-law shall be evidence of such by-law and of the due making and confirmation thereof. Copy to be evidence.

101. *For the purposes of sections 101 to 122, unless the context otherwise requires —* Interpretation. 59/46.

"building" means any dwelling-house, flat or part of a building which forms a complete residence in itself, hotel, boarding house, warehouse, office, shop, factory or school, and any other structure or erection, and includes any land used or occupied together therewith as a garden, yard or otherwise;

* 99. "occupied land"* means land which is used and occupied otherwise than together with any building;

* 90, 91, 92, "occupier"* means any person occupying any land or building, either as owner or by virtue of any lease or agreement, whereby
93, 94, 95, he is entitled as of right to occupy it, and includes any lessee who
96, 97, 98. has sub-let the whole or any part of a building to any sub-tenant;

"Owner" includes the reputed owner;

"rate" means any rate imposed under the provisions of this Ordinance;

"reputed owner" means the person who is in receipt of rents or profits of any building or land in such circumstances that he is the reputed owner thereof whether or not he is in possession or is the registered owner;

* 98. "sub-tenant"* means the person who resides in a room or rooms or part of a room in any building, of which some other person is the occupier, other than a hotel or boarding house, and for which he pays rent to the occupier;

* 154. "unoccupied land"* means land which is not used for any purpose other than land used or occupied together with any building as a garden, yard or otherwise:

Provided that where a new building is being constructed upon any land which immediately prior to the commencement of the construction of such building was unoccupied land, such land and the land which will be occupied together with such building as a garden, yard or otherwise, shall be deemed to be unoccupied land until such new building is completed and such new building shall be deemed to be completed when the building or any part thereof is occupied.

Power to ✓ 102.—(1) A municipal council may, with the approval of the
impose rates. Commissioner and subject to the provisions of this Ordinance, levy
59/46. annually* within the municipal area all or any of the following
* 100. rates, that is to say:—

(a) A municipal property rate to be assessed upon the rate-

able value of buildings, occupied land and unoccupied land, to be levied upon the owners thereof:

Provided that—

(i) such rate may, with the like approval, be levied upon unoccupied land at a percentage of the rateable value thereof lower than the percentage at which it is levied upon the buildings or occupied land;

(ii) a municipal council may, with the like approval, provide that such percentage of such rate assessed upon any building or occupied land as the municipal council may prescribe may be recovered by the owner from the occupiers thereof, and the owner shall thereupon be entitled to recover from each of the said occupiers and each of the said occupiers shall be liable to pay to the said owner, the proportion of the said percentage which the rateable value of the part of the said building or occupied land occupied by him bears to the rateable value of the whole of the said building or occupied land;

(b) A general rate to be assessed upon the rateable value of buildings and occupied land to be levied upon the occupiers thereof;

(c) An education rate to be assessed upon the rateable value of buildings and occupied land to be levied upon the occupiers thereof:

Provided that where a rate has been imposed under the provisions of the Education Ordinance, no such rate shall be levied thereunder;

(d) A sewage rate to be assessed upon the rateable value of buildings and occupied land to be levied upon the occupiers thereof:

Provided that such rate shall be levied only in respect of buildings and occupied land which are within an area in which sewage removal is carried out by the municipal council.

(2) Particulars of all rates levied under the provisions of this section shall be published by posting the same at the office of the municipal council.

(3) It shall be lawful for a municipal council, with the approval of the Commissioner, which approval shall only be given

if the Commissioner is satisfied that special circumstances render such course necessary, to increase in the course of any financial year any rate levied in respect of such year under the provisions of subsection (1), and in the event of such power being exercised, the municipal council may determine, in accordance with the provisions of this Ordinance, the mode and date or dates of payment of any such rate as so increased, and the provisions of subsections (1) and (2) shall apply to any such rate as so increased: and the provisions of subsections (1) and (2) shall apply to any such rate as so increased:

Provided that no such increase shall be leviable in respect of any property prior to the date of the posting, in accordance with the provisions of subsection (2), of particulars of such rate as so increased.

Exemption.
59/46.
* 109, 110,
158, 160.

103. Where the assessment on any occupied or unoccupied land or building would not produce an amount to be prescribed from time to time by the Commissioner, no rate shall be payable thereon.*

Power to
remit pro-
perty rate
on land on
which build-
ing prohibi-
ted or
restricted.
59/46.

103A. If any land has been reserved during the whole or greater part of the current year for use as a playing field or as an open space accessible to the public, or if building thereon has been prohibited or restricted under any Ordinance for the time being in force with regard to town planning or any scheme made thereunder, the council may, with the approval of the Commissioner, remit any municipal property rate on such land either wholly or in part as in their discretion they shall think fit.

Rateable
value.
59/46.

104.—(1) The rateable value* of any unoccupied land shall be six per centum of the capital value thereof.

* 101, 102
103, 104,
105, 106,
107.

(2) The rateable value of any occupied land shall be the rent for which it might be expected to let from year to year for the purpose for which it is used.

(3) The rateable value of any building shall be the rent for which such building might be expected to let from year to year after deducting therefrom the following amounts, that is to say—

(a) if the rent for which a building might be expected to let from year to year does not exceed forty pounds, one fourth part of such rent;

(b) if the rent for which a building might be expected to let from year to year exceeds forty pounds, one fifth part of such rent, or the sum of ten pounds, whichever is the greater:

Provided that—

(i) if the building is used for an industrial undertaking in which mechanically driven machinery is employed, one third part of such rent shall be deducted;

(ii) any municipal council may, by by-laws made in accordance with the provisions of this Ordinance, provide for the calculation of the rateable value of buildings within the municipal area otherwise than in accordance with the provisions of this subsection.

(4) If any room or rooms in a building is or are sub-let, the rateable value of such room or rooms shall be that proportion of the rateable value of the building which the number of rooms sub-let bears to the number of rooms in the building.

105.—(1) There shall be for each municipal corporation an assessment committee* consisting of three members, two of whom shall be nominated by the municipal council from among the members of the municipal council or from among persons not being members of the council and one of whom shall be nominated by the Commissioner:

Assessment
Committee.
59/46.
* 112.

Provided that if the Commissioner so approves there shall be two or more assessment committees for any municipal corporation who shall be nominated as aforesaid.

(2) The Commissioner shall nominate one of the members of the assessment committee to be chairman thereof.

(3) All acts, orders, matters and things directed to be made or done in this Ordinance by the assessment committee shall be lawfully made or done by a majority of the members of the committee:

Provided that the assessment committee shall be deemed to be duly constituted if at any sitting thereof the chairman and one other member are present, but in the event of a disagreement between the chairman and such other member on any matter it shall be reserved for decision at a sitting of the assessment committee at which all members thereof are present.

(4) *The chairman and the other members of assessment committees shall be paid out of the municipal fund remuneration at such rates as the municipal council, with the approval of the Commissioner, may determine.*

Assessment
list.
59/46.
* 112.

106. *The assessment committee shall before the fifteenth day of January in every year* or, where the urban property tax assessment has been deemed to be the rateable value under the proviso to section 107, the thirty first day of March in every year, or such later date as may be determined by the Commissioner in any particular year, prepare a list which shall be called "the assessment list", which shall show in respect of all unoccupied land and occupied land and buildings within the municipal area the following particulars, that is to say:—*

- (a) *the number of the assessment;*
- (b) *the address or other designation of the property;*
- (c) *the name of the owner of the property ;*
- (d) *the name of the occupier, if any, of the property;*
- (e) *a description of the property;*
- (f) *the rent for which the property might be expected to let from year to year;*
- (g) *if the property be unoccupied land, the capital value thereof;*
- (h) *the rateable value of the property:*

Provided that the assessment committee shall not include in the assessment list any new building the construction of which is not completed, and a new building shall not be deemed to be completed until the building or any part thereof is occupied.

107. *The rateable value shall be assessed by the assessment committee in accordance with the provisions of this Ordinance*:*

Provided that if any occupied land or unoccupied land or building has been assessed under the provisions of the Urban Property Tax Ordinance or any Ordinance amending or substituted for that Ordinance, such assessment may be deemed to be the rateable value, and in such case, where the rate is leviable upon the owner, such assessment shall be final and the provisions of sections 110 and 111 shall not apply thereto.*

Assessment
of rateable
value.
* 108, 109,
110.
59/46.
Cap. 147.
* 111.

108.—(1) In order to enable the assessment committee to assess the rateable value of any lands or buildings liable to assessment, the assessment committee may require the owner or occupier thereof to furnish returns of the rent thereof, to produce such documents and give such information as is necessary for the preparation of the assessment list or otherwise for the purpose of such assessment, and for the like purpose the assessment committee or any person appointed by them for the purpose, may at any time between sunrise and sunset enter and inspect such property and, if necessary, survey it.

Certain powers for the purpose of assessment. 59/46.

(2) No entry shall be made under this section into any dwelling house in actual occupation without the consent of the occupier unless twenty-four hours previous notice in writing shall have been given where possible to such occupier, specifying as near as may be the hour of such intended entry.

(3) Any person who—

(a) refuses or fails to furnish such return or to produce such documents or to give such information as aforesaid, for the space of one week from the day on which he has been required to do so; or

(b) knowingly makes such return falsely or incorrectly or gives such information knowing it to be false or incorrect; or

(c) hinders, obstructs or prevents the assessment committee, or any person appointed by them as aforesaid, from entering, inspecting or surveying, any such lands or buildings as aforesaid, shall be guilty of an offence and shall on conviction be liable to a fine of fifty pounds or to imprisonment for six months, or to both such fine and imprisonment.

109. The assessment list shall be published by posting* a copy thereof at the office of the municipal council and at such other places as the Commissioner may prescribe, on or before the fifteenth day of January in every year, or, where the urban property tax assessment has been deemed to be the rateable value under the proviso to section 107, the thirty-first day of March in every year, or such later date as may be determined by the Commissioner in any particular year.

Publication of assessment list. * 111, 112. 59/46.

Rectifica-
tion of
assessment
list.
59/46.

110.—(1) Within thirty days of the publication of the assessment list any person (including the municipal corporation) who is aggrieved by such list on any of the following grounds, that is to say:—

(a) that he is wrongly included as the owner or occupier of any land or building,

(b) that he is not included as the owner or occupier of any land or building,

(c) that the assessment of the rateable value of any land or building of which he is the owner or occupier is incorrect or unfair,

(d) that some other person has been wrongly excluded from the list,

(e) that the assessment of the rateable value of any land or building is incorrect or unfair,

* 99, 112,
154.

may apply* to the assessment committee in the form in the twelfth schedule to this Ordinance for rectification of the list.

(2) Any applicant for rectification of the assessment list, other than the municipal corporation, shall pay such fee and/or deposit such sum on account of costs in respect of his application as the municipal council may by by-laws prescribe.

(3) The assessment committee shall consider all applications made in accordance with subsection (1) and in respect of which any fee and/or deposit prescribed under subsection (2) has been paid, and may rectify the assessment list.

(4) Where any such rectification of the assessment list will affect directly any person other than the person who has made application to the assessment committee, no such rectification shall be made until such person who will be directly affected has had an opportunity of being heard by the committee.

(5) Any rectification of the assessment list made in accordance with subsection (3) shall be published by posting a copy thereof at the places at which the assessment list was posted under the provisions of section 109 not later than—

(i) the fifteenth day of March; or

(ii) where the urban property tax assessment has been deemed to be the rateable value under the proviso to section 107, the fifteenth day of June; or

(iii) where a date has been determined by the Commissioner for the purposes of section 109, the date which is later than the fifteenth day of March or the fifteenth day of June, as the case may be, by the same number of days as the date determined by the Commissioner for the purposes of section 109 is later than the fifteenth day of January or the thirty-first day of March, as the case may be.

(6) Any land or building which ought to have been included in an assessment list but which has been omitted therefrom shall not, by reason of such omission, be relieved of its liability. Such land or building may be added to the list by an assessment committee at any time while the assessment list is in operation, and the owner or occupier thereof, as the case may be, shall thereupon become liable to payment of the rate for the year in which such addition is made. Notice in writing shall be given to the owner or occupier, as the case may be, of such land or building of the rate assessed thereon, and the rate so assessed shall become payable, subject to the provisions for objection and appeal in this Ordinance, on the expiration of thirty days from the date of the notice.

110A.—(1) The assessment committee may from time to time during the financial year add to the assessment list the particulars set out in section 106 in respect of—

Inclusion of
new build-
ings and
new plots.

(a) any building which was completed too late to be included in the assessment list as provided in that section (in this section called a "new building"); or

59/46.

(b) any plot which was created, by the parcellation, partitioning or plotting out as building areas or sites, of any land, too late to be included as such, whether as unoccupied land or occupied land, in the assessment list as provided in that section (in this section called a "new plot"),

and the assessment of such new building or new plot, whether as unoccupied land or occupied land, as the case may be, shall as from the date of such addition be included in, and form part of, the assessment list, and such proportion of the rate leviable in respect thereof for the financial year during which such addition is made shall be payable for that financial year as the remainder

of that financial year from the date of such addition bears to that financial year.

(2) Where any new building or new plot has been included in the assessment list under subsection (1) the assessment committee shall forthwith give to the owner thereof and to the occupier thereof, if any, notice of such inclusion.

(3) The owner or occupier of any new building or new plot which has been included in the assessment list under subsection (1) may, within fourteen days of receiving a notice under subsection (2), and any other person, including the municipal corporation, aggrieved by such inclusion may, within fourteen days of such inclusion, apply to the assessment committee in respect of such inclusion, under and in accordance with the provisions of section 110, and the provisions of that section shall apply to such application.

(4) The assessment committee shall forthwith give to any person applying under subsection (3) notice of their decision upon such application, and such person may, within fourteen days of receiving such notice, appeal to the Appeals Tribunal, under and in accordance with the provisions of section 111, and the provisions of that section shall apply to such appeal.

(5) Any notice under this section may be given in such manner as the assessment committee may deem fit, including publication in any newspaper circulating in the district where the new building or the new plot is situated, and every person to whom such notice applies shall be deemed to have received it on the date of its being so given, or, in the case of publication in any newspaper as aforesaid, on the date of such publication.

111.—(1) Any person (including the municipal corporation) who —

(a) has applied to the assessment committee for rectification of the assessment list; or

(b) has been affected by any such application, may not later than—

(i) the thirty-first day of March; or,

(ii) where the urban property tax assessment has been deem-

ed to be the rateable value under the proviso to section 107, the thirtieth day of June; or,

(iii) where a date has been determined by the Commissioner for the purposes of section 109, a date which is later than the thirty-first day of March or the thirtieth day of June, as the case may be, by the same number of days as the date determined by the Commissioner for the purposes of section 109 is later than the fifteenth day of January or the thirty-first day of March, as the case may be,

next following the publication of the rectified assessment list, appeal to a tribunal to be called the Appeals Tribunal,* and to be constituted in accordance with the provisions of this section: *112.

Provided that if the Commissioner so approves there shall be two or more Appeals Tribunals for any municipal corporation to be constituted as aforesaid.

(2) Any person, other than the municipal corporation, who desires to appeal to the Appeals Tribunal shall pay such fee and/or deposit such sum on account of costs in respect of his appeal as the municipal council may by by-laws prescribe.

(3) The Appeals Tribunal shall consist of three members, one of whom shall be nominated by the municipal council, one of whom shall be an official of the Government of Palestine to be nominated by the Commissioner, and one of whom shall be some person other than an official of the Government of Palestine to be nominated by the Commissioner. The Commissioner shall nominate one of such members to be chairman of the Appeals Tribunal.

(4) The chairman and the other members of Appeals Tribunals shall be paid out of the municipal fund remuneration at such rates as the municipal council, with the approval of the Commissioner, may determine.

(5) All appeals brought before the Appeals Tribunal under the provisions of this Ordinance shall be decided by a majority of the members of the Tribunal:

Provided that the Appeals Tribunal shall be deemed to be duly constituted if upon the hearing of an appeal at any sitting thereof the chairman and one other member are present, but in the event of disagreement between the chairman and the said other

member the matter shall be reheard before the Appeals Tribunal consisting of three members as aforesaid.

(6) The Appeals Tribunal shall hear any appellant whose appeal has been made in accordance with subsection (1) and in respect of which any fee and/or deposit prescribed under subsection (2) has been paid, and the respondent, or, at the discretion of the Appeals Tribunal, any other person on behalf of the appellant or respondent, and may hear such witnesses and call for such documents as they may consider necessary.

(7) A decision of the Appeals Tribunal shall be final and no appeal shall lie therefrom to any court:

Provided that the Appeals Tribunal may, or, if ordered by a District Court* so to do, shall, give its decision in the form of a case stated upon a point of law for the opinion of the District Court.

(8) The assessment list shall be amended by the assessment committee in accordance with any decision of the Appeals Tribunal.

111A. Any person liable to pay any rate imposed under this Ordinance shall, notwithstanding that he has appealed to the Appeals Tribunal under section 111 and his appeal has not been determined on the date when the rate becomes due, pay the amount thereof on such date:

Provided that, where an amendment is made in the assessment list in accordance with the decision of the Appeals Tribunal, the difference, if any, shall, if too much has been paid by the person liable, be repaid or allowed, or, if too little has been paid by such persons, be paid and may be recovered as if it were arrears of the rate.

112. Any person who knowingly makes any false statement, or gives any false information—

(a) in any application for rectification of an assessment list, or

(b) to any Appeals Tribunal constituted under the provisions of this Ordinance, shall be guilty of an offence and shall on conviction be liable to a fine of fifty pounds or to imprisonment for six months, or to both such fine and imprisonment.

* 113.

Liability
to rate
pending
appeal.
59/46.

Penalties for
certain
offences.
59/46.

113. The mayor, ~~with the approval of the Commissioner~~, may correct any clerical error in an assessment list.

Clerical errors.
59/46.

114. Rates calculated upon the rateable value as appearing in the assessment list, as rectified by the assessment committee, and amended by such committee in accordance with any decision of the Appeals Tribunal, if any application therefor respectively has been made, shall be paid—

Payment of rates.
59/46.

(a) in respect of municipal property rate upon buildings, occupied land and unoccupied land, by the owner thereof, and

(b) in respect of any rate other than a municipal property rate, subject to the provisions of section 102(c) and (d), upon buildings and occupied land, by the occupier thereof, by two equal instalments upon the first day of September and the first day of January, respectively:

Provided that any municipal council may, by by-laws made in accordance with the provisions of this Ordinance, provide for the payment of rates by other instalments and upon other dates.

114A.—(1) A municipal council may, by resolution, with the approval of the Commissioner, provide that, if any amount in respect of a municipal property rate, a general rate or an education rate, is not paid within six months of the date on which such amount becomes payable under the provisions of this Ordinance, a sum not exceeding twenty per centum of the amount not paid shall be added thereto as a penalty for such default, and the provisions of this Ordinance relating to the collection and recovery of rates shall apply to the collection and recovery of such sum:

Penalty for non payment of rates.
59/46.

Provided that, with the approval of the Commissioner, the council may, on good cause shown, remit such penalty in whole or in part, and may from time to time revoke or vary such remission in the case of a continuing default.

(2) Where a resolution as set out in subsection (1) has been made by any municipal council, a notice that it has been made shall be published in the Gazette.

(3) Where any amount in respect of any rate to which a resolution as aforesaid relates is outstanding at the time at which the notice of such resolution is published in the Gazette, the penalty provided in subsection (1) shall not apply to such amount

or any part thereof except if and in so far as such amount or any part thereof is outstanding at the expiration of six months from the date of such publication.

Proceed-
ings for
recovery of
payment.

* 115.
59/46.
* 114, 116,
117.

115.—(1) If any sum payable in respect of any rate levied under the provisions of this Ordinance remains unpaid* at the expiration of a period of fifteen days after the same became payable, a notice in writing shall be served on the person liable to pay such rate calling upon him to pay* the same within fifteen days of the service upon him of such notice.

(2) If the person liable to pay such rate cannot be found or refuses to accept service, such notice shall be deemed to have been duly served by the posting thereof in the municipal office and by fixing a copy thereof on some conspicuous part of the property for which the rate is payable.

The notice shall further be deemed to be sufficiently served if it is delivered, or transmitted through the post, to his last known address. Where property is owned in undivided shares, the notice shall be deemed to be served on the owner of the property if it is delivered or transmitted through the post to the last known address of any one of the co-owners.

(3) If at the expiration of fifteen days of the service of such notice as aforesaid such rate has not been paid it shall be in arrear and the mayor may issue a warrant under his hand and the corporate seal directed to a municipal rate collector commanding him to demand immediate payment of the sum due and, in default of payment, to levy it by the seizure and sale of the movable property of the person by whom it is payable in the manner hereinafter provided.

(4)(a) The municipal rate collector shall demand immediate payment of the sum named in the warrant from the person by whom it is payable and, upon his refusal or neglect to pay, shall enter his house, premises, or land and seize such of his goods as the municipal rate collector shall deem sufficient and, subject to the provisions of this section, keep the goods so seized for the space of fourteen days or, if an action is brought under paragraph (f) hereof, until the delivery of judgment or making of an order in such action, at the cost and charge of the person in default.

(b) If the person in default does not pay the sum due together with the cost and charges of seizure, within the fourteen days, and subject to any judgment or order of the court in an action under paragraph (f) hereof, the goods shall be sold by auction in accordance with an order issued by the mayor:

Provided that, if the goods seized are perishable goods, they may be sold by auction forthwith by order of the mayor.

(c) The proceeds of the sale shall be used for the payment of the sum due and the costs and expenses of execution, and the surplus, if any, shall be restored to the owner.

(d) The mayor may issue a further warrant authorising and requiring the municipal rate collector, if he is unable to obtain admittance to any house or premises of the person in default for the purpose of executing the warrant, to break open in the day-time the said house or premises in the presence of the mukhtar or two notables of the quarter in which the house is, or premises are, situate, or of a police officer, and enter the house or premises and execute the original warrant in the manner provided in this section.

(e) It shall not be lawful to seize or sell by virtue of any warrant issued under this section any goods or articles which are exempt from seizure under the provisions of section 3 of the Civil Procedure Ordinance, 1938.

No. 14 of
1938.

(f) Where any goods have been seized under the provisions of this section, any person aggrieved by the seizure may bring action against the municipal corporation, claiming the return of the goods or their value, with or without damages, for

(i) their detention, or

(ii) any damage thereto, or

(iii) any illegal, wrongful, or excessive distress, or

(iv) any trespass or injury to any other movable property or to immovable property;

or may bring action for any damages caused as aforesaid, and the municipal corporation shall be responsible, and judgment may be given against it, for anything done or purporting to have been done under this section:

Provided that—

(a) no such action shall be brought after the expiration of fourteen days from the seizure of the goods;

(b) where such action is brought by the person whose rate is alleged to be in arrear it shall not be entertained unless he has deposited in court the amount of the rate so alleged to be in arrear or has given security for the same to the satisfaction of the court or has been exempted in whole or in part from payment of the court fees on the ground of poverty in pursuance of any Ordinance or Rules of Court.

Laws of
Pal., p. 2202.

Cap. 137.

(5) (a) The provisions of rules 4 and 6 of the Taxes (Collection) Rules shall apply to proceedings taken under subsections (3) and (4) of this section for the recovery of any rate, as though it were a tax recoverable under the Taxes (Collection) Ordinance.

(b) In the application of rules 4 and 6 of the Taxes (Collection) Rules as aforesaid, those rules shall be read subject to the modifications following, that is to say:—

(i) the word “mayor” shall respectively be deemed to be substituted for the words “District Officer” and “District Commissioner” wherever they occur therein;

(ii) the words “municipal rate collector” shall be deemed to be substituted for the words “tax collector” wherever they occur in the said rule 4;

(iii) the words “municipal fund” shall be deemed to be substituted for the words “Government Treasury” appearing in the said rule 4;

(iv) where any of the relative forms set out in the Schedule to the Taxes (Collection) Rules are used in proceedings for the recovery of rates as aforesaid, such forms shall be altered so far as may be necessary to render the same applicable.

(6) Where any rate is leviable under the provisions of this Ordinance upon the owner of any building or land and such building or land is owned in undivided shares, such rate may be collected from any one or more of the co-owners, and the person or persons from whom the rate is collected shall have a right of contribution from the other co-owner or co-owners in the proportion of their respective shares and may attach the revenue from such

building or land until he has recovered the amount due from the other co-owners.

(7) Notwithstanding anything contained in subsections (3), (4) or (5) of this section, where a rate is in arrear the mayor may, instead of proceeding, or continuing proceedings, under the said subsections, institute proceedings for the recovery of such rate as a civil debt.

(8) In this section—

“goods” includes any kind of movable property;

“mukhtar” includes any person appointed by a District Commissioner to exercise the functions of a mukhtar;

“municipal rate collector” means any person appointed or deputed by the mayor, or, if there is no mayor, by the Commissioner, to exercise all or any of the functions of a municipal rate collector as herein prescribed.

(9) The production of books purporting to contain any rate or assessment made under this Ordinance shall, without any other evidence whatever, be received as prima facie evidence of the making and validity of the rate or assessment mentioned therein.

116.—(1) Without prejudice to his rights under subsection (3) of section 115 to order the seizure and sale of the movable property of a person by whom a rate has not been paid, the mayor may, upon the refusal or neglect of such person to pay the sum named in a notice as provided in subsection (1) of section 115 after the expiration of fifteen days from the service of such notice—

Attachment of rents, debts, salary or pay due to defaulter. 59/46.

(a) attach any rents or debts* due to such person;

* 116, 117.

(b) if such person is an officer or employee of the Government or in receipt of a salary or pay from any person, attach such part of his salary or pay as, together with any other part thereof which may be subject to any prior attachment made either under this section or under section 7 of the Taxes (Collection) Ordinance, does not exceed one quarter of his total salary or pay.

Cap. 137.

(2) An order for attachment of rents or debts due to a defaulter shall be in form G in the Schedule to the Taxes (Collection) Rules, and an order for the attachment of salary or pay

Laws of Pal., p. 2202.

due to a defaulter shall be in form H in the said Schedule, modified as follows:—

(a) by the substitution for the expressions "Taxes (Collection) Ordinance", "Section 7", "taxes", "tax demand note no. issued to", "District Office of the Sub-District" and "District Commissioner District", appearing in each of the said forms, of the expressions "Municipal Corporations Ordinance, 1934", "section 116", "rates", "notice served on", "municipal fund" and "mayor of", respectively;

(b) by the substitution for the word "salary" and for the expression "a quarter of his/her salary" appearing in the said form H, of the words "salary or pay" and the expression "such part of his/her salary or pay as, together with any other part thereof which may be subject to any prior attachment made either under section 116 of the Municipal Corporations Ordinance, 1934, or under section 7 of the Taxes (Collection) Ordinance, equals of his/her total salary or pay", respectively.

Cap. 137.

(3) Any person aggrieved by any attachment made under this section of any moneys due to him may bring an action against the municipal corporation claiming the return or release of the moneys so attached, with or without damages, and the municipal corporation shall be responsible, and judgment may be given against it, for anything done or purporting to have been done under this section:

Provided that—

(a) no such action shall be brought after the expiration of fourteen days from the date of the attachment;

(b) where such action is brought by the person whose rate is alleged to be in arrear it shall not be entertained unless he has deposited in court the amount of the rate so alleged to be in arrear or has given security for the same to the satisfaction of the court or has been exempted in whole or in part from payment of the court fees on the ground of poverty in pursuance of any Ordinance or Rules of Court.

117.—(1) No disposition of any immovable property situated in a municipal area shall be entered in any Government register unless there is produced to the registrar or assistant registrar a certificate signed by the mayor to the effect that any municipal

Disposition
of immo-
vable prop-
erty subject
to certificate

property rate payable on such property has been paid in full, or that no municipal property rate is payable on such property, as the case may be.

that municipal property rate paid.
59/46.

(2) Any certificate as aforesaid purporting to be signed by the mayor shall be accepted by the registrar or assistant registrar as being so signed, unless it shall appear to him to be not so signed.

(3) No disposition of any immovable property shall be questioned by reason only of any non-compliance with the provisions of subsection (1) or of any deficiency in any certificate as aforesaid.

118. A council may, with the approval of the Commissioner, reduce or remit the payment of any rate on account of the poverty of any person liable to pay such rate.

Exemption on account of poverty.

119.—(1) If at any time any person ceases to be the owner or occupier of any land or building in respect of which he is liable to pay any rate under the provisions of this Ordinance, such owner or occupier or his representative shall give notice in writing to the municipal council, and after the giving of such notice shall not be liable for any further instalment in respect of such rates:

Change of owner or occupier.

Provided that nothing herein shall be deemed to affect the liability of any such owner or occupier for any instalment of rates which become due before the giving of such notice.

(2) If any person shall become the owner or occupier of any property in respect of which any rate is payable such person shall become liable for any instalment thereof due after he becomes the owner or occupier of such property:

Provided that

(a) upon the sale or transfer of any property the vendor or transferor or the representative of the vendor or transferor, or

(b) upon the letting of any property the landlord or his representative,

shall give notice of such sale, transfer or letting to the municipal council, informing the council of the name of the purchaser, transferee or tenant, and until such information shall have been given the vendor or transferor or landlord shall be liable respectively for any rates which any purchaser, transferee or tenant should have paid, but has failed to pay.

Demolition
etc. of
building.

120. If any building in respect of which any rate is payable under the provisions of this Ordinance,

(a) shall be demolished, or

(b) shall be damaged to such an extent that it becomes uninhabitable and is not inhabited, the occupier of such building shall give notice in writing to the municipal council, and after the giving of such notice shall not be liable for any further instalment in respect of the rates:

Provided that nothing herein shall be deemed to affect the liability of any occupier for any instalment of rates which became due before the giving of such notice.

Recovery of
proportion
of rates
from sub-
tenant.

121.—(1) If any room or rooms in a building is or are let to a sub-tenant, the occupier of such building shall recover from such sub-tenant a proportion of any rate paid or payable by the occupier in respect of such building which shall bear the same proportion to the amount so paid by the occupier as the rateable value of the room or rooms let to such sub-tenant as provided in sub-section (4) of section 104 of this Ordinance bears to the rateable value of the building and the occupier shall give to such tenant a receipt in writing for such payment. Such receipt shall state the date of payment, the amount paid, the premises in respect of which such amount was paid and the period for which such payment was made.

(2) Any such proportion of rates may be recovered by the occupier from the sub-tenant in the same manner as the rent payable by such sub-tenant may be recovered.

(3) Any payment by a sub-tenant under the provisions of this section shall be deemed to be a payment of rates for all the purposes of this Ordinance as though such payment had been made to the municipal council.

MISCELLANEOUS.

False
answers in
forms.

122. Any person knowingly making any false statement in any form required to be filled up under the provisions of this Ordinance shall be guilty of an offence and shall on conviction be liable, unless any other punishment is provided in this Ordinance, to a

fine not exceeding twenty pounds, or to imprisonment for a term not exceeding three months, or to both such fine and imprisonment.

123. Any person who obstructs any official or servant of a municipal corporation in the execution of any provision of this Ordinance or any other Ordinance or law shall be guilty of an offence and shall on conviction be liable to a fine not exceeding *twenty pounds or to imprisonment for two months* or to both such fine and imprisonment, and the court before which the offender is tried may order him to pay to the corporation such sum by way of damages occasioned by the obstruction as to the court shall seem just.

Obstructing officials or servants of corporation in execution of their duties.
59/46.

124.—(1) If the court before which any person is brought for any contravention of this Ordinance or for an offence against this Ordinance or for the breach of any by-law of a municipal council made under this Ordinance, finds such person guilty of such contravention or offence or breach of any by-law, such court shall in addition to the penalty it may consider fit to impose on such person and in addition to the costs of the proceedings order such person to pay any fees or dues connected with the charge which such person ought to have paid and which he failed or refused or neglected to pay.

Court to order payment of fees or dues not paid.

(2) All such fees and dues ordered by the court to be paid shall be recoverable in the same way as fines and penalties are recovered under any law in force for the time being for the recovery of fines and penalties.

125. *Notwithstanding anything contained in section 7 of the Municipal Courts Ordinance, all fines, fees, dues and penalties recovered under this Ordinance, or any by-laws made thereunder, shall be paid into and form part of the municipal fund.*

Payment of fees etc., into municipal fund.
Cap. 97.
6/45.

126. Any person who shall contravene any provision of this Ordinance for the contravention whereof no penalty is provided by this Ordinance shall be guilty of an offence and shall on conviction be liable to a fine not exceeding five pounds.

Offences not otherwise provided for.

127. (1) Any person being the occupier of any building in accordance with the provisions of section 101 of this Ordinance who refuses to give to any sub-tenant a receipt in accordance with the provisions of this Ordinance for any payment made by

Receipts in respect of rates, etc.

such sub-tenant in respect of rates, shall be guilty of an offence and shall on conviction be liable to a fine not exceeding twenty pounds or to imprisonment for a term not exceeding three months or to both such fine and imprisonment.

(2) Any person who gives any other person any receipt in respect of any payment for a proportion of any rate or any document purporting to be a receipt of any such payment which is false in any particular, shall be guilty of an offence and shall be liable to the penalties set out in sub-section (1) hereof.

Power to
write off
debts.
6/45.

128.—(1) Any sums due to the council for rates or otherwise which have been in arrear for not less than three years and which appear to be irrecoverable may, with the approval of the Commissioner, be written off the books of the council.

(2) Any sums due to the council for rates or otherwise may, with the approval of the High Commissioner in Council in any case in which he considers it expedient in the public interest, be written off the books of the council.

Certain per-
sons to be
deemed to
be in the
public
service.

129. For the purposes of any criminal law in force in Palestine, any person in the employ of any municipal corporation or any mayor, deputy mayor or other councillor in respect of his duties as mayor, deputy mayor or councillor shall be deemed to be a person employed in the public service.

Officials
etc., of
municipal
corporation
to be Gov-
ernment
officials in
certain
cases.

130. The provisions of section 71 of the Trial Upon Information Ordinance, 1924, and of section 7 of the Magistrates' Courts Jurisdiction Ordinance, 1924, shall apply to officials and servants of municipal corporations as though such officials and servants were Government officials.

131. Notwithstanding anything in any Ordinance or law contained any municipal corporation or council may institute proceedings in and appear before any court or may appear in any legal proceedings by their town clerk, or by any official or councillor authorised generally or in respect of any special case or proceedings by resolution* of the council, and service of any summons or order or other instrument upon the mayor or town clerk shall be deemed effectual service on the corporation or council.

Appearan-
ce in legal
proceed-
ings etc.
* 20, 118,
119, 120,
121, 122,
123, 124,
125, 126.

132. Notwithstanding anything contained in the Interpretation Ordinance, 1929, it shall not be necessary to publish any order made under the provisions of this Ordinance in the Gazette unless such publication is required by the provisions of this Ordinance.

Publica-
tion of
orders.
No. 34 of
1929.

132A.—(1) Without prejudice to the provisions of this Ordinance or of any by-laws made thereunder, where under this Ordinance any notice or other communication may or shall be given or made to any person, such notice or other communication shall be deemed to have been duly given or made to such person if it has been—

Notices, etc.
59/46.

(a) delivered to such person, or at his usual or last known place of abode to some adult member of his family, or any person working with or employed by such family; or

(b) left at the usual or last known place of abode or business of such person; or

(c) forwarded by post in a prepaid registered letter addressed to such person at his usual or last known place of abode or business; or

(d) posted in a conspicuous place on the premises, if any, to which the notice relates.

(2) Any notice or other communication required or authorised by or under this Ordinance to be given or made to the owner or occupier of any premises shall be deemed to be properly addressed if addressed by the description of the "owner" or "occupier" of such premises without any further name or description.

133.—(1) The Ottoman laws mentioned in the thirteenth schedule to this Ordinance shall cease to have effect.

Repeal and
saving.

The Ordinances and other enactments mentioned in the fourteenth schedule to this Ordinance are hereby repealed* to the extent specified in the third column of that schedule:

* 127, 128.

Provided

(a) that all municipalities existing immediately before the commencement of this Ordinance and the local council of Tel-Aviv shall be deemed to be municipal councils under the provisions of this Ordinance and shall remain in office until replaced by municipal councils elected under the provisions of this Ordinance, and the provisions of this Ordinance shall apply as nearly

as possible to such municipalities and local council as though the members thereof had been elected and such municipalities and local council had been constituted under the provisions of this Ordinance, and the mayors and deputy mayors and the president and vice-president thereof shall be deemed to be mayors and deputy mayors as though they had been appointed under the provisions of this Ordinance, and

(b) that all by-laws, rules or regulations lawfully made by any municipality or the local council of Tel-Aviv prior to the commencement of this Ordinance, shall remain in full force and effect either:—

(i) until a date being the last day of one year from the date upon which the municipality or the local council by which such by-laws, rules or regulations were made shall be replaced by a municipal council elected under the provisions of this Ordinance, or

(ii) until such date as such by-laws, rules or regulations shall be repealed by by-laws made under the provisions of this Ordinance, whichever first arrives, and

(c) that all existing valid licences and permits issued by any municipality or by the local council of Tel-Aviv shall be deemed to have been issued under this Ordinance, and it shall not be necessary to obtain under the provisions of this Ordinance any further licence or permit in respect of the matters, acts or things for which such existing licences or permits were issued until the expiration thereof.

(2) Estimates which have been prepared by municipalities and the local council of Tel-Aviv and approved by the Government of Palestine prior to the commencement of this Ordinance shall be deemed to be estimates made under the provisions of this Ordinance, and the provisions of this Ordinance shall apply to such estimates.

(3) Any rate or tax lawfully imposed in respect of any period current upon the commencement of this Ordinance, by any municipality or the local council of Tel-Aviv, shall be recoverable by the municipal corporation respectively substituted therefor.

(4) Where in any Ordinance or other enactment in force at the commencement of this Ordinance reference is made to any

municipality or the local council of Tel-Aviv or to any mayor or deputy mayor or president or vice-president thereof such reference shall, unless the context otherwise requires, be deemed to apply to the municipal corporation, or the council thereof, or the mayor or deputy mayor thereof respectively substituted therefor under the provisions of this Ordinance.

FIRST SCHEDULE.

(See the first schedule in the principal Ordinance No. 1 of 1934, Palestine Gazette Extraordinary No. 414, as amended by the following:

ACRE	See Order in Suppl. 2/36, p. 1447.
"	See Order in Suppl. 2/42, p. 1455.
BEISAN	See Order in Suppl. 2/36, p. 248.
BEERSHEBA	Replaced. See Suppl. 2/45, p. 290.
BEIT JALA	Replaced. See Suppl. 2/42, p. 171.
BETHLEHEM	Replaced. See Suppl. 2/42, p. 172.
GAZA	Replaced. See Suppl. 2/45, p. 237.
HAIFA	See Order in Suppl. 2/40, p. 274.
"	See Order in Suppl. 2/40, p. 475.
"	See Order in Suppl. 2/40, p. 1234.
HEBRON	See Variation Suppl. 2/42, p. 338.
KHAN-YUNIS	Replaced. See Suppl. 2/45, p. 241.
LYDDA	Replaced. See Suppl. 2/45, p. 294.
MAJDAL	Replaced. See Suppl. 2/45, p. 263.
NABLUS	Replaced. See Suppl. 2/41, p. 605.
NAZARETH	See Order in Suppl. 2/38, p. 1535.
RAMLEH	See Order in Suppl. 2/42, p. 1851.
SAFAD	See Order in Suppl. 2/44, p. 332.
"	See Order in Suppl. 2/47, p. 612.
SHEFA 'AMAR	See Variation Suppl. 2/47, p. 521.
TEL-AVIV	Replaced. See Suppl. 2/43, p. 295.
"	See Order in Suppl. 2/47, p. 819.
TIBERIAS	Replaced. See Suppl. 2/45, p. 269.
"	See Order in Suppl. 2/47, p. 613.

SECOND SCHEDULE.

QUALIFICATIONS OF PALESTINIAN CITIZENS TO BE ENROLLED AS TOWNSMEN IN—

Acre	Jaffa	Rammallah
Beisan	Jenin	Ramle
Beersheba	Jerusalem	Safad
Beit Jala	Khan Yunis	Shefa 'Amr
Bethlehem	Lydda	Tiberias
Gaza	Majdal	Tulkarm
Haifa	Nablus	
Hebron	Nazareth	

1. In this schedule the term "Palestinian citizen" means any person who has been granted Palestinian citizenship under the provisions of the Palestine Citizenship Order-in-Council, 1925, and, for the purposes only of the first valid election held under this Ordinance, includes any person who can adduce satisfactory evidence that he has applied for Palestinian citizenship under the Palestine Citizenship Order-in-Council, 1925, prior to the first day of September, 1933, and whose application has not been refused.

2. Every male Palestinian citizen shall be entitled to be enrolled as a townsman who

6/45.

(a) is not less than twenty-one years of age, and

(b) is not under disability, and

(c) has not been sentenced by a court of law in Palestine to a term of imprisonment of one year or upward, or, if so sentenced, has received a free pardon for the offence for which he was sentenced, and

59/46.

(d) has, within the period of twelve months immediately preceding the date prescribed by the Commissioner for the commencement of the preparation or revision of the register of voters under section 14 of this Ordinance, paid* any municipal rates due from him in respect of any period of twelve months to an amount of at least one pound upon property within the municipal area;

* 2, 149, 151.

6/45.

* 2.

LP. Provided that if any premises within the municipal area are occupied* by one or more separate occupiers and municipal rates

have been paid upon such premises in respect of any period of twelve months, then in addition to the person who has paid such rates, each separate occupier of such premises (not being the person who has paid such rates) at the date prescribed by the Commissioner for the preparation of the register of voters under section 14 of this Ordinance or for any revision of such register, shall be deemed to have paid municipal rates for such period of twelve months of an amount equal to the sum obtained when the amount so paid in respect of rates is divided by the number of separate occupiers:

Provided also that no person shall be entitled to be enrolled more than once in respect of one municipal corporation.

THIRD SCHEDULE.

QUALIFICATIONS OF PERSONS TO BE ENROLLED AS TOWNSMEN IN TEL-AVIV.

1. Every male or female person shall be entitled to be enrolled as a townsman who

(a) is not less than twenty-one years of age, and

(b) is not under disability, and

(c) has not been sentenced by a court of law in Palestine to a term of imprisonment of one year or upward, or if so sentenced, has received a free pardon for the offence for which he was sentenced, and

(d) is the owner of immovable property in the municipal area ^{59/46.} or has had his ordinary residence in the municipal area for a period of twelve months immediately preceding the date prescribed by the Commissioner for the commencement of the preparation or revision of the register of voters under section 14 of this Ordinance, and

(c) has, within the period of twelve months immediately ^{59/46.} preceding the date prescribed by the Commissioner for the commencement of the preparation or revision of the register of voters under section 14 of this Ordinance, paid rates and/or taxes due

* 149, 150.

from him to the council to an amount of at least five hundred mils in respect of any period of twelve months:*

3/40.

Provided that if during any period of twelve months no rates or taxes payable by occupiers are levied and any premises within the municipal area are occupied by one or more separate occupiers and municipal rates and/or taxes have, or if no rates and/or taxes have been payable in respect of such premises urban property tax has, been paid upon such premises, then in addition to the person who has paid such rates, taxes or urban property tax, each separate occupier* thereof (not being the person who has paid such rates, taxes or urban property tax) at the date prescribed by the Commissioner for the preparation of the register of voters under section 14 of this Ordinance or for any revision of such register, shall be deemed to have paid municipal rates and/or taxes for such period of twelve months of an amount equal to the sum obtained when the amount so paid in respect of rates, taxes or urban property tax is divided by the number of separate occupiers.

* 1.

2. A woman shall be entitled to be enrolled if she is the wife of a person who is entitled to be enrolled in respect of premises in which they reside together.

FOURTH SCHEDULE.

QUALIFICATIONS OF PALESTINIAN CITIZENS TO BE ELECTED AS COUNCILLORS FOR—

Acre	Jaffa	Ramallah
Beisan	Jenin	Ramle
Beersheba	Jerusalem	Safad
Beit Jala	Khan Yunis	Shefa 'Amr
Bethlehem	Lydda	Tiberias
Gaza	Majdal	Tulkarm
Haifa	Nablus	
Hebron	Nazareth	

1. In this schedule the term "Palestinian citizen" means any person who has been granted Palestinian citizenship under the provisions of the Palestine Citizenship Order-in-Council, 1925, and, for the purposes only of the first valid election held under

this Ordinance, includes any person who can adduce satisfactory evidence that he has applied for Palestinian citizenship under the Palestine Citizenship Order-in-Council, 1925, prior to the first day of September, 1933, and whose application has not been refused.

2. Subject to the provisions of section 11 (1) (a) (b) (c) and (d) of this Ordinance every male Palestine citizen who is enrolled and is entitled to be enrolled as a townsman shall be entitled to be elected a councillor, if

(a) he has a place of residence within the municipal area; and

(b) is not less than thirty years of age; and

(c) *has, within the period or twelve months immediately preceding the date of his nomination, paid, or is deemed to have paid under the provisions of the Second Schedule to this Ordinance, in respect of any period of twelve months, municipal rates due from him upon property within the municipal area to an amount of at least two pounds; and* 6/45. 59/46.

(d) is not illiterate.

FIFTH SCHEDULE.

QUALIFICATIONS OF PERSONS TO BE ELECTED AS COUNCILLORS FOR TEL-AVIV.

Subject to the provisions of section 11 (1) (a) (b) (c) and (d) of this Ordinance every male or female person who is entitled to vote shall be entitled to be elected a councillor if such person,

(a) is not less than twenty-five years of age, and

(b) has a place of residence within the municipal area, and

(c) has in respect of any period of twelve months paid rates due from him to the council to an amount of one pound within the period of twelve months preceding the date of the appointment of the electoral committee.

SIXTH SCHEDULE.

Municipal Corporation of

CLAIM TO BE ENROLLED ON REGISTER OF VOTERS.

I Residing at
 (being a Palestinian citizen*)** claim to be enrolled in the register of voters entitled to vote at the election of councillors for the council of the municipal corporation of

I am a male (or female)** person

My age is years

*I have paid the undermentioned rates or taxes*** due from me in respect of the undermentioned properties:—*

<u>Date of Payment.</u>	<u>Nature of Payment.</u>	<u>Property in respect of which payment made.</u>
-------------------------	---------------------------	---

I am not under a disability, and I have not been sentenced by a court of law in Palestine to a term of imprisonment of one year or upward, or if so sentenced, I have received a free pardon for the offence for which I was sentenced.

Witness Signature

Date

Any person knowingly making any false statement in this claim is guilty of an offence and is liable on conviction to a fine not exceeding twenty pounds, or to imprisonment for a term not exceeding three months, or to both such fine and imprisonment.

-
- * For the purpose of the first election after the commencement of this Ordinance "Palestinian citizen" includes any person who can adduce satisfactory evidence that he applied for Palestinian citizenship under the Palestine Citizenship Order in-Council, 1925, prior to the first day of September, 1933, and whose application has not been refused.
 - ** To be omitted when used in Tel Aviv.
 - *** The electoral committee may call for the production or receipts for the payment of rates or taxes.

Municipal Corporation of

REGISTER OF VOTERS.*

* 4, 5.

<u>Name.</u>	<u>Age</u>	<u>Residence</u>	<u>Whether qualified to be elected a councillor.</u>
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Municipal Corporation of

OBJECTION TO REGISTER OF VOTERS.

To the Electoral Committee of

I residing at hereby give notice that* I claim that my name should be inserted in the register of voters, or

* Strike out the claim which is in-applicable.

*I object to the insertion of the name of of

in the register of voters, on the following grounds—

Any person knowingly making any false statement in this form is guilty of an offence and is liable on conviction to a fine not exceeding twenty pounds, or to imprisonment for a term not exceeding three months, or to both such fine and imprisonment.

SEVENTH SCHEDULE.

Regulations for the nomination and election of councillors for the municipal corporations of—

Acre	Jaffa	Ramallah
Beisan	Jenin	Ramle
Beersheba	Jerusalem	Safad
Beit Jala	Khan Yunis	Shefa 'Amr
Bethlehem	Lydda	Tiberias
Gaza	Majdal	Tulkarm
Haifa	Nablus	
Hebron	Nazareth	

Definition.

1. In these regulations—
"Prescribed" means prescribed by the Commissioner.

“Returning officer” means the returning officer appointed by the Commissioner for the municipal area, or a division of a municipal area, or for any group of such divisions.

Nomination
of candi-
dates.

* 13, 14, 16.

* 13, 14.

2.—(1) At the prescribed place, time and date candidates for election as councillors for the council, or, where the municipal area has been divided into divisions, candidates for election to represent the division, shall be nominated by handing to the returning officer a form * in accordance with form no. 1 in the appendix to these regulations.

(2) Every such form shall be signed by at least six * persons whose names appear in the register of voters for the municipal corporation and by the proposed candidate.

(3) No person shall,

(a) nominate more than one candidate, or

(b) nominate himself as a candidate.

Deposit by
candidates.

* 15.

3.—(1) Every candidate for the office of councillor who shall be nominated therefor shall deposit with the returning officer the sum of twenty-five pounds.

(2) No candidate who has not complied with the provisions of sub-regulation (1) hereof * shall be elected by poll or otherwise to the office of councillor.

Return of
deposit.

4.—(1) A deposit made by a candidate in respect of any election under the provisions of regulation 3 of these regulations shall be returned to such candidate by the returning officer,

(a) if he is elected a member of the council, or

(b) if he obtains not less than fifteen per centum of the total votes validly polled at the election:

Provided that if he is a candidate for election by a division of a municipal area such deposit shall be returned to him if he obtains not less than fifteen per centum of the votes validly polled in such division, or

(c) if he shall resign his candidature at any time before the date fixed for the taking of the poll.

If he shall not be elected nor obtain such percentage of votes, nor resign, his deposit shall be forfeited and shall be paid into the municipal fund.

(2) If any candidate who has made a deposit shall die before the election his deposit shall be returned to his personal representative or heirs.

5. If within one hour after the time prescribed for the nomination of candidates no more candidates have been nominated than there are vacancies to be filled by election, the persons nominated shall be declared by the returning officer to have been duly elected, and the returning officer shall forthwith, in writing, report the names of those persons to the Commissioner, and the Commissioner shall cause their names to be published in the Gazette.

Unopposed
election.

59/46.

6. If within one hour after the time prescribed for the nomination of candidates there are more candidates nominated than there are vacancies to be filled by election the returning officer shall adjourn the election for the taking of a poll on such date as may be prescribed by the High Commissioner in accordance with section 18.

Election
by poll.

59/46.

7.—(1) Any person nominated as a candidate may at any time, prior to the date prescribed for the taking of the poll, resign his candidature by giving notice in writing to the returning officer.

Candidates
may resign.

(2) If by reason of any resignation under the provisions of sub-regulation (1) hereof there are no more candidates remaining than there are vacancies to be filled by election the remaining candidates shall be declared by the returning officer to have been duly elected and no poll shall be held.

8. The electoral committee shall appoint such places and such number thereof within the municipal limits as may be convenient for the taking of the poll (hereinafter called the polling stations).

Polling
stations.

9. Not less than seven days before the date prescribed for the taking of the poll the electoral committee shall give notice of

Notice to be
given by
electoral
committee.

- (a) the date fixed for the taking of the poll,
- (b) the names of candidates for election,
- (c) the situation of the polling station or stations,
- (d) the hours at which the polling stations will be open.

10.—(1) The returning officer shall appoint a presiding officer for each polling station who shall superintend the taking of the poll and the maintenance of order thereat.

Presiding
officers.

(2) The returning officer shall appoint such number of assistants to the presiding officer as may appear to him to be necessary for each polling station.

Persons in
polling
station.

11. No persons other than the voters provided for in these regulations shall be present in any polling station during the conduct of the election, except

- (a) the presiding officer and his assistants,
- (b) such members of the Police Force as the presiding officer shall consider necessary for the maintenance of order,
- (c) any candidate for election,
- (d) not more than one representative of each candidate for election,
- (e) any member of the electoral committee,
- (f) the returning officer,
- (g) the Commissioner,
- (h) *any District Officer of the Sub-District in which the municipal area is situated.*

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Provision of
ballot
boxes, etc.

12. The electoral committee shall furnish the presiding officer of each polling station with,

- (a) one or more ballot boxes of a type to be approved by the High Commissioner, and
- (b) two copies of the register of voters for the municipal corporation or the division, and
- (c) an adequate supply of ballot papers in a form to be approved by the High Commissioner.

Hours for
polling.

13. Polling shall take place within the hours provided for by the notice under regulation 9 of these regulations:

Provided that if it appears to the presiding officer that a number of electors have been unable to record their votes through no fault of their own, he may

- (a) with the consent of the returning officer extend the hours of polling for not more than four hours on the same day, or
- (b) with the consent of the returning officer and the Commissioner extend the hours of polling for more than four hours on the same or the next day.

14.—(1) The presiding officer shall before the commencement of the polling exhibit all the ballot boxes open and empty to any candidate, or his representative if respectively present, and to all other persons who may be present in the polling station, and shall thereafter in the presence of such persons, if any, close, lock up and place a seal upon such boxes in such a manner as to prevent their being opened without breaking the seal.

Preliminaries to poll.

(2) After sealing the ballot boxes the presiding officer shall explain to such persons as may be present the manner of voting and the number of persons for whom votes may be given.

15.—(1) On admission to the polling station each voter shall state his name and address, and an assistant to the presiding officer shall thereupon place a mark against the name of such voter in the register of voters.

Manner of voting.

(2) The presiding officer shall then mark the ballot paper with his initials and deliver the paper to the voter.

(3) The voter shall then retire to a table within the polling station, and having indicated his vote on the paper and folded it so as to conceal his vote, but to show the initials of the presiding officer on the back, shall place it in the ballot box in the presence of the presiding officer.

(4) The presiding officer shall make a mark against the name of the voter on his copy of the register of voters to indicate that the vote of that person has been received.

(5) Not more than four electors shall be in the polling station at any one time:

Provided that the presiding officer may at his discretion direct that a greater or less number of voters may be in the polling station at any one time.

(6) The voter shall record his vote upon the ballot paper by placing a mark against the name of the candidate or candidates whom he wishes to be elected:

Provided that no voter shall place a mark against the names of more candidates than there are vacancies to be filled by the election:

Provided also that if any voter is physically incapacitated from recording his vote, or is unable to read or make a mark, the pres-

iding officer shall at the request of such voter place a mark against the name of the candidate or candidates, whom such person wishes to be elected, and shall sign the ballot paper with his own name showing that the paper was filled in by him at the request of the voter.

(7) Not more than one mark may be placed against the name of any candidate.

16. The presiding officer shall, if required by any candidate, or representative of any candidate, at the time of the vote being received, put to the voter the following questions, or either of them:—

(a) "Are you the person whose name appears as on the register of voters?"

(b) "Have you already voted at this election, either here or elsewhere?"

If any person refuses to answer a question so put to him the presiding officer may refuse to receive his vote.

17.—(1) If a person representing himself to be a particular voter applies for a ballot paper, and another person has voted as that particular person, the presiding officer shall either refuse to allow such person to vote, or shall permit him to vote after having warned him that the personation of a voter is a criminal offence. In arriving at his decision the presiding officer may consult any member of the electoral committee then present at the polling station.

(2) A list of the names and addresses of all persons permitted to vote under sub-regulation (1) hereof shall be drawn up and signed by the presiding officer.

18.—(1) As soon as practicable after the close of the poll the presiding officer shall in the presence of such candidates, or their agents, as may be present in the polling station, close and seal up the openings of the ballot boxes in use at the polling station, and shall deliver such ballot boxes as soon as possible to the returning officer.

(2) If the poll is extended to the next day under the provisions of regulation 13 of these regulations the presiding officer

Questions to voters.

Personation.

Disposal of ballot box.

shall take adequate precautions for the safety of the ballot boxes during the interval.

19.—(1) The returning officer may appoint such number of assistants as he may think necessary to assist him in the counting of votes. Counting of votes.

(2) The returning officer shall make arrangements for the counting of votes in the presence of such candidates or such agents of candidates as may be present, and not less than one half of the members of the electoral committee as soon as practicable after the closing of the poll; and shall give to the candidates or their agents and the members of the committee notice of the time and place at which he will begin counting.

(3) The returning officer and his assistants and the candidates and their agents and the members of the electoral committee and the Commissioner but no other person, except with the sanction of the Commissioner, may be present at the counting of votes. If any candidate or his agent shall fail to be present at the counting of the votes, the returning officer shall proceed as if the candidate were present in person or represented by his agent.

(4) If the counting cannot be completed in one sitting, the returning officer shall take adequate precautions for the safety of the ballot papers during the interval.

(5) Any ballot paper which,

(a) has not on its back the initials of the presiding officer, or

(b) contains more than one vote for any one candidate, or

(c) contains votes for more candidates than there are vacancies to be filled, or

(d) is so marked as to be uncertain for which candidate a vote is intended to be recorded;
shall be void and shall not be counted.

(6) The returning officer shall mark "Rejected" on any ballot paper which he may reject as void, and shall keep a record of the number of ballot papers so rejected.

(7) In considering whether or not to reject any ballot paper the returning officer may consult with any member of the electoral

committee then present, and the decision of the returning officer as to the validity of any ballot paper shall be final.

Declara-
tion of re-
sult of
election.

20.—(1). The candidate receiving the greatest number of votes shall, subject to the provision of sub-regulation (3) hereof, be publicly declared by the returning officer to be elected and the candidate receiving the next number of votes shall be in the same manner declared to be elected if there be another vacancy, and so on in like manner until all the vacancies have been filled:

Provided that if one vacancy or more than one vacancy is or remains to be filled and two or more candidates have received an equal number of votes such vacancy or vacancies shall be filled by the drawing of lots by such candidates, or their duly appointed representatives, under the supervision of the returning officer and the candidate or candidates upon whom the lot falls shall be declared duly elected.

(2) Upon the declaration of election of any candidate or candidates, the returning officer shall forthwith, in writing, report to the Commissioner the name or names of such candidates, who shall, unless the High Commissioner considers that an election in accordance with these regulations has not been held, cause the name or names of such candidates to be published in the Gazette.

(3) If the returning officer considers that from any cause an election in accordance with these regulations has not been held he shall withhold the public declaration of the result of such election, and forthwith, in writing, furnish a report to the Commissioner for the information of the High Commissioner.

(4) If for any reason the High Commissioner is of opinion that any election has not been held in accordance with these regulations, he shall by proclamation declare such election to be void and order another election to be held at the earliest possible date.

Custody of
documents,
etc.

21. After the declaration of the poll the returning officer shall make up into one parcel the ballot papers, marked copies of the register of voters, lists of persons admitted to vote under regulation 17 of these regulations and all other papers used in connection with the taking of the poll at the polling stations under his jurisdiction, and shall seal up such parcel in such manner that it cannot be opened without breaking the seal, and shall send such parcel

to the Commissioner, who shall deal therewith in such manner as the High Commissioner may direct.

22.—(1) Within seven days after the day of the election of a councillor every candidate at such election shall send to the Commissioner a return of all expenses incurred by such candidate or his agents on account of or in respect of the conduct or management of such election vouched (except in the case of sums under one pound) by bills, stating the particulars and receipts and accompanied by a declaration made before a Notary Public in a form in accordance with form no. 2 in the appendix to these regulations.

Return of expenses.

(2) If any candidate fails without reasonable cause to make the said return and declaration within the time specified in sub-regulation (1) hereof he shall be guilty of an illegal practice, and if he knowingly makes the said declaration falsely he shall be guilty of an offence and on conviction therefor shall be liable to the punishment by law provided for perjury.

APPENDIX.

FROM No. 1.

NOMINATION PAPER.*

* 13, 14, 16.

Election to the Council of the municipal corporation of.....

We the undersigned

.....of

.....of

.....of

.....of

.....of

.....of

being entitled to vote at an election of councillors for the municipal corporation of do hereby nominate the following person as a proper person to serve as a councillor on the said council:

Name in full
of person nominated. Place of abode. Profession or calling.

And I the said
do hereby consent to the nomination appearing above, and I the
said hereby certify that I am qualified to be a coun-
cillor for the municipal corporation of in accord-
ance with the provisions of the Municipal Corporations Ordin-
ance, 1934.

Dated the day of 19....

(Signature of Candidate)

FORM No. 2.

DECLARATION BY CANDIDATE AS TO EXPENSES.

I,, having been a candidate at the
election of a councillor (or councillors) for the council of the
municipal corporation of, on the
day of declare and say as follows:—

I have paid for my expenses at the said
election, and, except as aforesaid, I have not, and to the best of
my knowledge and belief, no person, nor any club, society or
association has on my behalf made any payment, or given, promis-
ed or offered any reward, office, employment or valuable con-
sideration, or incurred any liability on account of or in respect of
the conduct or management of the said election.

And I further declare that, except as aforesaid, no money,
security or equivalent for money has to my knowledge or belief
been paid, advanced, given or deposited by anyone to or in the hands
of myself, or any other person, for the purpose of defraying any
expenses incurred on my behalf on account of or in respect of the
conduct or management of the said election.

And I further declare that I will not at any future time make
or be a party to the making or giving of any payment, reward,

office, employment or valuable consideration for the purpose of defraying any such expenses as last mentioned, or provide or be a party to the providing of any moneys, security or equivalent for money for the purpose of defraying any such expenses.

Signature

Declared by the above-named on the day of
..... before me.

(Signed)

Notary Public

EIGHTH SCHEDULE.

REGULATIONS FOR THE NOMINATION AND ELECTION OF COUNCILLORS FOR THE MUNICIPAL CORPORATION OF TEL-AVIV.

1.—(1). Each candidate shall be nominated in writing on a separate nomination paper as prescribed in the form in the appendix hereto subscribed by the candidate and by not less than six voters. The nomination paper shall be delivered to the returning officer appointed by the Commissioner for the municipal area of Tel-Aviv (hereinafter called the returning officer) at a time and place previously notified by public notice. The returning officer, in consultation with the electoral committee, shall scrutinise each paper to see that it is in order and shall forthwith publish a notice of the names of those validly nominated by placarding the papers outside the council's offices and on or by the door of places of worship.

Nomina-
tion of
candidates.

(2) Any person who is entitled to vote may, by notice in writing within seventy-two hours of the time at which the nomination papers are posted, object to the returning officer to the nomination of any candidate as not being duly qualified or as not having been duly nominated. The returning officer shall decide finally on any objection.

(3) If the number of candidates nominated does not exceed the number of vacancies, the electoral committee shall there-

59/46.

upon declare the persons nominated to be elected members, and shall forthwith publish a notice by placarding the names of the candidates so elected outside the council's offices and on or by the door of places of worship. *The returning officer shall cause the names of the candidates so elected to be published in the Gazette.*

(4) If the election is to be contested, the returning officer shall by notice appoint a day, not less than ten days after the day appointed for nomination, on which a poll will be held.

(5) Not less than three days before the date of the poll, each electoral party shall notify the returning officer in writing of its party list and of any agreement that it has made in accordance with regulation 5 (15) (b) of these regulations for disposing of its remainder votes in the event of a poll. The notice shall be signed by a majority at least of the duly nominated candidates on the list of each party concerned.

(6) No party list shall contain the names of less than three candidates nor be signed by less than two hundred voters. No voter shall sign more than one party list.

Deposit by candidates.

* 15.

2.—(1) Every candidate for the office of councillor who shall be nominated therefor shall deposit with the returning officer the sum of twenty-five pounds.*

(2) No candidate who has not complied with the provision of sub-regulation (1) hereof shall be elected by poll or otherwise to the office of councillor.

Return of deposit.

3.—(1) A deposit made by a candidate in respect of any election under the provisions of regulation 2 of these regulations shall be returned to such candidate by the returning officer,

(a) if he is elected a member of the council, or

(b) if one or more persons whose names appear in the party list in which the name of the candidate appears is or are elected, or

(c) if he shall resign his candidature at any time before the date fixed for the taking of the poll.

If he shall not be elected or if no other candidate whose name appears in the party list in which the name of the candidate

appears is elected, his deposit shall be forfeited and shall be paid into the municipal fund.

4. The returning officer shall cause notice of the day, the time and the place appointed for taking the poll and of the name, residence and calling of each candidate to be posted at several conspicuous places, not less than three days before the taking of the poll. Notice of poll.

5.—(1) The poll shall be taken by secret ballot. The poll.

(2) The returning officer shall be responsible for the conduct of the poll, and may appoint such persons and clerks as he sees fit to assist him therein.

(3) The returning officer shall provide for use at each polling station:—

(a) a copy of the register of voters or registers of voters for the division or divisions concerned;

(b) a box for the receipt of the votes (hereinafter called the ballot box) which shall be provided with a lock and key;

(c) an adequate supply of envelopes to contain the party lists brought by the voters;

(d) copies of the validly nominated party lists, which shall be placarded in conspicuous places in the polling station.

(4) The returning officer may appoint any fit person to be in charge of a polling station (hereinafter included in the term returning officer) and a clerk or clerks to assist him, provided that every person so appointed shall, before entering upon his duties, take an oath to observe the secrecy of the ballot.

(5) The returning officer shall, before the commencement of polling, exhibit the ballot box open and empty to the members of the electoral committee, if any are present, or to any other person who may be present, and shall thereafter in their presence lock up and place a seal upon it in such manner as to prevent it being opened without breaking the seal. He shall then explain to such persons as may be present the manner of voting, and the number of persons for whom votes may be given.

(6) (a) Every voter shall bring with him or obtain at the polling station a copy of the party list of candidates for which he

desires to vote. All party lists shall be on white paper and of dimensions and form prescribed by the returning officer.

(b) On admission the voter shall produce his voter's identity card, and the clerk shall thereupon place a mark against the name of such voter in the copy of the register of voters.

(c) The returning officer shall then stamp the identity card with the word "Voted" and shall retain it, and shall mark an envelope with his initials and deliver it to the voter.

(d) The voter shall enclose his copy of the party list in the envelope delivered to him by the returning officer and shall place the envelope with its enclosure in the ballot box in the presence of the returning officer.

(7) The voter shall delete from his party list not less than half the number of names, provided that if the number of names be an odd number, he shall delete not less than one more name than he retains. He shall not add any name to the party list.

(8) The returning officer shall make arrangements regarding the counting of the votes in the presence of the candidates or their agents and the electoral committee as soon as practicable after the closing of the poll; and shall give to the candidates or their agents and the committee notice of the time and place at which he will begin the counting.

(9) The returning officer and his assistants and the candidates and their agents and the members of the electoral committee, and no other person except with the sanction of the Commissioner, may be present at the counting of votes. If any candidate or his agent shall fail to be present at the counting of the votes, the returning officer shall proceed as if the candidate were present in person or represented by his agent.

(10) If the counting cannot be completed in one sitting, the returning officer shall take adequate precautions for the safety of the ballot papers during the interval.

(11) (a) Any party list not enclosed in an envelope initialled by the returning officer shall be void and not counted.

(b) If more than one party list be enclosed in an envelope, all of them shall be void and the vote not counted.

(c) If any names have been added to a party list the whole list shall be void and the votes not counted.

(12) If the voter has not deleted a sufficient number of names from a party list, the returning officer or his clerk shall make the necessary number of deletions, beginning from the bottom of the list.

(13) The total number of party lists cast by the voters shall be divided by the number of seats on the council to be filled, and the quotient to the nearest integer shall be the quota of votes required to qualify for a seat.

(14) Each party shall be entitled to one seat on the council for each quota of votes it receives.

(15)—(a) The remaining seats shall be allotted to the parties having, whether separately or in combination as provided in paragraph (b) hereof, the largest remainder of votes after subtraction of the complete quotas,

provided that if the total number of party lists cast for an electoral party is less than the quota, this total number shall rank as a remainder vote, and provided further that, if the combination of two or more remainderd votes exceeds the quota, a seat shall be allotted for each complete quota and the secondary remainder shall continue to rank as a remainder vote.

(b) *It shall be lawful for two or more parties to enter into an agreement to pool their remainder votes in the manner provided in regulations 6 and 7 of this Schedule.* 6/45.

(16) The order of priority of candidates within any party list shall be governed by the number of votes cast for each of the candidates.

(17) Where an equality of votes is found to exist between any candidates at an election, the priority shall be decided by the drawings or lots in public by the returning officer.

(18) Immediately after the counting is over, the returning officer shall prepare a list showing the result of the poll and shall post it on the door of the council's offices and on or by the door of places of worship and shall cause the names of the candidates elected to be published in the Gazette. 59/46.

Electoral
agreements.
6/45.

6.—(1) It shall be lawful for two or more electoral parties to enter into an agreement (hereinafter called "an electoral agreement") to pool their votes:

Provided that no electoral party shall become a party to more than one electoral agreement in respect of any particular election.

(2) An electoral agreement shall be in writing and shall only record the consent of the electoral parties which have entered into the agreement to pool their votes in the event of a poll, and shall be signed on behalf of each such electoral party by at least a majority of the duly nominated candidates thereof. No such agreement shall be of any effect unless it has been duly delivered to the returning officer not less than three days before the poll and posted by him outside the council's offices and on or by the door of places of worship.

Electoral
blocks.
6/45.

7.—(1) For the purposes of this regulation, the expression "electoral block" means every combination of electoral parties which have entered into a valid electoral agreement under regulation 6 and also every electoral party which is not a party to an electoral agreement.

(2) Each electoral block shall be entitled to one seat on the council for each quota of votes it receives.

(3) The remaining seats shall be allotted to the electoral blocks having the largest remainder of votes after subtraction of the complete quotas: Provided that, when a block has received a number of votes which is less than a full quota, all votes so obtained shall be deemed to be a remainder of votes.

(4) The seats allotted to an electoral block shall, if such electoral block comprises more than one electoral party, be distributed as amongst such parties in the following manner:—

(a) each electoral party being comprised in such electoral block shall be entitled to one seat on the council for each quota of votes it receives.

(b) the remaining seat or seats allotted to such electoral block shall be allotted to the electoral party or parties comprised in such electoral block having the largest remainder or remainders of votes after subtraction of the complete quotas:

Provided that when an electoral party has received a number of votes which is less than a full quota all votes so obtained shall be deemed to be a remainder of votes.

APPENDIX.

FORM OF NOMINATION PAPER.

Election to the Council of the municipal corporation of Tel-Aviv.

We the undersigned

.....of
.....of
.....of
.....of
.....of
.....of

being entitled to vote at an election of councillors for the municipal corporation of Tel-Aviv do hereby nominate the following person as a proper person to serve as councillor on the said council:

<u>Name of person nominated in full.</u>	<u>Place of abode.</u>	<u>Profession or calling.</u>
--	------------------------	-------------------------------

And I the said
do hereby consent to the nomination appearing above and I the said do hereby certify that I am qualified to be a councillor for the municipal corporation of Tel-Aviv in accordance with the provisions of the Municipal Corporations Ordinance, 1934.

Dated the day of 19....

(Signature of Candidate)

NINTH SCHEDULE.

REGULATIONS FOR MEETINGS AND PROCEEDINGS OF COUNCILS.

1. There shall be at least one ordinary meeting of the council in each month for the transaction of general business which shall be held on the day or days to be fixed by the council.

* 21, 23.

2. Meetings of the council shall be private,* and every question coming before the council shall be decided by open voting:

Provided that a council may, if the majority of members present so determine, admit the public to any meeting thereof.

3. The mayor may at any time call a meeting of the council.

4. Twenty-four hours at least before any meeting of the council a summons to attend the meeting, specifying the business to be transacted thereat, and signed by the mayor, shall be left at the usual place of abode of every member of the council:

Provided that such summons may be sent by post not less than thirty-six hours before any meeting.

5. If no meeting of the council is held for one month any number of members of the council being not less than one third may request the mayor to call a meeting, and if the mayor

(a) shall refuse to do so, or

(b) shall neglect to do so for a period of fourteen days from the date of such request,

such members may call a meeting of the council.

6. Twenty-four hours at least before any meeting of the council notice of the time and place of the intended meeting, signed by the mayor or if the meeting is called by members of the council, by those members, shall be posted on or near the outer door of the municipal office during office hours. When the meeting is called by any members of the council, the notice shall specify the business proposed to be transacted thereat.

7. Want of service of the summons on any member of the council shall not affect the validity of the meeting.

8. No business shall be transacted at a meeting other than that specified in the summons relating thereto, unless there are present

and consenting at least two-thirds of the entire number of the council:

Provided that nothing herein shall be deemed to affect the provisions of section 87 (a) of this Ordinance.

9. At every meeting of the council the mayor, if present, shall be chairman. If the mayor is absent then the deputy mayor shall be chairman. If both the mayor and deputy mayor are absent, then such councillor as the members of the council then present choose, shall be the chairman.

10. All acts of the council and all questions coming or arising before the council may be done and decided by a majority of such members of the council as are present and vote, the whole number present at the meeting whether voting or not, not being less than a quorum,* that is to say half of the number of the whole council plus one, except in any case where this Ordinance or any other Ordinance or law provides for a special quorum: * 20, 123.

Provided that if the number of the council shall be an odd number a quorum shall consist of half the number which exceeds the number of the council by one, e.g. if the number of the council is nine, the quorum would be five:

Provided also that if at three successive ordinary meetings of the council there be not a quorum of councillors present, any resolution passed by the third meeting, relating to any business, notice of which has been given by the summonses issued in respect of all such meetings, may be submitted to the Commissioner and if he approves thereof, such resolution shall be deemed to have been as lawfully made as though there had been a quorum of the council present at such meeting. Nothing in this proviso shall be deemed to affect any provisions of this Ordinance or any other Ordinance or law requiring any matter to be approved by a stated majority of councillors.

11. In the case of equality of votes, the chairman of any meeting shall have in addition to his own vote a second or casting vote.

12. A record* of all the resolutions taken at every meeting shall be drawn up correctly by the town clerk or some other official appointed by the council and entered by him in a book * 22.

kept for that purpose, and shall be signed by all the members* assenting thereto and shall be confirmed as a true record of all resolutions taken.

TENTH SCHEDULE.

PREPARATION OF MUNICIPAL ESTIMATES.

The estimates shall be prepared in accordance with the following provisions:—

1. Against each item of revenue and expenditure the amount estimated for the coming year, and the amount of the approved estimate for the current year, shall be shown.

2. The estimates of revenue shall include all fees, fines, dues, rents, rates and other moneys payable into the municipal fund and shall be arranged under comprehensive heads.

Receipts in respect of undertakings certified by the High Commissioner to be undertakings of public utility shall be shown separately.

There shall be abstracts preceding the body of the estimates which shall show the totals of all the heads in the estimates and shall have four columns, one for the actual revenue or expenditure of the last completed year, one for the approved estimates of the current year, one for the revised estimates of the same, and one for the estimated revenue or expenditure of the coming year.

3. The estimates of expenditure shall be framed so as to show as nearly as possible the amount which it is expected will actually be spent during the year.

4. No item of receipt or expenditure shall be included under the head "miscellaneous" which can appropriately be placed under any other head.

5. Any item for "contingencies" or "miscellaneous" shall be confined to petty and casual charges which are foreseen but are too unimportant to be provided for separately.

6. New heads or sub-heads shall be opened for items of receipt or expenditure not properly falling within any of those already appearing in the estimates.

7. The total estimated expenditure of the year should not in ordinary circumstances be allowed to exceed the total estimated revenue.

8. There will be two heads for public works, all annually recurrent services being placed under the first head, and other works under the second.

9. The estimates when submitted to the High Commissioner shall be accompanied by explanations respecting every item of an unusual nature therein comprised and of the difference under each item between the proposed expenditure or anticipated revenue and the approved estimate for the preceding year, as shown in the parallel columns.

ELEVENTH SCHEDULE

TENDERS.

1.—(1) The Tender Committee will advertise requirements in such of the local papers as may be necessary to give general publicity.

(2) Advertisements will, as a rule, be confined to a brief description of the requirements, and afford such information as may be essential. Except in special cases, there should be only one insertion in newspapers.

(3) The notice should state that the necessary forms can be obtained and the general conditions of the contract ascertained from the town clerk or from some other official appointed by the council.

2. As soon as tenders are received, they will be deposited in a locked box to be kept at the municipal office for the purpose. The box will have at least two different locks, the keys of which will be retained by such different persons as the council shall appoint.

3. All tenders will be opened in the presence of the committee and registered by the town clerk or by some other official appointed by the council.

4. Tenders and supporting schedules must be carefully examined by the committee.

5.—(1) Defective tenders will not be considered except in cases where the defect can be rectified without prejudice to other tenderers. Any such tenders must be rectified before acceptance.

(2) Tenders by telegram or late tenders will not be considered.

* 73.

6. The lowest tender * will, as a rule, be recommended for acceptance, provided that the prices quoted are reasonable, and that the committee is satisfied as to the suitability of the tenderer. When the lowest tender is not recommended the committee will record their reasons.

7. All tenders received by the committee should be dully filed for reference.

TWELFTH SCHEDULE.

NOTICE OF OBJECTION.

To:—

3/40.

The Chairman
Assessment Committee,
Municipal Offices,
.....

I, of hereby give you, the said Committee notice that I object to the Valuation List as deposited at the Municipal Offices.....in respect of the "Net Annual Value" inserted therein for the premises situated in..... Quarter, of the Municipal Area of.....entered as follows:—

Block No.	Parcel No.	Description of Property	Reputed owner	Net Annual Value LP.

and I further give you notice, that the grounds of my objection are, that

and I desire a correction to be made in the said Valuation List so that the Net Annual Value shall be inserted as follows:—

This..... day of 19....

Signature.....

Address.....

Note:- This notice must be served on the Assessment Committee in accordance with section 110 of the Ordinance within 14 days after the Assessment List has been published. The grounds of objection must be stated.

THIRTEENTH SCHEDULE.

- The Vilayet Law of 1281, * A. H. (1864). * 127.
- The Regulation concerning Roads of 1286, A.H. (1869).
- The Law regarding the administration of Vilayets * of 1287, * 127.
A. H. (1871).
- The Regulation regarding election to Councils of 1292, A. H. (1875).
- The Regulation regarding the administration of Vilayets * of * 127.
1293, A. H. (1876).
- The Regulation regarding the administration of Nahias of 1293,
A. H. (1877).
- The Regulation for the construction and alignment of roads 1309,
A. H. (1891).
- The Regulation concerning the construction and maintenance of
roads of 1304, A. H. (1887) and the amendment thereto
of 1312, A. H. (1895).
- The Municipal Law 1294, A. H. (1877) and the amendments
thereto of 1304, A. H. (1886), 1308, A. H. (1890) and
1330, A. H. (1912).

The whole of articles 6, 10, 11, 12, 13, 14, 15, 16, 22, 23, 24, 25, 26, 27, 28 and 29 and articles 17, 18, 20 (so far as they relate to contract stamps) of the Law regarding leases of immovable property of 1299 (1882) as amended by the Law of 1332 (1914).

The Provisional Law for the general administration of Vilayets of 1331, A. H. (1913) with the amendment of 1332, A. H. (1914).

The Municipal Tax Law of 1333, A.H. (1915).

FOURTEENTH SCHEDULE.

<u>No. and year</u>	<u>Short Title of Ordinance.</u>	<u>Extent to which repealed</u>
—	Trial of contraventions against Municipal Regulations Ordinance, 1918	.. The whole.
—	The order of the Military Administration No. 3026/F of the 14th January, 1919, regarding the imposition of House Rate The whole.
4 of 1922	The Municipal Loans Ordinance, 1922	Such part as applies to municipal areas.
19 of 1924	The Werko Tax and Municipal House Rate Validation Ordinance, 1924	.. Section 2.
22 of 1925	The Municipal Rates Ordinance, 1925	The whole.
5 of 1925	The Determination of Areas of Municipalities Ordinance, 1925 The whole.
45 of 1926	The Municipal Franchise Ordinance, 1926 The whole.

<u>No. and year</u>	<u>Short Title of Ordinance</u>	<u>Extent to which repealed</u>
46 of 1926	The Municipal Franchise (Amendment) Ordinance, 1926	The whole.
15 of 1927	The Municipal Franchise Amendment Ordinance, 1927	The whole.
44 of 1929	The Local Authorities (Replacement) Ordinance, 1929	Such part as applies to municipal areas.
5 of 1930	The Municipal Councils Ordinance, 1930	The whole.
17 of 1930	The Sewerage and Drainage Ordinance, 1930	Such part as applies to municipal areas.

<u>No. and year</u>	<u>Short Title of Ordinance.</u>	<u>Extent to which repealed.</u>
---------------------	----------------------------------	----------------------------------

The Order dated the eleventh day of May, 1921, and published in the Gazette dated the first day of June, 1921, regarding the township of Tel-Aviv. The whole.

The following Ordinances are hereby repealed:— 6/45.
Repeal.

- | | |
|---|-----------------|
| (1) Municipal Corporations (Amendment) Ordinance, 1934 . | No. 10 of 1934. |
| (2) Municipal Corporations (Amendment) Ordinance (No. 2), 1935. | No. 11 of 1935. |
| (3) Municipal Corporations (Amendment) Ordinance, 1941. | No. 7 of 1941. |

Repeal.

The following Ordinances are hereby repealed:—

- No. 2 of 1935. 1) Municipal Corporations (Amendment) Ordinance, 1935.*
- No. 4 of 1937. 2) Municipal Corporations (Amendment) Ordinance, 1937.*
- No. 28 of 1940. 3) Municipal Corporations (Amendment) Ordinance (No. 2), 1940.*
- No. 45 of 1940. 4) Municipal Corporations (Amendment) Ordinance (No. 3), 1940.*
- No. 17 of 1942. 5) Municipal Corporations (Amendment) Ordinance, 1942.*
- No. 11 of 1943. 6) Municipal Corporations (Amendment) Ordinance, 1943.*

MUNICIPAL COURTS ORDINANCE.

No. 18 of 1928.

Short Title.

1. This Ordinance may be cited as the Municipal Courts Ordinance.

Constitution of court.

2.—(1) The High Commissioner may, by warrant, appoint fit persons of education and standing to be magistrates of a town and to form a court to be known as the municipal court of such town.

(2) He may appoint a chairman of the bench to preside over the court and one or more members to act as deputy chairman.

(3) He may, on the recommendation of the Chief Justice, appoint as chairman of the municipal court, in any town which he thinks fit, a stipendiary magistrate who shall receive such stipends as the High Commissioner shall determine from the Treasury of the Government of Palestine.

(4) A municipal court shall sit in such places and at such times as may be fixed, subject to any instructions of the Chief Justice, by the president of the district court within whose jurisdiction is situated the municipality for which the court was formed.

Composition of court.

3.—(1) Where a stipendiary magistrate is chairman of the court, he may try any case sitting alone.

(2) Where there is no such stipendiary magistrate, a case shall be tried by a bench consisting of not less than two magistrates.

(3) If a bench consisting of an even number of magistrates is equally divided in opinion, the case shall be retried either by the stipendiary magistrate or by a bench containing an odd number of magistrates who shall decide by a majority of voices:

Provided that, if the stipendiary magistrate sits with one other magistrate and there is a division of opinion, the opinion of the stipendiary magistrate shall prevail.

(4) No person shall sit as a magistrate of a bench who has any interest in the case or is related to any prosecutor or accused person.

(5) The High Commissioner may, by warrant, from time to time remove and replace any chairman or magistrate of a municipal court.

4.—(1) A municipal court shall have jurisdiction over any offences against municipal regulations and bye-laws, or any offences committed within a municipal area which are specified in any of the Ordinances set out in the Schedule to this Ordinance: Jurisdiction of court.

Provided that the court shall not pass a sentence exceeding a fine * of *twenty pounds* or fifteen days imprisonment or both these penalties in respect of any one offence. 40/45.
* 131.

(2) The High Commissioner in Council may, by order, make additions to or amendments of the Schedule to this Ordinance.

5.—(1) A municipal court shall have all the powers * of a magistrate with regard to the summoning of witnesses, the arrest of accused persons and any other matter concerned with the trial of a criminal case. * 49, 128.
Powers and procedure of court.

(2) The proceedings * of the court shall be conducted in accordance with the rules of procedure in force in magistrates' courts provided that no accused person shall have the right to be tried by a district court. * 129.
44/47.

(3) Any fine imposed by the court shall be recovered in the same way as a fine imposed by a magistrate.

(4) The court may order that a person convicted of an offence shall pay the costs of the proceedings which shall be assessed at the same rate and shall be recoverable by the same means as the costs in a magistrate's court.

Right of
appeal.
Cap. 87.

* 130, 131.

6.—(1) Any person sentenced to imprisonment by a municipal court shall have a right of appeal to the district court.

(2) Any person sentenced to a fine may apply to the president of the district court for leave to appeal * in the manner prescribed in section 6 of the Magistrates' Courts (Jurisdiction) Ordinance.

(3) A junior government advocate or other representative of the Attorney General authorised in writing shall be entitled to appeal to the district court from any decision of a municipal court within one month of the judgment.

(4) The district court may increase the sentence in any case where it thinks an appeal by the person convicted is frivolous or vexatious.

Payment of
fines to
Treasury.
No. 18 of
1921.

7. The proceeds of all fines imposed by a municipal court shall be paid to the Treasury:

Provided that any fine imposed under the Municipal Courts Ordinance, 1921, which before the date of the commencement of this Ordinance has been paid to municipal funds shall be deemed to have been validly paid.

Applica-
tion of Or-
dinance to
Tel Aviv
Township.

8.—(1) The provisions of this Ordinance shall apply to the Township of Tel Aviv as if it were a municipality.

(2) Any judgment, summons, warrant or process of a municipal court sitting at Tel Aviv since the 14th January, 1927, shall be deemed to have been duly given or issued, and any person acting under any such judgment or other document shall be discharged, relieved and indemnified against every person whomsoever in respect thereof.

Rules of
court.

9. The Chief Justice may make rules of court regulating the procedure and administration of municipal courts.

THE SCHEDULE

(Section 4.)

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p. 326

Cap. 1.

No. 74 of 1936.

The Advertisements Ordinance.

The Criminal Code Ordinance, — Sections 101(1), (3) and (4) and sections 103, 196, 197, 380, 381, 383, 384, and 385.

- No. 5 of 1935. *The Public Entertainments Ordinance, 1935.*
 No. 40 of 1940. *The Public Health Ordinance, 1940.*
 No. 6 of 1935. *The Public Health (Rules as to Food)*
Cap. 128. Ordinance.
 No. 28 of 1936. *The Road Transport Ordinance.*
 No. 4 of 1935. *The Sale of Intoxicating Liquor Ordinance,*
1935.
The Town Planning Ordinance, 1936.
Cap. 143. The Trades and Industries (Regulation)
Ordinance.

MUNICIPAL FEES (INDIRECT COLLECTION) ORDINANCE.

No. 32 of 1939.

AN ORDINANCE TO VALIDATE THE COLLECTION OF MUNICIPAL FEES, TAXES AND DUES BY PERSONS UNDER CONTRACT WITH THE MUNICIPALITY OR BY OTHER INDIRECT MEANS, AND TO MAKE FURTHER PROVISIONS IN RELATION THERETO.*

* 72a, 73.

BE IT ENACTED by the High Commissioner for Palestine, with the advice of the Advisory Council thereof:-

1. This Ordinance may be cited as the Municipal Fees (Indirect Collection) Ordinance, 1939. Short title.

2.—(1) Where before the commencement of this Ordinance the collection of any fees or taxes or dues lawfully imposed by any municipality under the Municipal Corporations Ordinance, 1934, has been carried out by any person by virtue of a contract or agreement entered into between such person and the municipality, or where such fees or taxes or dues have been recovered in any other manner not being the direct collection thereof by the municipality, then notwithstanding anything contained in the Municipal Corporations Ordinance, 1934, such fees or taxes or dues shall be deemed to have been lawfully and validly collected and recovered. Validation of and further provisions regarding indirect collection of municipal fees, etc.

(2) From and after the commencement of this Ordinance the collection or recovery of any municipal fees or taxes or dues in

any such indirect manner as aforesaid shall, notwithstanding anything contained in the Municipal Corporations Ordinance, 1934, be lawful subject to the written approval of the District Commissioner, which he may in his unfettered discretion grant or withhold.

(3) Nothing in this Ordinance shall apply to the recovery of municipal rates.

MUNICIPAL RATES (VALIDATION) ORDINANCE. No. 9 of 1941.

AN ORDINANCE TO VALIDATE THE ASSESSMENT OF CERTAIN MUNICIPAL RATES DURING THE PERIOD 1st APRIL, 1934, TO 31st MARCH, 1940, AND THE RECOVERY THEREOF.

BE IT ENACTED by the High Commissioner for Palestine, with the advice of the Advisory Council thereof:-

Short title.

1. This Ordinance may be cited as the Municipal Rates (Validation) Ordinance, 1941.

Validation of assessment and recovery of certain municipal rates.

Cap. 147.
* 132.

2.—(1) Where in compliance or purported compliance with the proviso to section 107 of the Municipal Corporations Ordinance, 1934, any of the Municipal Corporations set out in the first column of the Schedule hereto has, in respect of the period set out opposite such Municipal Corporation in the second column of that Schedule, adopted the assessment of any building or occupied or unoccupied land under the provisions of the Urban Property Tax Ordinance* as the retable value of such building or land, then, notwithstanding that the provisions of sections 105 to 112 inclusive of the Municipal Corporations Ordinance, 1934, or any of them, with regard to the preparation and publication of an assessment list in respect of such assessment and otherwise with regard thereto have not been complied with, such assessment shall be deemed to have been a valid assessment for the purposes of the Municipal Corporations Ordinance, 1934, and any rate levied on the basis thereof shall, if lawful in other respects, be deemed to have been lawfully levied and if already recovered to have been lawfully recovered, and if not already recovered may be recovered in accordance with the provisions of that Ordinance.

(2) Notwithstanding anything in the Municipal Corporations Ordinance, 1934, or in any other Ordinance or law contained, the assessment of any municipal rate by any of the Municipal Corporations set out in the first column of the Schedule hereto in respect of any part of the period set out opposite such Municipal Corporation in the second column of that Schedule shall not be deemed to have been invalid by reason only of the fact that it was in respect of and on the basis of the Hejira year *, and any rate levied on the basis of any such assessment shall, if lawful in other respects, or if it is a rate declared by subsection (1) hereof to have been lawfully levied, be deemed to have been lawfully levied and if already recovered to have been lawfully recovered, and if not already recovered may be recovered in accordance with the provisions of the Municipal Corporations Ordinance, 1934. * 100.

SCHEDULE.

<i>Municipal Corporation</i>	<i>Period in respect of which validation extends</i>
Acre	1st April, 1934 to 31st March, 1940.
Beisan	1st April, 1934 to 31st March, 1940.
Beit Jala	1st April, 1934 to 31st March, 1940.
Bethlehem	1st April, 1934 to 31st March, 1940.
Haifa	1st April, 1934 to 31st March, 1940.
Hebron	1st April, 1934 to 31st March, 1940.
Jenin	1st April, 1934 to 31st March, 1940.
Jerusalem	1st April, 1934 to 31st March, 1940.
Jaffa	1st April, 1934 to 31st March, 1940.
Khan Junis	1st April, 1934 to 31st March, 1940.
Lydda	1st April, 1935 to 31st March, 1939.
Ramallah	1st April, 1934 to 31st March, 1940.
Ramle	1st April, 1936 to 31st March, 1939.
Safad	1st April, 1934 to 31st March, 1939.
Tiberias	1st April, 1934 to 31st March, 1940.
Tulkarm	1st April, 1934 to 31st March, 1940.

MUNICIPAL ASSESSMENT LISTS (TEMPORARY PROVISIONS) ORDINANCE,

No. 27 of 1946.

AN ORDINANCE TO PROVIDE FOR THE MODIFICATION IN CERTAIN CASES OF THE PROVISIONS OF THE MUNICIPAL CORPORATIONS ORDINANCE, 1934, AS REGARDS THE MANNER OF PREPARATION OF ASSESSMENT LISTS FOR THE FINANCIAL YEAR 1946-1947 AND FOR MATTERS CONNECTED THEREWITH.

BE IT ENACTED by the High Commissioner for Palestine, with the advice of the Advisory Council thereof:—

Short title.

1. This Ordinance may be cited as the Municipal Assessment Lists (Temporary Provisions) Ordinance, 1946.

Interpretation.
No. 1 of
1934.

2. In this Ordinance, the expression "the Ordinance" means the Municipal Corporations Ordinance, 1934, and other expressions have the same meaning as they have in that Ordinance.

Provisions
of certain
Defence
Regulations
to continue
in force.

Gaz : 6.4.44,
p. 339.
Gaz :
29.3.45.
p. 281.

3.—(1) The provisions of the Defence (Amendment of Municipal Corporations Ordinance, 1934) Regulations, 1944, and of the Defence (Amendment of Municipal Corporations Ordinance, 1934) Regulations, 1945, shall, notwithstanding the revocation of the said Regulations, continue in force as if those provisions had been enacted by an Ordinance.

(2) This section shall be deemed to have come into force immediately after the revocation of the Regulations mentioned in subsection (1).

Assessment
list for
financial
year 1946-
1947.

4.—(1) Notwithstanding anything contained in the Ordinance, the assessment list of all unoccupied land and occupied land and buildings for the financial year 1945-1946, as published in accordance with the provisions of section 109 of the Ordinance and as rectified by the assessment committee and as amended by such committee in accordance with any decision of the Appeals Tribunal, shall, if the assessment committee so resolves and notice of its resolution is published in the *Gazette* not later than the date before which an assessment list must be prepared under and in accordance with the provisions of section 106 of the Ordinance, be deemed to be the assessment list for the financial year 1946-1947.

and in such a case the provisions of the Ordinance shall apply to such assessment list as if the assessment committee had prepared it and assessed the rateable values appearing therein for the financial year 1946-1947 in accordance with the provisions of the Ordinance:

Provided that—

(a) if at any time during the financial year 1945-1946 any person ceased to be the owner or occupier of any land or building in respect of which he was liable to pay any rate under the provisions of the Ordinance, and another person became the owner or occupier of such land or building and liable for any instalment of rate in respect thereof due after he became the owner or occupier of such land or building, the name of the second mentioned person shall be substituted for the name of the first mentioned person in such assessment list by the assessment committee prior to the publication of such assessment list in accordance with the provisions of section 109 of the Ordinance;

(b) if in such assessment list there is any error as regards the name of any owner or occupier of any land or building in respect of which he is liable to pay any rate under the provisions of the Ordinance, the correct name of such owner or occupier shall be substituted by the assessment committee for the incorrect name therein prior to the publication of such assessment list in accordance with the provisions of section 109 of the Ordinance.

(2) Such assessment list, whether altered under and in accordance with the provisos to subsection (1) or not, shall be published in accordance with the provisions of section 109 of the Ordinance, and the municipal corporation or any person who is aggrieved by such list as published as aforesaid may apply to the assessment committee under and in accordance with the provisions of section 110 of the Ordinance for rectification of such list and may appeal to the Appeals Tribunal under and in accordance with the provisions of section 111 of the Ordinance, and pursuant to any such application or appeal the assessment committee may rectify or amend such assessment list, as the case may be, in accordance with the provisions of the Ordinance.

(3) This section shall come into force on the first day of April, 1946.

MUNICIPAL CORPORATIONS (SEWERAGE,
DRAINAGE AND WATER) ORDINANCE,

No. 1 of 1936.

AS ORDINANCE TO ENABLE MUNICIPAL COUNCILS TO
UNDERTAKE CERTAIN SERVICES.

BE IT ENACTED by the High Commissioner for Palestine, with
the advice of the Advisory Council thereof:—

Short title.

1. This Ordinance may be cited as the Municipal Corporations
(Sewerage, Drainage and Water) Ordinance, 1936.

Interpreta-
tion.

2. In this Ordinance, unless the context otherwise requires, the
following expression have the meanings respectively assigned
to them, that is to say:—

“Cesspool” means any construction, whether above ground or
below ground, or any excavation in the ground which is designed
for the reception of sewage or sullage water and which is not
a drain or sewer, and includes a septic tank and any receptacle
for sludge.

* 133, 134,
135.

“Drain” * means any pipe used for the drainage of one building
or of any premises within the same curtilage, including the in-
ternal and external connections and fittings.

“Engineer” means a municipal engineer and includes a sanitary
surveyor or any engineer employed specifically by a Municipal
Council for drainage works and water supply.

“House” means any building or structure used for human
habitation and includes a school, shop, factory or other building
in which persons reside or are employed.

“Municipal Council” means a council of a Municipal Corpora-
tion within the meaning of the Municipal Corporations Ordinance,
1934, to which the part of this Ordinance in which the expres-
sion occurs has been extended under the provisions of section 29
of this Ordinance and “municipal area” means the area of any
such Municipal Corporation.

“Owner” means the person for the time being receiving the
rents or profits of the premises in connection with which the word
is used, whether on his own account or as agent or on behalf of

another person, or who would so receive the same if the premises were leased.

“Premises” includes buildings and lands of any tenure, whether open or enclosed, whether built upon or not, whether public or private and whether maintained or not under statutory authority.

“Public purposes” includes any object or purpose of the Municipal Council.

“Trade purposes” means purposes of trade or manufacturing.

“Private purposes” means purposes other than public or trade purposes.

“Service pipe” means any pipe, not being the property of the Municipal Council, which is used for the supply of water to one building, or to any premises within the same curtilage and in one ownership.

“Main pipe” means any pipe other than a service pipe.

“Sewer” * includes sewers and drains of every description together with manholes, inspection chambers and other appurtenances thereof, except drains to which the word “drain” interpreted in the preceding definition applies. • 133, 134, 135.

“Street” includes any road, square or passage, whether a thoroughfare or not, over which the public have a right of way, and also the way over any public bridge, and also includes any road or passage used or intended to be used as a means of access to two or more houses whether the public have a right of way thereover or not, and all channels, drains and ditches at the side of any street shall be deemed to be part of such street.

PART I.

3.—(1) A Municipal Council may, with the sanction of the District Commissioner, and if so requested by the High Commissioner shall, cause to be constructed and maintained sewerage works for the carriage and disposal of sewage or surface water and may cause to be made such main or other sewers, culverts, gutters and water courses as may be necessary for the effective drainage of the municipal area and may carry them through, across or under any street or any place laid out or intended for a street and under or through any cellar or vault which may be under the sidewalk or carriage-way of any street; and may demolish, Municipal Councils may make public sewers.

break in and fill up any cellar, vault, cistern or cesspool which may be under the sidewalk or carriage — way of any street and in the opinion of the engineer may cause obstruction to or prejudice the efficiency of any sewerage or sewage works; and may, after giving reasonable notice in writing to the owners or occupiers, carry them into or through or under any enclosed or other lands whatsoever within the municipal area; in every case doing as little damage as may be and making fair compensation for any damage done. Any dispute regarding the amount of compensation shall be submitted to an arbitrator to be appointed by the District Commissioner, and the decision of the arbitrator shall be final.

(2) Two or more Municipal Councils may, and if the High Commissioner so directs shall, combine for the purpose of executing drainage schemes or any works authorised by this part of this Ordinance.

(3) A Municipal Council may exercise all or any of the powers mentioned in sub-section (1) hereof outside the municipal area for the purpose of outfall or disposal of sewage.

Vesting of
sewers in
Municipal
Councils.

4.—(1) All existing or future sewers that may be laid through across or under any street within a municipal area shall vest in the Municipal Corporation.

(2) The Municipal Council may purchase or otherwise acquire from any person any sewer or any right of making or of user or other right in a sewer within the municipal area, provided that the engineer certify such sewer to be in a satisfactory condition and that the cost of purchase will not exceed the cost of making a new sewer, regard being had, in the estimation of such costs, to the difference, if any, between the probable period of utility remaining to the existing sewer, and that possessed by such new sewer.

(3) Any person who previously to the purchase of a sewer by the Municipal Council has acquired a right to use such sewer, shall, subject to the provisions of this Ordinance, be entitled to use it, or any sewer substituted in lieu thereof, to the same extent as he would have done if the purchase had not been made.

Provided that such person shall, after the purchase, remain liable to pay any sewage or drainage rate in respect thereof to the same extent as before, or, in the case of the person from whom

the sewer was so purchased, shall become liable to pay the sewage or drainage rate for the time being lawfully payable in respect thereof.

5.—(1) The Municipal Council shall maintain and keep in repair all the sewers, culverts, gutters, drains and water courses vested in them,* and as they see fit, may enlarge, alter or otherwise improve any of such culverts, gutters, drains and water courses. After having obtained the sanction of the District Commissioner, the Municipal Council may enlarge, alter or otherwise improve any of the sewers, and may discontinue, close up or destroy such of them as they deem useless or unnecessary.

Municipal Council to repair, alter and discontinue sewers. * 134.

(2) The discontinuance, closing-up or destruction of any of them shall be so done as not to cause a nuisance or be likely to endanger health.

(3) If by reason thereof or of any such alteration as hereinbefore mentioned any person is deprived of the lawful use of any sewer, culvert, gutter or water-course, the Municipal Council shall with due diligence provide some other as effectual as that of which he is so deprived.

6.—(1) The Municipal Council shall cause the sewers, culverts, gutters and water-courses vested in them to be so constructed, maintained and kept in repair to the satisfaction of the Medical Officer of the Department of Health as not to be a nuisance or injurious to health, and to be properly cleared, cleansed and emptied, and for the purpose of flushing, cleansing and emptying the same, they may construct and place, either above or under ground, such reservoirs, sluices, engines and other works as are necessary.

Cleansing and emptying sewers, etc.

(2) The Municipal Council may, with sanction of the District Commissioner, cause all or any of such sewers, culverts and water-courses to communicate with and be emptied into any fit place, or may cause the refuse from the same to be conveyed by a proper channel to the most convenient site for its deposit, and may sell or otherwise dispose of the said refuse for such purposes as are deemed expedient but so that it shall not become a nuisance.

7.—(1) Where any premises within a municipal area are not drained by a sufficient drainage channel communicating with some sewer to the satisfaction of the engineer and the Medical Officer

Power of Municipal Council

to require premises to be drained into sewer.

of the Department of Health, if there be such means of drainage within one hundred metres of any part of such premises measured along the line which the drain would take when connected, the Municipal Council may by giving notice require the owner of the premises within a reasonable time to construct a covered drain or drains emptying into the sewer of the Municipal Council, or if no such means of drainage are within that distance then emptying into such covered cesspool or other satisfactory place of disposal as the Municipal Council on the advice of their engineer may direct, and they may require the drain to be of such material and such size and to be laid at such a level and with such a fall as the engineer may deem necessary.

(2) If the owner fails to comply with the notice of the Municipal Council, the Municipal Council may do the work required and recover the cost from him; provided that where, in the opinion of the Municipal Council, greater expense would be incurred in causing the drains of two or more premises to empty into an existing sewer than in constructing a new sewer and causing the drains to empty therein, or where for any other reason it is expedient so to do, the Municipal Council may construct a new sewer and require the owners of the premises to cause the drains to empty therein; and may apportion the expenses of the construction of such sewer among the owners of the several premises, and may recover the sums apportioned from such owners.

(3) Where premises have been connected by a drain to a sewer as provided herein all cesspools on the premises or in connection therewith shall be abolished and filled in at the expense of the owner and to the satisfaction of the engineer.

(4) Where there is more than one owner of the premises it shall be sufficient to effect service of any notice hereunder upon any one co-owner.

Use of sewers by owners and occupiers outside the area of the Municipal Council.
Inspection of drains and sewers.

8. The owner or occupier of any premises outside a municipal area may, with the prior consent of the Municipal Council, cause any drain from the premises to communicate with the sewer of the municipal council on such terms and conditions as may be agreed upon between the owner and the Municipal Council.

9. Any Medical Officer of the Department of Health, or officer appointed by the Municipal Council for the purpose, may

inspect any sewer, drain or cesspool within the municipal area, and for the purpose may at any time between eight o'clock in the morning and five o'clock in the evening, upon giving reasonable notice enter upon any lands and buildings with such assistants and workmen as are necessary and cause the ground to be opened where such officer may think fit, doing as little damage as may be; and if upon such inspection it appears that the sewer, drain or cesspool is not in good order and condition, or that it has been constructed contrary to the provisions hereof or of any by-laws in force at the time of its construction, the expenses of such inspection shall be paid by the person to whom such sewer, drain or cesspool belongs and shall be recoverable as hereinafter provided; but if such sewer, drain or cesspool be found to be in proper order and condition and not to have been constructed in violation of such provisions as aforesaid, the ground shall be closed and made good as soon as may be and the expenses of the opening, closing and making good such sewer, drain or cesspool shall in that case be defrayed by the Municipal Council.

10.—(1) All drains or cesspools, whether in an area drained by sewers or not, shall be altered, repaired and kept in proper order to the satisfaction of the Municipal Council at the cost and charge of the owners of the premises to which the same belong, or for the use of which they are maintained.*

(2) The Municipal Council or officer appointed by them may at any time issue an order for the stoppage of any work which is being executed in contravention of the provisions of this part of this Ordinance, or of any by-laws of the municipal corporation relating to sewerage or drainage.

(3) A notice under this section shall be deemed to have been duly served if the Municipal Council prove that the notice was despatched by registered post to the usual address of the owner.

(4) Any person who:—

(a) fails or neglects to comply with any order for the stoppage of any work lawfully made under the provisions of subsection (2) hereof, or

(b) being the owner of any premises to which any drain or cesspool belongs, fails or neglects, after notice in writing by the Municipal Council for that purpose, to alter, repair * or put the

Drains, etc., to be maintained and constructed in accordance with provisions of Ordinance, * 134.

Penalties for contravention.

* 134.

same in good order within the period specified in the notice and in the manner required by the Municipal Council, or

(c) has constructed any sewer, drain or cesspool contrary to the provisions of any Ordinance, rules or by-laws in force at the time of its construction, or without the consent of the Municipal Council constructs any new sewer, drain or cesspool, shall be guilty of an offence and shall, on conviction before a magistrate, be liable to a fine not exceeding twenty pounds, and, in the case of an offence under paragraph (a) or (b) hereof, to an additional fine not exceeding one pound for every day during which the offence has continued after the order or notice respectively specified in the said paragraphs; and upon the application of the Municipal Council, the magistrate may either order such person, or authorise the Municipal Council:—

(i) to alter, repair or put in good order such drain or cesspool, as required by the Municipal Council, or

(ii) to cause such sewer, drain or cesspool to be demolished or altered or not to be made, as the case may be, and any expenses which may be incurred by the Municipal Council in complying with any such order shall be charged against such person and shall be recoverable from him by the Municipal Council as arrears of rates, in the manner provided for in section 13 of this Ordinance.

(5) Any person aggrieved by any order by a magistrate under this section, or by any refusal or failure to make such order, may appeal against such order, or against such refusal or failure, as the case may be, to the District Court, and the District Court may allow or reject the appeal, or may return the case to the magistrate's court, or may make any order that such court could have made under the provisions of this section. For the purposes of this section the District Court shall consist of a President or a Relieving President, and one Judge.

Penalty for obstructing sewer etc.

11. Any person who knowingly permits any solid or liquid matter to pass into a sewer of a Municipal Council in such a way as to obstruct the proper flow of the sewer or to cause injury to any sewer or outflow works of the Municipal Council shall be liable to a fine not exceeding twenty pounds and in addition shall pay the expense of making good any damage caused thereby.

12. If any owner knowingly permits any rain-water to discharge into any sewer without the written authority of the Municipal Council, he shall be liable to a fine not exceeding twenty pounds, and in addition shall pay the expense of providing an alternative means of disposal for the rain-water to the satisfaction of the Municipal Council. Nothing in this section shall prohibit any owner from causing rain-water to discharge from his premises into any gutter, water course, or road-side channel vested in the Municipal Council.

Penalty for discharging rain-water into sewer.

13. Where a Municipal Council has incurred any expenses in executing any work which under this part of this Ordinance the owner is required to execute, such expenses shall, subject to any rights of the Government, be a first charge on the premises in respect of which they are payable and shall be recoverable in like manner as if they were an arrear of municipal rates payable in respect of the premises.

Recovery of expenses incurred on behalf of owners.

14. The Director of Medical Services may delegate to a Municipal Sanitary Surveyor all or any of the powers and duties of a Medical Officer of the Department of Health under this part of this Ordinance, and any such Municipal Sanitary Surveyor shall have the powers and shall perform the duties of a Medical Officer of the Department of Health within the limits of such delegation.

Delegation of powers to Municipal Sanitary Surveyor.

PART II.

15. A Municipal Council may, with the sanction of the District Commissioner, and if so requested by the High Commissioner shall, provide for their area or any part thereof a supply of water proper and sufficient for public and private purposes, and for those purposes may, subject to the provisions of the Municipal Corporations Ordinance, 1934, as to the making of contracts by such a Council:—

General power for supplying area with water.

(a) construct and maintain water works, dig wells, and do any other necessary acts, and

(b) take on lease or hire any waterworks, or purchase any waterworks, either within or without their area, and any rights, powers and privileges of any water company, and

* 136, 137.

(c) contract with any person for a supply of water.*

Supply of water for domestic purposes.

* 138.

16.—(1) For the purposes of this part of this Ordinance, a supply of water for domestic purposes* or for domestic and ordinary purposes shall not include a supply of water for cattle or for horses or for washing vehicles or for steam engines or for railway purposes or for warming or ventilating purposes in public buildings or for working any machine or apparatus or for any trade, manufacture or business whatsoever, or for watering gardens by means of any tap, tube, pipe or other such like apparatus, or for fountains or for public baths or wash-houses, or for any ornamental purpose whatsoever.

(2) For the purposes of this section "cattle" includes goats, sheep, pigs, donkeys, mules and camels.

Power of carrying mains.

17. Where a Municipal Council supply water within their area, they shall have the same powers and be subject to the same restrictions for carrying water mains within or without their area as they have and are subject to for carrying sewers within or without their area respectively as provided in part I of this Ordinance.

As to supply of water.

* 139.

18. A Municipal Council shall provide and keep in any water-works constructed, leased or purchased by them a supply of pure and wholesome water; and where a Municipal Council lay any pipes for the supply of any of the inhabitants of their area or of any part thereof, the water shall be laid on at a pressure* satisfactory, in the opinion of the Director of Public Works, for such area or for such part thereof.

Power to supply water to authority of adjoining district.

19. A Municipal Council, for the time being supplying water within their own area, may, with the sanction of the District Commissioner, and if so required by the High Commissioner shall, supply water to any adjoining district on such terms as may be agreed upon or as, in the case of dispute, may be decided by the High Commissioner.

Service pipes from main.

20. Where a municipal council resolve to supply their area or part of their area with water for domestic and ordinary purposes, the owners of houses and buildings in such area or part thereof shall, subject to the provisions of this Ordinance, be entitled to obtain such supply, and subject as aforesaid the Municipal Council shall for that purpose, at the written request of any such owner,

lay a service pipe to his house or building and connect it with the main pipes to be laid down by the Municipal Council, the expense of such service pipes and of connecting the same with the main pipes being defrayed by such owners; and where any house or building not so supplied is within one hundred metres of a main pipe measured along the line a service pipe to such house or building would take, it shall be competent to the Municipal Council to require the owner of any such house or building to take a supply of water by connecting a service pipe with the main pipe as aforesaid; and in the event of refusal or delay on the part of such owner to comply with such requisition, it shall be lawful for the Municipal Council to enter such house or building and proceed to lay down such service pipes themselves, and to recover the expense thereof from such owner.

21. It shall be the duty of every Municipal Council, regard being had to the provisions of this Ordinance, to see that every occupied house within their area has within a reasonable distance an available supply of wholesome water sufficient for the consumption and use for domestic purposes of the inmates* of the house.

22. Any Medical Officer of the Department of Health or Officer appointed by the Municipal Council for the purpose may at any time between eight o'clock in the morning and five o'clock in the evening, upon giving reasonable notice, enter any house and inspect such house to ensure that effect has been given to the provisions of this Ordinance, and may take samples from the water supply in use in such house for bacteriological and chemical analysis with a view to ascertaining whether such water is wholesome and fit for the consumption of the inhabitants of the house.

23.—(1) It shall not be lawful in any municipal area for the owner of any house which may be erected after the date of the commencement of this Ordinance, or any house which after that date may be pulled down to or below the ground floor and rebuilt, to occupy the same, or cause or permit the same to be occupied unless and until he has obtained from the Municipal Council of the area a certificate that there is introduced into the house such an available supply of wholesome water as may appear to such authority, on the report of the Medical Officer of the Department

Duty of Municipal Council to ensure that every house has a water supply.

* 136, 137.

Right to entry to inspect.

Houses in municipal area not to be erected or rebuilt without introduction of a water supply.

of Health and of the engineer, to be sufficient for the consumption and use for domestic purposes of the inmates of the house.

(2) Any owner who occupies a house or causes or permits it to be occupied in contravention of this section, shall be liable on conviction to a penalty not exceeding one pound for every day upon which it is so occupied.

Restriction
on sale of
water.

24.—(1) No person shall without the written consent of the Municipal Council sell or cause to be sold any water in a municipal area.

(2) Any person acting in contravention of this section shall be liable to a penalty not exceeding twenty pounds.

Polluted
wells, etc.

25.—(1) On the representation of a Medical Officer of the Department of Health to a Municipal Council that within their area the water of any well, tank, or cistern, public or private or supplied from any pump and used or likely to be used by man for drinking or domestic purposes or for manufacturing drinks for the use of man, is so polluted as to be injurious or dangerous or prejudicial to health, such Council shall call upon the owner of the premises to which the well, tank, or cistern belongs if it be private and in the case of a public well, tank, cistern or pump, any person alleged to be interested therein to remedy the same within a stated period and if such owner or person fails to remedy the same within such time, such Council shall apply to a Magistrate for an order to remedy the same and thereupon such Magistrate shall summon such owner or person and may dismiss the application or may make an order directing the well, tank, cistern or pump to be permanently or temporarily closed, or the water to be used for certain purposes only, or such order as may appear to him to be requisite to prevent injury to the health of persons drinking the water.

(2) If a person on whom an order under this section is made fails to comply with the same, the Magistrate may on the application of the Municipal Council authorise them to do whatever may be necessary in the execution of the order, and any expenses incurred by them may be recovered from the person on whom the order is made, in the manner laid down in section 13 of this Ordinance as if they were arrears of municipal rates.

26. A Municipal Council, if they have any surplus water after fully supplying what is required for domestic and ordinary purposes, may supply water from such surplus for purposes other than domestic purposes.

Municipal Council may supply water for other than domestic purposes in case of surplus. Conditions under which water to be supplied.

27. Water supplied under the provisions of this part of this Ordinance shall be supplied (subject to the provisions of this Ordinance) in accordance with the provisions of the Municipal Corporations Ordinance, 1934, and by-laws made thereunder.

MISCELLANEOUS.

28. Any person aggrieved by any notice, order or requisition made by or on behalf of a Municipal Council under the provisions of sections 7, 10 or 20 of this Ordinance, may within twenty-one days of the date of such notice, order or requisition or within such longer time as the High Commissioner-in-Council may in any case allow, appeal therefrom to the High Commissioner-in-Council whose decision thereon shall be final.

Appeal to High Commissioner-in-Council in certain cases.

29. The High Commissioner may by notice to be published in the Gazette order that the whole or any part of this Ordinance shall apply to any Municipal Corporation and this Ordinance or such part thereof shall thereupon apply to such corporation.

Application.

The High Commissioner may in like manner declare that this Ordinance or any part thereof shall no longer apply to a Municipal Corporation and thereupon this Ordinance or such part thereof shall no longer apply to such Municipal Corporation.

This Ordinance shall not apply to any Municipal Corporation save in accordance with the provisions hereof.

MUNICIPAL CORPORATIONS ORDINANCE, 1934.

RULES MADE BY THE ACTING CHIEF JUSTICE WITH THE APPROVAL OF THE HIGH COMMISSIONER UNDER SECTION 39 OF THE MUNICIPAL CORPORATIONS ORDINANCE, 1934.

No. 1 of 1934.
Suppl. 2 of P.G. 522.
p. 652.

1. These rules may be cited as the Municipal Election Petitions Rules, 1935.

Short title.

Mode of presenting petition.

2.—(1) The presentation of an election petition shall be made by lodging it in the office of the District Court with a bond securing the payment by the petitioner of all such costs, charges and expenses relating to the petition as the Court may order the petitioner to pay any person summoned as a witness on the petitioner's behalf or to any respondent.

(2) Such security shall be to such amount not being less than LP. 50. or exceeding LP. 150 as the Court may on summons direct, and may be given either by recognizances to be entered into by not more than four sureties or by deposit of money or partly in one way and partly in the other.

(3) In addition to the petition and bond so lodged there shall be lodged in the said office as many copies of the petition and bond as there are respondents named in the petition.

Form of petition.

3.—(1) An election petition shall be signed by all the petitioners, if more than one, and shall set forth:—

(a) the right of the petitioner to petition under section 36 of the Municipal Corporations Ordinance, 1934;

(b) the holding and result of the election;

(c) the facts and grounds relied on to sustain the prayer.

(2) The petition shall conclude with a prayer that a person elected shall be declared not to be duly elected, and that some other person shall be declared to be elected, or that the election shall be declared void.

Who may be respondent to petition.

4. Any person whose election is questioned by the petitioner and any returning officer of whose conduct a petitioner complains may be made a respondent to an election petition.

Order for particulars.

5. Evidence need not be set forth in the petition; but the Court may order such particulars as may be necessary to prevent surprise and unnecessary expense and to ensure a fair trial in the same way as in ordinary proceedings in a District Court and upon such terms as to costs and otherwise as may be ordered.

Service of petition.

6. An election petition shall be served as nearly as may be in the manner in which a statement of claim in a civil action is served.

Mode of trial of petition

7. Two or more candidates may be made respondents to the same petition and their case may, for the sake of convenience, be

tried at the same time but such a petition shall be deemed to be a separate petition against each respondent.

8. When more petitions than one are presented relating to the same respondent, all such petitions shall be dealt with as one petition.

9.—(1) Where a petitioner claims the office of councillor for an unsuccessful candidate, alleging that he had a majority of votes, the respondent to the petition shall have the right to object to votes cast in favour of the unsuccessful candidate.

(2) The petitioner and the respondent shall at least ten days before the day appointed for the trial of the petition, deliver to the Chief Clerk of the District Court and also at the address given by the petitioner and respondent, as the case may be, a list of the votes intended to be objected to and the grounds of objection to each such vote and the Chief Clerk shall allow inspection and copying of such list to all parties concerned.

(3) No evidence shall be given against the validity of any vote or upon any ground of objection not specified in the list except by permission of the Court trying the petition and upon such terms as to the amendment of the list, postponement of enquiry, and payment of costs as may be ordered.

10. Where a respondent to a petition complaining of an undue election and claiming the office of councillor for some other person, intends to give evidence to prove that the election of such other person would be undue in pursuance of the provisions of the Municipal Corporations Ordinance, 1934, such respondent shall, ten days before the day appointed for the trial, deliver to the Chief Clerk of the District Court and also at the address of the petitioner a list of the objections to the election upon which he intends to rely and the Chief Clerk shall allow inspection and copying of such list to all parties concerned. No evidence shall be given by the respondent of any objection to the election not specified in the list except by leave of the Court and upon such terms as to the amendment of the list, postponement of the enquiry and payment of costs as may be ordered.

11. In case of evasion of the service of a petition, the posting of a notice in the office of the District Court that the petition has

against two or more respondents.

Mode of trial of several petitions against one respondent.

Procedure when petitioner claims that person elected was not duly elected by a majority of lawful votes. 547/1925.

Evidence by respondent to petition to prove election of another would be undue.

Procedure in case of

evasion of service of petition.

been presented, stating the name of the petitioner, the prayer and the nature of the security given shall be deemed equivalent to personal service if so ordered by the Court.

Procedure on notice being given by respondents not to oppose petition.

12. If all the respondents shall give notice of their intention not to oppose the petition and no other person shall be admitted as a respondent, the Court may by order declare the election void or direct the trial to proceed. Notice of such order shall forthwith be given by the Chief Clerk of the District Court to the District Commissioner of the District within whose area the Municipality is situate and if an election be declared void, the office of councillor shall be deemed to be vacant from the first day after the date of such order. The Court may also make such order as to costs as it thinks fit.

Mode of summoning and administering oath to witnesses. 547/1935.

13. Witnesses shall be summoned and sworn in the same manner as nearly as circumstances may permit, as in the trial of a civil case by a Court.

Summonses to witnesses by Court.

14. The Court may by order under its hand compel the attendance of any person as a witness who appears to it to have been concerned in the election to which the petition refers and any person refusing to obey such order shall be guilty of contempt of Court.

Mode of withdrawal of petition.

15. An election petition shall not be withdrawn without the leave of the Court upon a special application.

Form of application for withdrawal of petition.

16. Notice of an application for leave to withdraw shall be in writing and signed by the petitioner or his agent. It shall state the ground upon which the application is intended to be supported. Notice of the application shall be left in the office of the District Court and a copy of such notice shall be given by the petitioner to the respondent and another copy shall be sent to the Municipal Office where it shall be published, together with a notice that any person who might have been a petitioner in respect of the election may within five days after the publication of the notice give notice in writing of his intention to apply for leave to be substituted as a petitioner.

Substitution of new petitioner for old on application

17. Any person who might be a petitioner in respect of the election to which the petition relates, may within five days after such notice is published in the Municipal Office give notice in writing to the Chief Clerk of his intention to apply at the hearing

to be substituted for the petitioner but the want of such notice shall not defeat such application if in fact it was made at the hearing. to withdraw petition.

18. The Court may substitute as a petitioner any such applicant and may further, if the proposed withdrawal is in his opinion induced by any corrupt bargain or consideration, by order direct that the security given on behalf of the original petitioner shall remain as security for the costs that may be incurred by the substituted petitioner and that to the extent of the sum named in such security the original petitioner shall be liable to pay the costs of the substituted petitioner. Procedure on application to substitute petitioner.

If no such order is made with respect to the security given on behalf of the original petitioner, security to the same amount as would be required in the case of a new petition, and subject to the like conditions, shall be given on behalf of the substituted petitioner before he proceeds with his petition, and within the prescribed time after the order of substitution.

Subject as aforesaid, a substituted petitioner shall stand in the same position as nearly as may be, and be subject to the same liabilities as the original petitioner.

If a petition is withdrawn, the petitioner shall be liable to pay the costs of the respondent.

19. Where there are more petitioners than one, no application to withdraw a petition shall be made except with the consent of all the petitioners.

20. An election petition shall be abated by the death of a sole petitioner or of the survivor of several petitioners.

The abatement of a petition shall not affect the liability of the petitioner to the payment of costs previously incurred.

Notice of abatement of a petition shall be given by the person interested in the same manner as a notice of an application to withdraw a petition; and within one month after notice is given any person who might have been a petitioner in respect of the election to which the petition relates may apply to the Court to be substituted as a petitioner.

The Court may, if it think fit, substitute as a petitioner any such applicant who is desirous of being substituted and on whose behalf such security is given as is required in the case of a new petition.

All of several petitioners to join in application to withdraw. Effect of death of sole, or sole surviving petitioner.

Effect of death of respondent or of notice by respondent that he does not oppose petition.

21. If before the trial of an election petition—

(a) the respondent dies;

(b) the respondent gives notice to the Court that he does not intend to oppose the petition;

notice of such event having taken place shall be posted in the Municipal Office and shall be published in a newspaper circulating in the Municipal area and within ten days after such notice is published any person who might have been a petitioner in respect of the election to which the petition relates may apply to the Court to be admitted as a respondent to oppose the petition. And such person shall upon such an application be admitted accordingly upon such terms as to giving security for the costs and expenses thereby occasioned to the petitioners as the Court may order.

Mode of giving notice by respondent not to oppose petition.

22. The respondent may give notice that he does not intend to oppose the petition by lodging notice in writing to that effect in triplicate signed by him at the office of the District Court. Upon such notice being received, the Chief Clerk of the District Court shall forward a copy to the petitioner or his agent, and to the Municipal Office where it shall be published.

Costs of petition.

23. All costs, charges and expenses of and incidental to the presentation of the petition and to the proceedings consequent thereon shall be defrayed by the parties to the petition in such manner and in such proportion as the Court may determine, regard being had to the disallowance of any costs, charges, or expenses which may in the opinion of the Court have been caused by vexatious conduct, unfounded allegations or unfounded objections on the part either of the petitioner or the respondent.

1042/1935.

24.

MUNICIPAL CORPORATIONS ORDINANCE, 1934.

527/1935.

ORDER No. 120 OF 1935, BY THE HIGH COMMISSIONER.

IN EXERCISE of the powers vested in him by paragraph (c) of section 75 of the Municipal Corporations Ordinance, 1934, the High Commissioner-in-Council, is pleased to order and it is hereby ordered that the following rules shall apply to the audit* of accounts of councils:—

* 30, 34.

1. The Municipal Auditor is responsible for the audit and inspection * of all public accounts of the Municipal Corporations, whether such accounts be of general revenue and expenditure, or accounts of special funds or departmental accounts. * 27.

2. The Municipal Auditor will be responsible for seeing that the Municipal Corporations Ordinance, 1934, the orders of the High Commissioner thereunder, and the instructions of the High Commissioner in all matters of finance and account are strictly observed, and will bring to the notice of the High Commissioner any failure in their observance.

3. The Municipal Auditor will not undertake any examination of accounts*, partaking of the nature of pre-audit, which involves the acceptance by him of a responsibility which would preclude him from full criticism of any accounting transactions after they have been duly recorded in the account books of Municipal Corporations. * 26.

4. The Municipal Auditor is not responsible for the accuracy of the books of account so as to relieve the Municipal Treasurer, Heads of Municipal Departments, or other Municipal Accounting Officers of the responsibility therefor, which primarily rests with them. He will nevertheless apply such an examination as will enable him to ascertain that the accounts are kept on a correct system, that they are punctually and properly posted, and that the checks against irregularity and fraud are adequate and effective.

5. The responsibility of the Municipal Auditor for checking and reporting any shortcomings in connection with the public accounts of finances of Municipal Corporations does not absolve any Municipal officer from his responsibility for complying, or securing compliance, with instructions within the scope of his own authority. No Municipal officer will be relieved from any portion of his financial responsibility should he depute to his subordinates the performance of duties which he should have performed himself.

6. It is the duty of all Municipal Accounting Officers promptly to reply to any queries issued by the Municipal Auditor, giving fully the particulars or information desired.

MUNICIPAL CORPORATIONS ORDINANCE, 1934.

673/1937.

ORDER No. 17 OF 1937, BY THE OFFICER ADMINISTERING
THE GOVERNMENT.

IN EXERCISE of the powers vested in the High Commissioner in Council under sections 75, 76 and 78 of the Municipal Corporations Ordinance, 1934, the Officer Administering the Government in Council has made the following rules prescribing the books and the form in which the accounts of Municipal Councils shall be kept, and making provisions regarding the preparation of the annual estimates of Municipal Councils.

ANNUAL ESTIMATES.

Prepara-
tion of
estimates.

1. Annual estimates of revenue and expenditure of a Local Authority will be prepared by the Mayor at such date as will admit of their consideration by the Local Authority, their submission to and consideration by the District Commissioner and transmission to the Chief Secretary, when necessary, and the receipt of his reply before the beginning of the year to which the estimates relate.

2. The Mayor should issue instructions to ensure that the preparation of draft estimates for the ensuing year is completed not later than the 1st January of each year.

993/1940,
p. 423.

3. The estimates will be prepared on the appropriate form (Appendix A) showing against each item of revenue and expenditure the amount estimated for the coming year and the amount of the approved estimates of the current year.

4. The estimates will be accompanied by three abstracts: Abstract of Revenue (Appendix B), Abstract of Expenditure (Appendix C), Financial Statement (Appendix D).

5. The estimates should be forwarded to the District Commissioner in triplicate accompanied by a memorandum containing a full explanation of all changes, the explanation being set out in the same order as that of the items under the various heads.

Estimates of
revenue.

6. The estimates of revenue should include the gross receipts of the Local Authority other than repayments of advances and

proceeds of loans appropriated for special works. They should include all taxes, fees, dues, rates, etc. In all cases the estimated gross collections should be shown and any payments connected with collection should be provided for under the appropriate head and sub-head of expenditure.

The revenue should be arranged under comprehensive heads. It falls naturally into five broad classes, namely:—

- I. Rates, Licences and Taxes.
- II. Receipts from Specific Services such as Fees or Hospital Receipts.
- III. Receipts on account of undertakings of a commercial character, e.g. Water Supply.
- IV. Revenue from Property of the Local Authority.
- V. Miscellaneous.

Receipts from the sale of lands and property of the Local Authority and revenue derived from betterment charges should be kept distinct in the estimates from the total revenue from other sources.

7. Estimates of collection of arrears of revenue should be shown in separate sub-items immediately following the estimate of receipts of current revenue in the estimates.

8. The estimates of expenditure should be framed so as to show, as nearly as possible under each head and item, the amounts which it is expected will actually be spent during the year. No deduction will, however, be made from the total of the estimates, or of any head, on account of probable savings on salaries owing to the absence of officers on leave, or temporary vacancies arising out of any other cause. The Mayor is responsible for ensuring that all services that can be reasonably foreseen are included in the estimates.

Estimates of expenditure.

9. The estimates of expenditure naturally fall into several classes, each representing a separate branch of activities or group of liabilities of the Local Authority. Under the heading of each of the classes relating to the activities of the Local Authority there will be two sub-divisions, e.g. Personal Emoluments and Other Charges.

10. All items whatsoever of personal emoluments to municipal officers will appear under the departmental sub-division for "Per-

sonal Emoluments" and all payments should be charged accordingly. Personal Emoluments will, therefore, include (besides salaries) personal, duty, entertainment (representation), professional (e.g. academic qualifications) and family allowances, allowances in lieu of quarters, fuel and light or clothing allowances paid in money, fees and percentages and commission. Each allowance will be described in a separate line, and not included with the salary, but the whole of the personal emoluments of each officer in respect of each department will be shown together. As soon as pension schemes are approved, pensionable emoluments should be distinguished from those not pensionable by a star or other indication. Allowances made in reimbursement of public expense, such as transport allowances, and allowances for office or clerical expenses will be placed under "Other Charges".

11. Where salaries are increased by regular increments, the minimum and maximum salaries, with the increment, should be stated within brackets, the amount payable within the year being inserted in the estimates.

12. Where a municipal officer receives emoluments under more than one head the fact will be indicated by cross references or explanatory footnotes.

13. Changes in the number or rate of pay of the staff should not be made the subject of a new item but should be explained in the remarks column of the estimates and in the covering memorandum.

14. The sub-division "Other Charges" will include all recurrent services other than personal emoluments, which can properly be apportioned to the particular head.

15. Every head of expenditure will include as far as possible all the items relating to the particular activity of the local authority, so as to show clearly the total estimated cost of that section of the Municipality during the year. Provision should be made, under the heads concerned, for the charges on account of services rendered by other sections of the Municipality. Where services of a general character cannot be divided and charged to the different sections, they will be provided for in separate sub-heads under the head "Miscellaneous".

16. Each head of expenditure will be divided into such sub-heads as may be decided by the District Commissioner in the case of each Municipality.

17. No item of receipt or expenditure will be included under the head "Miscellaneous" which can appropriately be placed under any other head, and, if necessary, new sub-heads will be opened for any such items.

18. The estimates of the charges on account of debt services should be arranged in the chronological order of the loans provided for.

19. There will be two heads for public works in addition to that for the establishment of the Public Works (or Engineering) Section. All annually recurrent services will be placed under the first of these heads: and other works under the second.

20. In the case of works not annually recurrent which will extend over more than one year, there should be shown not only the estimate for the year, but also the original estimate for the whole work, the revised estimate (if any), the total amount actually expended as far as accounts are complete, and the total amount likely to be expended on the work up to the beginning of the year of estimate.

21. The designation of items of approved expenditure already shown in the current year's estimates should be followed exactly in preparing new estimates. Proposals which necessitate a new item or involve additional expenditure, including all new appointments or increases under existing items of Other Charges, should be submitted to the District Commissioner for consideration before they are included in the final draft estimates.

New and
increased
expenditure.

22. New items should be introduced at appropriate places in the form and given the next serial number.

23. The memorandum which accompanies the estimates (regulation 5 above) should contain an adequate explanation of all new or increased revenue and expenditure. Reference to letters authorising departure from the current estimates should be quoted in the remarks column of the estimates form.

BOOKS.

Books of
account.

24. Local Authorities will keep in their office such of the following books as the District Commissioner may prescribe:—

- (a) Cash Book
- (b) Abstract Book
- (c) Journal
- (d) Ledger
- (e) Register of Payment Vouchers
- (f) Establishment Register
- (g) Individual Rate Payers Ledger (a separate set of ledgers for each kind of rate, e.g. Municipal Property, General Education, Sewage, Scavenging, Water, etc.)
- (h) Counterfoil Receipt and Licence Books, Stock and Distribution Registers
- (i) Deposits Ledgers
- (j) Advances Ledgers
- (k) Register of Immovable Property
- (l) Register of Rents
- (m) Register of Stores (separate register for each Department or Section)
- (n) Register of Contracts.

In addition to these, the District Commissioner may require a Local Authority to keep additional books for specific purposes.

Cash book.

25. In the cash book will be entered all cash transactions as they occur. The entries will be numbered consecutively, on each side of the book, in the order of the receipts or payments, and corresponding numbers will be affixed to the supporting vouchers. The cash book will be written up daily and balanced at the close of each day and the balance shown compared with the cash in hand. If the balances do not agree, the discrepancy will forthwith be investigated by the Municipal Treasurer and a report submitted to the Mayor. A certificate will be filled in by the officer in charge of the cash book at the end of each week of business, showing the opening cash and bank balances, the receipts and payments for the week and the closing balances. This certificate will be countersigned by the Municipal Treasurer and

sent to the Mayor as often as may be prescribed by the District Commissioner.

26. All receipts entered in the cash book will be supported by counterfoils in the receipt books and by numbered receipt vouchers; all expenditure will be supported by properly receipted vouchers numbered consecutively for each month. Receipt and payment vouchers.

27. A separate column will be kept in the cash book for monies received from or paid into the Bank of the Local Authority. When cash is transferred from the hands of the Local Authority to the Bank the amount will be entered in the cash column on the payment side of the cash book, and in the bank column on the receipt side of the cash book. When the movement of cash is in the opposite direction the entries will be reversed. Bank account.

28. Cash books will be balanced and ruled off each time the funds of the Local Authority are handed over from one official to another. On each such occasion the balance shown will be compared with the cash in hand and in the Bank and a certificate to this effect will be entered in the book. An official taking over the cash book from another is responsible for ascertaining that the cash and bank balances agree with those shown in the cash book. Balancing of cash book on handing over.

29. The bank account shall be reconciled with the cash book weekly or at shorter intervals as the Mayor may direct. Balancing of bank account.

30. A vote book will be kept in respect of each item of expenditure, except "Personal Emoluments". All allocations should be posted therein as well as all commitments and expenditure. The book will show the total amount authorised for expenditure commitments entered into, the actual expenditure incurred on any item and the total expenditure incurred at any date (excluding commitments). Vote book.

Every commitment and every item of expenditure must be entered in the vote book before the claims leave the office of the "Spending Official".

RECEIPTS.

31. No receipt shall be given except on such form as may be approved for use by Municipalities. Receipts.

Counterfoil
receipt
books.

32. Receipts will bear printed consecutive numbers and will be issued from counterfoil receipt books, except when a special form of receipt is prescribed under approved by-laws.

Counterfoils
to be
signed.

33. The counterfoils of receipts should be signed by the payer whenever possible and initialled by the receiving officer.

Alterations
to be
initialled.

34. Alterations in receipts or licences or the counterfoils thereof should be made in red ink and initialled by the receiving officer and, where possible, the payer. It is the duty of the receiving officer to see that the payer's initials are obtained whenever that course is possible.

Cancellation of
receipt or
licence.

35. Whenever the cancellation of a receipt or a licence is unavoidable the reasons for such cancellation must be briefly stated in red ink on the back of the counterfoil, to which the corresponding cancelled receipt must be securely affixed.

If such receipt or licence is not so affixed and cannot be produced, the officer responsible will render himself liable to surcharge.

Receipt
vouchers.

36. All amounts paid into the Municipal Fund must be supported by a receipt voucher which will bear the number of its entry in the cash book.

37. The nature and source of each receipt, and all details and particulars such as date, numbers, quantities, rates, etc., must be fully set out in the voucher to enable it to be properly classified.

38. The number of the counterfoil receipt should be shown on each receipt voucher; and the number of the receipt voucher should be shown on the counterfoil receipt.

39. When money is paid into revenue by a revenue collector he will produce all receipt books on his charge to the Municipal Treasurer who will check them and date-stamp and initial the last completed counterfoil.

PAYMENTS.

Payments.

40. All payments must be supported by numbered payment vouchers following the order of the entry in the cash book.

41. Payment vouchers must be made out in favour of the person or persons to whom the money is due, or in favour of their legal representatives.

42. The person certifying the voucher shall ensure that all details and particulars such as date, number of vouchers, quantities, rates, classifications, etc., are correctly stated so as to enable them to be checked without reference to any other document.

The total amount payable shall be written in words as well as in figures.

DEPOSITS.

43. Receipts relating to deposits should clearly show (1) the person on whose behalf the deposit is made; (2) the necessity for placing the sum on deposit; (3) the type of transaction for which the deposit is intended. Deposit receipts.

44. Any withdrawal from deposit must be supported by the receipt, which must be cancelled on repayment of the deposit being completed. When only a portion of the deposit is withdrawn at a time the number and date of the receipt should be quoted on the payment voucher and the amount paid should be endorsed on the back of the receipt and signed by the paying officer. When monies on deposit are withdrawn the receipt of the person who is entitled to the money must be obtained on the payment voucher. Deposit payments.

45. A subsidiary deposit ledger (and an advance ledger where necessary) will be kept by the Local Authority. Sufficient details of all deposits (and advances) will be recorded in these ledgers to ensure easy recognition of all subsequent transactions.

SALARIES AND WAGES.

64. Local Authorities will keep an establishment register showing the name, rate of pay, allowance, incremental date, if any, etc. of all officials and employees whose salaries or pensions are separately provided for in the estimates under Personal Emoluments. All payments of salary, pensions, allowances, etc. will be recorded in this register, which should be posted immediately payment is made. Establishment register.

MONTHLY RETURNS.

47. Local Authorities will prepare a monthly statement of accounts showing for each item of revenue the approved estimate Returns—Reports.

for the year, the total collection for the previous month and total collections to date; under each item of expenditure will be shown the amount in the approved estimates, the total payments for the previous month, the total expenditure to date and the total of unpaid commitments.

GENERAL.

General.

48. All books of accounts, records and vouchers must be written in ink.

49. On no account should erasures be made in any account books or voucher. Where an alteration is necessary the erroneous item should be ruled out and the correct figure entered above it in red ink. The alteration should be initialled by the official responsible for the correction.

686/1937.

MUNICIPAL CORPORATIONS ORDINANCE, 1934.

ORDERS No. 32 OF 1937, BY THE HIGH COMMISSIONER IN COUNCIL UNDER SECTIONS 75, 76 AND 78.

No. 1 of
1934.

IN EXERCISE of the powers vested in him by sections 75, 76 and 78 of the Municipal Corporations Ordinance, 1934, the High Commissioner in Council has ordered and it is hereby ordered that the estimates and abstracts respectively referred to in paragraphs 3 and 4 of the Order by the Officer Administering the Government in Council No. 17 of 1937, and published in the *Gazette* dated the 18th March, 1937, shall be prepared in the forms set out in the schedule to this Order.

APPENDIX B.

MUNICIPALITY
or
LOCAL COUNCIL } of.....

ABSTRACT OF ESTIMATES.....

REVENUE.

Heads of Revenue	Actual Revenue for the preceding year 193.....	Estimated Revenue for the current year 193.....	Revised Estimated Revenue for the current year 193.....	Estimated Revenue for the following year 193.....
	£P.	£P.	£P.	£P.
1. Rates, Licences, Taxes, etc.				
2. Fees of Office, Receipts for Specific Services and Reimbursements.				
3. Revenue from Municipal Property.				
4. Interest.				
5. Miscellaneous.				
Total £P.				
6. Betterment Charges.				
7. Grant-in-aid by Government.				
8. Loan Account.				
9. Water Supply.				
Total £P.				
Total Revenue £P.				

APPENDIX C.

LOCAL COUNCIL
or
MUNICIPALITY } of.....

ABSTRACT OF ESTIMATES.....

EXPENDITURE.

Heads of Expenditure	Actual Expenditure for the preceding year 193.....	Estimated Expenditure for the current year 193.....	Revised Estimated Expenditure for the current year 193.....	Estimated Expenditure for the following year 193.....
	£P.	£P.	£P.	£P.
1. General Administration.				
2. Pensions and Gratuities.				
3. Health Services.				
4. Public Security.				
5. Engineering.				
6. Public Works Recurrent.				
7. Interest Charges.				
8. Miscellaneous.				
Total Ordinary £P.				
9. Public Works Extraordinary.				
10. Loan Account.				
11. Water Supply.				
Total Extraordinary £P.				
Total Expenditure £P.				

APPENDIX D.

..... MUNICIPALITY.

SUMMARY SHOWING ESTIMATED $\frac{\text{SURPLUS}}{\text{DEFICIT}}$ AT 31ST MARCH, 193...¹

Actual $\frac{\text{Surplus}}{\text{Deficit}}$ AT 31ST MARCH, 193.../3 £P. £P. £P.

Actual Revenue from 1st April 193...to end of
last completed month of account

Ordinary

Extraordinary

Estimated Revenue from first day of month
following last completed month of account
to 31st March, 193...

Ordinary

Extraordinary

..... Total £P.

Actual Extraordinary (1st April... to end of
last completed month of account)

Ordinary

Extraordinary

Estimated Expenditure (from first day of
month following last completed month of ac-
count to 31st March, 193...)

Ordinary

Extraordinary

Estimated $\frac{\text{Surplus}}{\text{Deficit}}$ at 31st March, 193...⁽²⁾

Estimated Revenue from 1st April 193.../to
31st March, 193...⁽³⁾

Ordinary

Extraordinary

..... Total £P.

Estimated Expenditure from 1st April 193.../
31st March, 193...

Ordinary

Extraordinary

Estimated $\frac{\text{Surplus}}{\text{Deficit}}$ at 31st March, 193...⁽³⁾

(1) End of year for which estimates are being submitted.

(2) End of current year.

(3) End of year for which estimates are being submitted.

MUNICIPAL CORPORATIONS ORDINANCE, 1934.

ORDER, No. 136 OF 1935, BY THE OFFICER ADMINISTERING THE GOVERNMENT-IN-COUNCIL UNDER SECTION 69. 542/1935.

IN EXERCISE of the powers vested in the High Commissioner-in-Council by section 69 of the Municipal Corporations Ordinance, 1934, as amended by section 3 of the Municipal Corporations (Amendment) Ordinance (No. 3), 1935, the Officer Administering the Government-in-Council is pleased to order and it is hereby ordered that the provisions of sub-section (2) of section 69 shall as from the end of the financial year ending on the thirty-first day of March, 1935, not apply to the accounts of any municipal corporation and that the following provisions shall apply to all such corporations in place thereof:—

(1) The accounts of all municipal corporations shall be made up yearly to the thirty-first day of March and shall be audited by the Municipal Auditor as soon as may be thereafter.

(2) Within fourteen days after the completion of the audit of the accounts of a municipal corporation for the year ended the thirty-first day of March, the accounts shall be certified by the Municipal Auditor and shall be forwarded together with the Municipal Auditor's report thereon to the Commissioner, and a summary of such accounts shall be published in the Gazette.

MUNICIPAL CORPORATIONS ORDINANCE, 1934.

ORDER BY THE HIGH COMMISSIONER IN COUNCIL UNDER SECTION 98(rr) AND (s). 1422/1945.

IN EXERCISE of the powers vested in him by section 98(rr) and (s) of the Municipal Corporations Ordinance, 1934, the High Commissioner in Council has ordered, and it is hereby ordered, as follows:—

1. This Order may be cited as the Municipal Corporations (Exemptions) Order in Council, 1945. Citation.
2. A Municipal Council shall not, in respect of any establishment specified in Schedule I to this Order, exercise the powers Exemption from exercise of

powers under section 98 (rr) of the Ordinance. Exemption from exercise of powers under section 98 (s) of the Ordinance.

conferred by paragraph (rr) of section 98 of the Ordinance to make a charge for social welfare.

3. A Municipal Council shall not exercise the powers conferred by paragraph (s) of section 98 of the Ordinance of regulation and control in respect of any establishment specified in Schedule II to this Order.

SCHEDULE I.

Any mess, canteen or institute established and maintained exclusively for the use of members of the Palestine Police Force.

SCHEDULE II.

Any mess, canteen or institute established and maintained exclusively for the use of members of the Palestine Police Force.

LOCAL COUNCILS ORDINANCE.

No. 36 of 1941.

AN ORDINANCE TO CONSOLIDATE AND AMEND THE LAW RESPECTING LOCAL COUNCILS.

BE IT ENACTED by the High Commissioner for Palestine, with the advice of the Advisory Council thereof:—

Short Title.

1. This Ordinance may be cited as the Local Councils Ordinance, 1941.

Establishment of local councils.

* 143.

* 140, 142.

* 141, 144, 145, 147, 148.

2.—(1) The High Commissioner may, on the recommendation of the District Commissioner, by order declare that any village or group of villages or area * shall be administered by a local council; the order shall specify or make provision for the composition, term of office and functions of the council, its powers and obligations * and its area of jurisdiction, and, without prejudice to the generality of the foregoing provisions, may include provision for its appointment or election * and all matters incidental thereto, including the hearing of appeals and petitions in connection therewith in specified courts or otherwise, the formation of committees of the council, the appointment or election of

its officials, their suspension or dismissal, their power and duties, and the award of pensions and gratuities to them, and all things incidental to any of the foregoing matters.

(2) The High Commissioner may, in the same manner and on the like recommendation, declare that a local council may be constituted in a quarter of a municipal area, which is distinguished by its needs and character from the rest of the municipal area: the order shall be made only if the agreement of the municipal council has been obtained and shall specify, in addition to the particulars required by subsection (1), the relations of the local council to the municipal council: subject to the provisions of the order, the powers of the municipal council over the quarter shall not be impaired.

3.—(1) A local council shall be vested with juristic personality and, subject to the provisions of the order under which it is constituted, shall be entitled to make contracts, to hold and acquire immovable property or any interest therein, and to bring and defend legal actions in its own name.

Juristic personality of local council, and incidental powers.

(2) It shall not be lawful for a local council to sell, mortgage, lease, exchange or otherwise dispose of or deal with any immovable property registered in its name or any interest therein, save with the approval of the District Commissioner.

4. A local council shall, with the approval of the District Commissioner, but not otherwise, and subject to the terms and conditions of the order under which it is constituted and to any terms and conditions which may be imposed by the District Commissioner, be entitled—

Power of local council to raise loans.

(a) to borrow money from any person for any purpose approved by the District Commissioner, and in order to secure the payment of the principal and interest of any such loan, to mortgage or charge any property or revenues of the council to the lender;

(b) to borrow temporarily from the bank at which the account of the council is kept, any sum or sums.

5.—(1) Subject to the provisions of the order under which it is constituted, a local council shall have power, with the sanction of the District Commissioner, to levy:— *

Power of local council to levy rates, etc.

(a) rates, * including an education rate, * upon property situated in the village or area or group or quarter, payable by

* 148a, 149, 153, 155.

* 154. the owners* or occupiers thereof; an education rate may be levied under this paragraph in addition to any education rate levied under section 10 of the Education Ordinance, and the powers conferred by this paragraph shall be in addition to and not in derogation of the powers conferred by that section;

* 152, 153
19/47. (b) such fees for licences or otherwise* and charges as a municipal corporation is authorised for the time being to impose, or as may be imposed by a local council under the provisions of any Ordinance;

19/47. (bb) fees for services provided by the local council, payable by persons enjoying the benefit of such services;

* 152. (c) contributions* from the inhabitants of the village or area or group or quarter for educational or other purposes: provided that the District Commissioner may exempt from the payment of any such contribution any persons or class of persons whom or whose children, if any, the contribution is not in his opinion designed to benefit;

* 147, 148,
149, 150,
151. (d) a rate on the poll* upon the inhabitants of the village or area or group or quarter.

(2) Without prejudice to the provisions of section 2(1) the order under which a local council is constituted may include provision for the assessment of rates and other sums leviable under this section and all matters incidental to such assessment,* for the levying thereof at different percentages or grades on property or persons of different categories or on particular parts of the local council area, for the manner of recovery thereof, exemptions therefrom and remissions, reductions and writing off thereof, and for the hearing of appeals in connection therewith in specified courts or otherwise.

* 146, 154,
155.
19/47. (3) Without prejudice to any other provision of this Ordinance, where a local council is constituted in an area comprising two or more villages or parts thereof, the order under which such local council is constituted may make provision for the constitution of local committees in all or any of such villages or parts thereof, their composition, area of jurisdiction, and powers and obligations, including a power to levy rates, charges, fees and contribution upon or from property or persons in their area of jurisdiction, for the delegation to such committees (with or without

restrictions or conditions) of any functions of the local council, for the levying by the local council of sums to be repayable by such local committees in place of any rates, charges, fees, or contribution, leviable by the local council upon or from property or persons in the areas of jurisdiction of such local committees, for the apportionment of any expenses of the local council between the villages or parts thereof for the benefit of which such expenses were incurred, and for the recovery by the local council from such local committees of any sums or apportioned expenses payable to the local council by such local committees.

6. The property rates due to a local council shall be recoverable* according to the law in force from time to time for the recovery of rates due to a municipal corporation mutatis mutandis, and the rates on the poll, fees and other sums due to a local council shall be recoverable according to the law in force from time to time for the recovery of fees due to a municipal corporation, mutatis mutandis; and for that purpose the powers of the mayor of a municipal corporation under such law shall, in the case of local council, be deemed to be vested in the president of the local council.

Recovery of rates, etc.
* 114, 115, 116, 117.

6A.—(1) A local council may, by resolution, with the approval of the District Commissioner, provide that, if any amount in respect of any rate is not paid within six months of the date on which such amount becomes payable under the provisions of this Ordinance or of the order under which the local council is constituted, a sum not exceeding twenty per centum of the amount not paid shall be added thereto as a penalty for such default, and the provisions of this Ordinance relating to the collection and recovery of rates shall apply to the collection and recovery of such sum:

Penalty for non-payment of rates.
19/47.

Provided that, with the approval of the District Commissioner, the local council may, on good cause shown, remit such penalty in whole or in part, and may from time to time revoke or vary such remission in the case of a continuing default.

(2) Where a resolution as set out in subsection (1) has been made by any local council, a notice that it has been made shall be published in the Gazette.

(3) Where any amount in respect of any rate to which a resolution as aforesaid relates is outstanding at the time at which

the notice of such resolution is published in the Gazette, the penalty provided in subsection (1) shall not apply to such amount or any part thereof except if and in so far as such amount or any part thereof is outstanding at the expiration of six months from the date of such publication.

Budget.

7.—(1) A local council shall draw up annually a budget, in such form as may be prescribed, showing its estimated revenue and expenditure, which shall, if the quarter is within a municipal area, be submitted through the municipal council to the District Commissioner and in other cases direct to the District Commissioner, for approval, and when so approved shall be the annual budget for the local council, and no payment shall be made from the funds of the local council, and no commitment incurred by such council, otherwise than in accordance therewith. The local council may with the like approval vary such budget. The District Commissioner may, after having taken into consideration the views of the local council, modify or reject any item in the budget, or, if in his opinion exceptional circumstances connected with the local council make it essential in the public interest to do so, insert any item therein.

(2) Any disagreement between the local council and a municipal council, arising in connection with the annual budget, shall be referred to the District Commissioner whose decision shall be final.

Financial provisions.

8.—(1) The order under which a local council is constituted may include provision for the constitution of a local council fund and for safeguarding the security thereof and for other matters in connection therewith, and for the auditing of the accounts of the council (subject to the provisions of subsection (2) hereof), and for surcharging any payments not authorised under the provisions of such order or of the budget approved under the provisions of section 7 of this Ordinance.

(2) The accounts of a local council shall be audited by the Municipal Auditor* appointed by the High Commissioner under the Municipal Corporations Ordinance, 1934, and the provisions of that Ordinance with regard to the auditing of the accounts of a municipal corporation shall apply, mutatis mutandis, to the auditing of accounts of a local council.

No. 1 of
1934.

* 26, 27, 28,
29, 30, 31,
32, 33, 34,
35.

8A. All fines, fees, dues and penalties, recovered under this Ordinance, or any by-laws made thereunder, shall be paid to and shall form part of the local council fund.

Fines, etc.
to be paid
to the local
council fund.
No. 2/44.
By-laws.

9. (1) A local council shall have power, with the approval of the District Commissioner, and in the case of a quarter, subject to the powers of the municipal council, to issue by-laws for the securing of health, order and internal administration, including road development, in the village, area, group or quarter, and without prejudice to the generality of the foregoing power such by-laws may include provision for the imposition and collection of rates, fees, charges, and contributions authorised under section 5 of this Ordinance, and of any charges or contribution by any person other than the council in connection with the matters provided for in such by-laws, and for the payment of compensation to any person affected thereby.

19/47.

(2) Such by-laws may provide penalties for the contravention thereof not exceeding a fine of twenty pounds for any one offence and in the case of a continuing offence an additional fine not exceeding two pounds for every day during which the offence is continued after written notice from the District Commissioner or the President of the local council of such contravention or after conviction. Where no penalty is specially provided for the contravention of any by-law it shall be punishable with a fine not exceeding five pounds and in the case of a continuing offence with an additional fine not exceeding one pound for every day during which the offence is continued after notice or conviction as aforesaid.

(3) Such by-laws may provide that in addition to any such penalty any expense incurred by a local council in consequence of the breach of any such by-law or in the execution of any work directed by any by-law to be executed by any person and not executed by him shall be paid by the person committing such breach or failing to execute such work.

Any order or by-laws made under the Local Councils Ordinance under the principal Ordinance and in force at the date of commencement of this Ordinance, and any acts done under any such order, by-laws or Ordinance, shall be deemed to have been*

19/47.

* "this Ordinance" means the Amendment Ordinance No. 19/47.

validly made or done if it or they would have been validly made or done had the principal Ordinance, as amended by this Ordinance, been in force at the time it was, or they were, made or done, and it was, or they were, made or done thereunder.

Powers of
the District
Commissioner in
certain
cases.

10.—(1) If at any time:—

(a) a local council shall be deemed to have expired, under the provisions of the order under which it is constituted; or

(b) in the opinion of the District Commissioner a local council has after due warning by him ceased either to perform the functions imposed upon it by this Ordinance or by the order under which it is constituted or by any other Ordinance or law, or is failing to carry out the good administration of the area of its jurisdiction, the District Commissioner may

(i) order new elections to be held for the election of a new council, and prescribe the date thereof, or

(ii) nominate a council from among persons qualified to be councillors, or

(iii) nominate a commission to perform the duties of the council:

Provided that:

(a) the duration of any council elected under the provisions of this subsection shall be in accordance with the provisions of the order under which the local council is constituted, and

(b) the duration of any council or commission appointed under the provisions of this subsection shall be until the District Commissioner shall order the holding of elections or otherwise direct.

(2) Any commission nominated under the provisions of the preceding subsection shall have the powers and duties vested in the local council by this Ordinance, by the order under which it is constituted, and by any other Ordinance or law.

(3) Where a commission has been nominated under the provisions of subsection (1) of this section, the District Commissioner shall appoint a member of such commission to be chairman thereof and, if he sees fit, a member of such commission to be vice chairman thereof. Such chairman or vice chairman may receive from the local council fund such salary as may from time to time be fixed

by the District Commissioner, and shall have all the powers and duties vested in or assigned to the President or Vice-President of the local Council, respectively, by this Ordinance or by any other Ordinance or law, or by the order under which the local council is constituted.

(4) If at any time it appears to the District Commissioner that a local council has failed to carry out any duty or work it is required or empowered to do under this Ordinance or the order under which it is constituted or any other Ordinance or law, he may make an order requiring the local council within a time specified therein to carry out such duty or work, and if the local council fails within such time to comply with such order the District Commissioner may appoint any person whom he considers suitable to carry out such duty or work, and may fix the remuneration to be paid to such person and may direct that such remuneration and the cost of carrying out such duty or work shall be a charge against the funds of the local council.

(5) In case of emergency when it is not possible to call a meeting of a local council, the District Commissioner may call upon the President or a Vice-President or any other member of the local council to fulfil any duty or to carry out any work which the local council is required or empowered to do under this Ordinance or the order under which it is constituted or any other Ordinance or law which in the opinion of the District Commissioner is necessary for the safety or health of the area of jurisdiction of the local council or the inhabitants thereof.

11. The Municipal Corporations (Sewerage, Drainage and Water) Ordinance, 1936, or any part thereof, may be applied by the District Commissioner to any local council in like manner as it may be applied by the High Commissioner under section 29 thereof to a municipal corporation and the Ordinance or such part thereof shall thereupon apply to such local council* in like manner as it applies to a municipal corporation, subject to the following modifications, namely:—

(a) the expressions "municipal corporation" and "municipal council", wheresoever they appear therein, shall be deemed to be replaced by the expression "local council";

(b) the expression "Municipal Corporations Ordinance, 1934," wheresoever it appears therein, shall be deemed to be re-

Applica-
tion of Or-
dinance
No. 1 of
1936. to
local
councils.
* 133, 134,
135, 136,
137, 138,
139.

placed by the expression "Local Councils Ordinance, 1941, or the order made thereunder constituting the local council";

(c) the expressions "High Commissioner and "High Commissioner-in-Council", wheresoever they appear therein, shall be deemed to be replaced by the expression "District Commissioner".

Vesting of local council property upon revocation of order constituting council.

12. An order under section 2 establishing a local council may at any time be revoked by the High Commissioner, and upon such revocation the High Commissioner shall give such directions as shall be necessary for the vesting of any property of the local council, and such property shall thereupon be vested in accordance with such directions, and the transaction shall be exempt from any fees payable under the Land Transfer (Fees) Rules, 1939.

General financial rules for local councils.
No. 22/42.

12A. Without prejudice to the provisions of sections 7 and 8 of this Ordinance, the High Commissioner may make rules prescribing the books and the form in which the accounts of local councils shall be kept and the manner of preparation of their annual estimates, and any matters incidental thereto, and may in such rules provide for the application of the rules, in whole or in part, to such local councils as may be specified therein.

Repeal and saving.

13.—(1) The Ordinances set out in the Schedule hereto are hereby repealed:

Provided that—

(a) all orders, by-laws, rules or notices lawfully made or given under the provisions of any of the Ordinances hereby repealed and in force at the commencement of this Ordinance shall be deemed to have been made or given under the provisions of this Ordinance and shall, until varied or revoked under the provisions of this Ordinance, remain in full force and effect, and all local councils constituted by any such orders made under the Local Councils Ordinance shall continue in existence, and all members thereof shall continue in office, as if this Ordinance had not been amended;

(b) all existing and valid licences and permits issued by any local council shall be deemed to have been issued under this Ordinance, and it shall not be necessary to obtain under the provisions of this Ordinance any further licence or permit in respect

of the matters, acts or things for which such existing licences or permits were issued, until the expiration thereof.

(2) All estimates of revenue and expenditure which have been prepared by a local council and approved by a District Commissioner, shall be deemed to be estimates made under the provisions of this Ordinance, and the provisions of this Ordinance shall apply to such estimates.

(3) Any rate, contribution or fees lawfully imposed in respect of any period current upon the commencement of this Ordinance by any local council, shall be recoverable by such local council as though it had been imposed under the provisions of this Ordinance, and any poll tax lawfully imposed as aforesaid shall be recoverable as though it were a rate on the poll imposed under the provisions of this Ordinance.

SCHEDULE.

<i>Chapter in Revised Edition of the Laws</i>	<i>Ordinance.</i>
83	Local Authorities (Replacement) Ordinance.
84	Local Councils Ordinance.
98	Municipal Loans Ordinance.
132	Sewerage and Drainage Ordinance.

LOCAL AUTHORITIES (BUSINESS TAX) ORDINANCE, No. 29 of 1945.

AN ORDINANCE TO AMEND AND CONSOLIDATE THE LAW
EMPOWERING LOCAL AUTHORITIES TO LEVY A BUSINESS TAX.

BE IT ENACTED by the High Commissioner for Palestine, with
the advice of the Advisory Council thereof:—

1. This Ordinance may be cited as the Local Authorities Short Title.
(Business Tax) Ordinance, 1945.

Interpre-
tation.
No. 1 of
1934.
No. 36 of
1941.

Power of
local
authority
to levy
business
tax.

2. In this Ordinance, the expression "Local authority" means a municipal council within the meaning of the Municipal Corporations Ordinance, 1934, or a local council within the meaning of the Local Councils Ordinance, 1941.

3.—(1) It shall be lawful for a local authority, by by-laws, to levy, on all persons carrying on within the area of its jurisdiction any trade or business specified* in the by-laws, a tax —

(a) in the case of by-laws made by a municipal council, to be known as "municipal business tax", and

(b) in the case of by-laws made by a local council, to be known as "local business tax",

of such amount as shall be so specified, not exceeding sixty pounds per annum in respect of each place where such trade or business is carried on within that area.

(2) Any by-laws made under the powers conferred by this section may —

(a) subject to the maximum of sixty pounds per annum mentioned in subsection (1), impose different amounts of tax in respect of different trades or business specified in the by-laws or in respect of different classes or descriptions of trades or businesses so specified and, without prejudice to the generality of the foregoing provisions of this subsection, may impose any such different amounts of tax on a graduated scale, whether by reference to the rent payable in respect of any place where such a trade or business is carried on or by reference to the size of, or the number of customers in, any such trade or business, or in such other manner as may be provided in the by-laws;

(b) provide that the tax shall be paid in whole upon such date as may be specified in the by-laws, or by such instalments and upon such dates as may be so specified.

4. With the approval of the District Commissioner, a local authority may, on account of the poverty of any person liable to pay any tax imposed by such local authority under this Ordinance, reduce or remit the payment of such tax.

5. The provisions of the Municipal Corporations Ordinance, 1934, regarding the recovery of rates imposed by a municipal council under that Ordinance shall apply mutatis mutandis to the recovery of any tax imposed by a local authority under this Or-

Reduction
or remission
of tax on
account of
poverty.

Recovery of
tax, No. 1
of 1934.

dinance, and, for the purpose of the application of those provisions to the recovery of any tax which has been so imposed by a local council, the powers of the mayor of a municipal corporation under the said provisions shall be deemed to be vested in the president of the local council.

6. The Local Authorities (Business Tax) Ordinance, 1944, is hereby repealed. Repeal No. 5 of 1944.

RATES AND TAXES (EXEMPTION) ORDINANCE, No. 18 of 1938.

AN ORDINANCE TO PROVIDE FOR CERTAIN EXEMPTIONS FROM MUNICIPAL and Local Council RATES, THE URBAN PROPERTY TAX AND THE RURAL PROPERTY TAX.

No. 13/40.

BE IT ENACTED by the High Commissioner for Palestine, with the advice of the Advisory Council thereof:—

1. This Ordinance may be cited as the Rates and Taxes (Exemption) Ordinance, 1938. Short title.

PART I.

EXEMPTIONS FROM MUNICIPAL RATES.*

* 90 to 100,
109, 110.

2. In this part of this Ordinance:—

Interpre-
tation.

(a) the words "building", "occupied land", "unoccupied land", "owner" and "occupier" shall have the meanings respectively assigned to them by section 101 of the Municipal Corporations Ordinance, 1934; and

No. 1 of
1934.

(b) "municipal property rate", "general rate" and "education rate" shall mean the rates referred to in paragraphs (a), (b) and (c) respectively, of subsection (1) of section 102 of the Municipal Corporations Ordinance, 1934.

No. 1 of
1934.

3. Notwithstanding anything contained in the Municipal Corporations Ordinance, 1934:—

Exemption
of Crown,
High Com-
missioner,
Secretary of
State and
persons

(a) the municipal property rate shall not be levied in respect of any building, unoccupied land or occupied land of which the owner is the Crown or the High Commissioner or the Secre-

holding on behalf of Crown.
No. 1 of 1934.

tary of State or any person or body holding on behalf of the Crown:

Provided that any occupant by virtue of a lease or licence express or implied of any building or occupied land owned as aforesaid shall for the purposes of the collection of the municipal property rate, be deemed to be the owner of such building or occupied land;

(b) the general rate and education rate shall not be levied on any building or occupied land of which the occupier is the Crown or the High Commissioner or the Secretary of State or any other person or body holding on behalf of the Crown, and which is used for the purposes of the Crown or the High Commissioner or the Secretary of State or any other person or body holding on behalf of the Crown, respectively, and no building or occupied land shall be deemed to be used for any of such purposes, if such building or occupied land is occupied by any officer of the Crown who pays rent therefor either directly or by deduction from his emoluments.

* 158.
Exemption of foreign States, religious communities or bodies, charitable organizations and educational institutions.
No. 1 of 1934.
No. 13/40.

4. Notwithstanding anything contained in the Municipal Corporations Ordinance, 1934:—*

(a) the municipal property rate, general rate and education rate shall not be levied in respect of any building or occupied land of which:—

(i) and State or any person holding on behalf of any State, is the owner, provided that such building or occupied land is used by such State for the purpose of a consulate by the Consul-General or any consular officer de carrière of such State;

(ii) any religious community or body is the owner and occupier, provided that such building or occupied land is used by such religious community or body either as:—

(A) a place of religious worship, or

(B) a monastery or convent, or

(C) a hospital, clinic or sanatorium, or

(D) a kindergarten, school, orphanage, seminary or professional school, or

(E) an almshouse or house for indigents, or

(F) a hospice or hostel used exclusively for the gratuitous accommodation of pilgrims, or

- (G) a takiya, zawiya or soup kitchen, or
- (H) the residence of the head of such community, or
- (I) a religious court;

(iii) any charitable organization is the owner and occupier, provided that such building or occupied land is used by such charitable organization either as:—

- (A) a hospital, clinic or sanatorium, or
- (B) an orphanage or almshouse or house for indigents, or
- (C) a hospice or hostel used exclusively for the gratuitous accommodation of pilgrims or immigrants, or
- (D) a takiya, zawiya or soup kitchen;

(iv) any educational institution is the owner and occupier, provided that such building or occupied land is used by such educational institution either as:—

- (A) a kindergarten, school, seminary or professional school, or
- (B) a blind, dumb or deaf institution, or
- (C) a public library;

Provided that no exemption shall be granted in respect of any building or occupied land of which any State, or any person holding on behalf of any State, is the owner, or of which any religious community or body, charitable organization or educational institution is the owner and occupier, if such building or occupied land is used by such State, community or body, organization or institution for any purpose the object of which is to derive pecuniary profit. No. 13/40.

(b) the general rate and education rate shall not be levied on any building or occupied land of which any State, or religious community or body, charitable organization or educational institution is the occupier and which is used by such State, community or body, organization or institution for any of the purposes set out in paragraph (a) (i) (ii) (iii) and (iv) hereof respectively:

Provided that no exemption shall be granted in respect of any building or occupied land which any State, religious community or body, charitable organization, or educational institution is the occupier, if such building or occupied land is used by such State, community or body, organization or institution for any purpose the object of which is to derive pecuniary profit.

Miscellaneous exemptions.
Cap. 5.

5. The following shall be exempt from municipal property rate, general rate and education rate, that is to say:—

(a) any site being an historical monument or historical site under the Antiquities Ordinance, in respect of which the restrictions imposed by that Ordinance interfere, in the opinion of the District Commissioner, with its use for pecuniary profit;

(b) any building, unoccupied land or occupied land of a charitable waqf constituted as such before a religious court or under the Charitable Trusts Ordinance and not administered for profit, or of an educational trust of which the proceeds are applied entirely to the maintenance of schools;

(c) any cemetery, or that part of any cemetery, which is not used for pecuniary profit;

(d) any public yard, open space, playing field or land upon which building is prohibited and which, with the approval of the High Commissioner, has been set aside for the use of the public;

13/40. (e) any property used *exclusively* as a soldier's or sailors' institute by the owner thereof;

13/40. (f) any property owned by, and used *exclusively* for the objects of, the Society for the Prevention of Cruelty to Animals, or the People's Dispensary for the Sick Animals of the Poor in Palestine;

13/40. (g) any property owned by a society or cooperative institution that has for its principal object the supply, otherwise than for profit, of medical aid and the maintenance of hospitals, sanatoria, clinics or dispensaries, provided that such property is used *exclusively* for one or more of the above objects, and provided that such society or cooperative institution is approved by the High Commissioner for the purpose of exemption under this section;

13/40. (h) any land or building which is used *exclusively* for the purpose of sport or physical culture;

13/40. (i) any property used *exclusively* as a public museum by the owner thereof.

13/40. (j) any property used *exclusively* for public service by a volunteer public service institution, provided that such institution is approved by the High Commissioner for the purpose of exemption under this section.

5A. Notwithstanding anything contained in the Local Councils Ordinance, or in any order made under section 2 thereof, any property which, if it were situated within the area of a municipal corporation, would be exempted under this Part of this Ordinance from the payment of municipal property rate, general rate or education rate, shall, if it is situated within the area of jurisdiction of any local council, be exempt from any property rate, general rate or education rate, respectively, imposed by such local council.

Exemptions from local council rates.
Cap. 84.
13/40.

PART II.

EXEMPTIONS FROM THE RURAL PROPERTY TAX.

6. In this part of this Ordinance:—

(a) the words “owner”, “land” and “industrial building” shall have the meanings respectively assigned to them by section 2 of the Rural Property Tax Ordinance, 1935, and

(b) the “rural property tax” shall mean the tax payable under the Rural Property Tax Ordinance, 1935.

Interpretation.

No. 1 of 1935.

No. 1 of 1935.

7. Notwithstanding anything contained in the Rural Property Tax Ordinance, 1935, the rural property tax shall not be levied on any land (including house property) or industrial building or on any part thereof, of which the owner is the Crown or the High Commissioner or the Secretary of State or any person or body holding on behalf of the Crown:

Exemption of Crown, High Commissioner, Secretary of State and persons holding on behalf of Crown.

Provided that and occupant, by virtue of a lease or licence express or implied of any land or industrial building owned as aforesaid shall, for the purposes of the collection of the rural property tax, be deemed to be the owner of such land or industrial building.

No. 1 of 1935.

8. Notwithstanding anything contained in the Rural Property Tax Ordinance, 1935, the rural property tax shall not be levied on any land (including house property), or on any part thereof, of which:—

Exemption of foreign States, religious communities or bodies, charitable organizations and educational institutions.
13/40.

(a) any State, or any person holding on behalf of any State, is the owner, provided that such land or such part thereof is used by such State for the purpose of a consulate by the Consul-General or any consular officer de carrière of such State;

(b) any religious community or body is the owner, provided that such land or such part thereof is used by such religious community or body either as:—

- (A) a place of religious worship, or
- (B) a monastery or convent, or
- (C) a hospital, clinic or sanatorium, or
- (D) a kindergarten, school, orphanage, seminary or professional school, or
- (E) an almshouse or home for indigents, or
- (F) a hospice or hostel used exclusively for the gratuitous accommodation of pilgrims, or
- (G) a takiya, zawiya or soup kitchen, or
- (H) the residence of the head of such community, or
- (I) a religious court;

(c) any charitable organization is the owner, provided that such land or such part thereof is used by such charitable organization either as:—

- (A) a hospital, clinic or sanatorium, or
- (B) an orphanage or almshouse or home for indigents, or
- (C) a hospice or hostel used exclusively for the gratuitous accommodation of pilgrims or immigrants, or
- (D) a takiya, zawiya or soup kitchen;

(d) any educational institution is the owner, provided that such land or such part thereof is used by such educational institution either as:—

- (A) a kindergarten, school, seminary or professional school, or
- (B) a blind, dumb or deaf institution, or
- (C) a public library:

No. 13/40. Provided that no exemption shall be granted in respect of any land or any part thereof, of which any State, or any person holding on behalf of any State, is the owner, or of which any religious community or body, charitable organization or educational institution is the owner, if such land is used, or in respect of so much of such land as is used, by such State, religious community or body,

charitable organization or educational institution for any purpose the object of which is to derive pecuniary profit.

9. The following shall be exempt from the rural property tax, that is to say:—

Miscellaneous exemptions.

(a) any site being an historical monument or historical site under the Antiquities Ordinance, in respect of which the restrictions imposed by that Ordinance interfere, in the opinion of the District Commissioner, with its use for pecuniary profit;

(b) any land of a charitable waqf constituted as such before a religious court or under the Charitable Trusts Ordinance and not administered for profit,* or of an educational trust of which the proceeds are applied entirely to the maintenance of schools;

* 156, 156a.

(c) any cemetery, or that part of any cemetery, which is not used for pecuniary profit;

(d) any public yard, open space, playing field or land upon which building is prohibited and which, with the approval of the High Commissioner, has been set aside for the use of the public;

(e) any property used *exclusively* as a soldiers' or sailors' institute by the owner thereof; No. 13/40.

(f) any property owned by, and used *exclusively* for the objects of, the Society for the Prevention of Cruelty to Animals or the People's Dispensary for the Sick Animals of the Poor in Palestine; No. 13/40.

(g) any land utilised for the purpose of agricultural instruction or research and certified as such annually by the Director of Agriculture and Fisheries;

(h) any property owned by a society or cooperative institution that has for its principal object the supply, otherwise than for profit, of medical aid and the maintenance of hospitals, sanatoria, clinics or dispensaries, provided that such property is used *exclusively* for one or more of the above objects, and provided that such society or cooperative institution is approved by the High Commissioner for the purpose of exemption under this section; No. 13/40.

(i) any land or building which is used exclusively for the purpose of sport or physical culture;

No. 13/40.

(j) any property used *exclusively* as a public museum by the owner thereof;

No. 13/40.

(k) any property used *exclusively* for public service by a volunteer public service institution, provided that such institution is approved by the High Commissioner for the purpose of exemption under this section.

PART III.

EXEMPTIONS FROM THE URBAN PROPERTY TAX.

Interpretation.

10. In this part of this Ordinance:—

Cap. 147.

(a) the terms “reputed owner”, “land” and “house property” shall have the meanings respectively assigned to them by section 2 of the Urban Property Tax Ordinance, and

Cap. 147.

(b) the “urban property tax” shall mean the tax payable under the Urban Property Tax Ordinance.

Exemption of Crown, High Commissioner, Secretary of State and persons holding on behalf of Crown.

11. Notwithstanding anything contained in the Urban Property Tax Ordinance, the urban property tax shall not be levied on any house property or land of which the reputed owner is the Crown or the High Commissioner or the Secretary of State or any person or body holding on behalf of the Crown:

Cap. 147.

Provided that any occupant by virtue of a lease or licence express or implied of any house property or land owned as aforesaid shall for the purposes of the collection of the urban property tax be deemed to be the reputed owner of such house property or land.

Exemption of foreign States, religious communities or bodies, charitable organizations and educational institutions.

12. Notwithstanding anything contained in the Urban Property Tax Ordinance, the urban property tax shall not be levied on any house property or land of which:—

Cap. 147.
No. 13/40.

(a) any State, or any person holding on behalf of any State, is the reputed owner, provided that such house property or land is used by such State for the purpose of a consulate by the Consul-General or any consular officer de carrière of such State;

(b) any religious community or body is the reputed owner, provided that such house property or land is used by such religious community or body either as:—

(A) a place of religious worship, or

- (B) a monastery or convent, or
- (C) a hospital, clinic or sanatorium, or
- (D) a kindergarten, school, orphanage, seminary or professional school, or
- (E) an almshouse or home for indigents, or
- (F) a hospice or hostel used exclusively for the gratuitous accommodation of pilgrims, or
- (G) a takiya, zawiya or soup kitchen, or
- (H) the residence of the head of such community, or
- (I) a religious court;

(c) any charitable organization is the reputed owner, provided that such land is used by such charitable organization either as:—

- (A) a hospital, clinic or sanatorium, or
- (B) an orphanage or almshouse or home for indigents, or
- (C) a hospice or hostel used exclusively for the gratuitous accommodation of pilgrims, or immigrants, or
- (D) a takiya, zawiya or soup kitchen;

(d) any educational institution is the reputed owner, provided that such house property or land is used by such educational institution either as:—

- (A) a kindergarten, school, seminary or professional school, or
- (B) a blind, dumb or deaf institution, or
- (C) a public library:

Provided that no exemption shall be granted in respect of any house property or land of which any State or any person holding on behalf of any State, is the owner, or of which any religious community, charitable organization, or educational institution is the reputed owner, if such property or land is used by such State, religious community or body, charitable organization or educational institution for any purpose the primary object of which is to derive pecuniary profit.

No. 13/40.

13. The following shall be exempt from the urban property tax, that is to say:—

Miscellaneous exemptions.

(a) any site being an historical monument or historical site under the Antiquities Ordinance, in respect of which the restrictions imposed by that Ordinance interfere, in the opinion of the District Commissioner, with its use for pecuniary profit;

* 157. (b) any house property of land of a charitable waqf constituted as such before a religious court or under the Charitable Trusts Ordinance and not administered for profit,* or of an educational trust of which the proceeds are applied entirely to the maintenance of schools;

(c) any cemetery, or that part of any cemetery, which is not used for pecuniary profit;

(d) any public yard, open space, playing field or land upon which building is prohibited and which, with the approval of the High Commissioner, has been set aside for the use of the public;

(e) any house property and land within the city walls of Jerusalem;

No. 13/40. (f) any property used *exclusively* as a soldiers' or sailors' institute by the owner thereof;

No. 13/40. (g) any property owned by, and used *exclusively* for the objects of, the Society for the Prevention of Cruelty to Animals or the People's Dispensary for the Sick Animals of the Poor in Palestine;

(h) any municipal property which is used for public service and not for any commercial purpose nor for pecuniary profit;

No. 13/40. (i) any property owned by a society or cooperative institution that has for its principal object the supply, otherwise than for profit, of medical aid and the maintenance of hospitals, sanatoria, clinics or dispensaries, provided that such property is used *exclusively* for one or more of the above objects, and provided that such society or cooperative institution is approved by the High Commissioner for the purpose of exemption under this section;

(j) any land or building which is exclusively used for the purpose of sport or physical culture;

No. 13/40. (k) any property *exclusively* used as a public museum by the owner thereof;

(l) any property used exclusively for public service by a volunteer public service institution, provided that such institution is approved by the High Commissioner for the purpose of exemption under this section.

PART IV.

GENERAL.

14. Any question whether any community, body, organization or institution is a religious community or body, charitable organization or educational institution to which this Ordinance applies, shall be decided by the District Commissioner of the District within which the property in respect of which such community or body, organization or institution claims exemption is situated.

Power of District Commissioner to decide whether Ordinance applies.

15. (a) Any community or body, organization or institution aggrieved by a decision of the District Commissioner given under section 14 of this Ordinance, may within three months from such date such decision is given, and

Appeals.

(b) any State, religious community or body, charitable organization or educational institution to which this Ordinance applies claiming by virtue of any treaty or firman or any other ground whatsoever any exemption from taxation* other than the exemptions for which provision is made in this Ordinance, may within such period as may be specified by order of the High Commissioner petition the District Court* in accordance with the provisions of the Crown Actions Ordinance and notwithstanding anything contained in that Ordinance the provisions thereof shall apply to such claims as though they were claims which could be brought against the Government under the provisions of that Ordinance.

* 160. 161.

9/43.

* 159.

Cap. 38.

16. The High Commissioner may make rules for the purpose of carrying into effect the provisions of this Ordinance.

Rules.

17.—(1) Section 8 of the Urban Property Tax Ordinance shall be amended by the repeal of subsection (1) thereof.

Repeal and revocation. Cap. 147.

(2) Section 6 of the Rural Property Tax Ordinance, 1935, shall be amended:

No. 1 of 1935.

(a) by the repeal of subsection (1), and

(b) by the deletion of the words "or cemetery" appearing in subsection (6).

(3) The notice providing for the remission of house and land tax on registered educational institutions, published in the Gazette of the 1st November, 1922, is hereby revoked.

RATES AND TAXES (EXEMPTION) ORDINANCE 1938.

Suppl 2 of
995/40.
p. 469.
No. 18 of
1938.

RULES MADE BY THE HIGH COMMISSIONER UNDER SECTION 16.

IN EXERCISE of the powers vested in him by section 16 of the Rates and Taxes (Exemption) Ordinance, 1938, the High Commissioner has made the following rules:—

Citation.

1. These Rules may be cited as the Rates and Taxes (Exemption) Rules, 1940.

Interpreta-
tion.
No. 18 of
1938.

2. In these rules, unless the context otherwise requires —
"Ordinance" means the Rates and Taxes (Exemption) Ordinance, 1938.

Application
for exemp-
tion on
properties
belonging
to Crown.

3. Applications for exemption under section 7 and 11 of the Ordinance shall be in Form TE/1 in the First Schedule to these rules.

Notifica-
tion of lease
of property
belonging to
Crown.

4. Notification of the lease of land (including house property) or industrial buildings, of which the owner is the Crown or the High Commissioner or the Secretary of State or any person or body holding on behalf of the Crown shall be in Form TE/2 in the Second Schedule to these rules.

Applica-
tion for
exemption
by private
bodies.

5. Applications for exemption from tax on land (including house property) or industrial buildings under sections 8, 9, 12 or 13 of the Ordinance shall be in Form TE/3 in the Third Schedule to these rules.

Period for
submission
of applica-
tions.

6. Any person claiming exemption from the payment of urban or rural property tax under the provisions of sections 8, 9, 12 or 13 of the Ordinance shall submit to the District Commissioner of the District an application for exemption in the form prescribed

in rule 5 above within six months from the date of these rules, or in the case of a newly constructed building or newly acquired land not later than the 31st of July following the date of completion or acquisition.

7. A District Commissioner may authorise any person or persons to enter any property for which exemption from tax is claimed, at any reasonable time, to inspect and collect such particulars as he may deem necessary.

Power of entry.

8. The District Commissioner may require any person who has been granted exemption to re-submit his application for exemption periodically.

Periodical submission of applications.

9. The forms set out in the Schedule to these rules may be obtained from any District Office.

Forms.

FIRST SCHEDULE.

TE/1
Rural Tax Part II.

No...../19.....

Urban Tax Part III.

RATES AND TAXES (EXEMPTION) ORDINANCE, 1938.

Application for Exemption from $\frac{\text{Rural Property Tax}}{\text{Urban Property Tax}}$

To:

District Commissioner,
.....District.

Application is hereby made under section 7 or 11 of the Ordinance for exemption from payment of Rural Property Tax or Urban Property Tax on the property described hereunder:—

Owner:

No. of State Domain:

Urban Area or Village:

Block No.

Parcel No.

Area of Land:

Description of Property:
Registration in Land Registry:
Under Volume No. Folio No.

Signature :
Title :

Place :
Date :

DECISION OF DISTRICT COMMISSIONER.

Serial No.

To :
.

District Commissioner,
. District.

Place :
Date :

(To be submitted in duplicate).

Not part of the statutory form.

FOR USE OF REVENUE OFFICE.

Amount of $\frac{\text{Rural Property Tax}}{\text{Urban Property Tax}}$ £ P.

Exemption recorded in
(i) the Register of Exemption
under Vol. No., page
(ii) Tax-Payers Register Vol.
No., page

Revenue Officer.

Date :

NOTE: To be submitted in duplicate, one copy being returned to applicant with the decision of the District Commissioner, and the second retained in the District Commissioner's file.

SECOND SCHEDULE.

Serial No. TE/ / TE/2
RATES AND TAXES (EXEMPTION) ORDINANCE, 1938.
NOTIFICATION OF LEASE OF STATE PROPERTY.
(Proviso to section 7).

To:
District Commissioner,
..... District.

I refer to my application for exemption (TE/1) recorded under your Serial No. dated..... I beg to inform you that the undermentioned property has been leased:

No. of State Domain:
Urban Area or Village:
Block No.
Parcel No.
Area of Land:
Name of Lessee:
Period of Lease:

Signature :.....
Title :

Place :.....
Date :.....

To :.....
.....

Note has been taken of the above.

District Commissioner,
..... District.

Place :.....
Date :.....

(To be submitted in duplicate).

FOR USE IN REVENUE OFFICE.

Amount of $\frac{\text{Rural Property Tax}}{\text{Urban Property Tax}}$ £P.....

Year for which due.....

Change made in Tax-Payers Register
Volume No. Page.....

Revenue Officer.

Date:.....

Not part of the statutory form.

THIRD SCHEDULE.

TE/3.

Rural Tax Part II.

Serial No...../19.....

Urban Tax Part III.

RATES AND TAXES (EXEMPTION) ORDINANCE, 1938.

Application for Exemption from $\frac{\text{Rural Property Tax}}{\text{Urban Property Tax}}$

under sections 8, 9, 12 or 13.

To:

District Commissioner,
.....District.

I beg to apply for exemption from $\frac{\text{Rural}}{\text{Urban}}$ property tax in respect of the following property on the grounds stated hereunder:

1. Urban Area or Village:
2. Block No. Parcel No.:
3. Description of property:
If building, state
No. of floors:
No. of rooms in each floor:
Area of building:
4. Name of reputed owner in case of urban property tax:
5. Amount of any $\frac{\text{Rural}}{\text{Urban}}$ Property Tax Assessment: £ P.....
6. Registration in Land Registry:
Volume No., Folio No.
7. Purpose for which property is used:
8. If the property is public yard, open space, playing field or land upon which building is prohibited and which with the approval of the High Commissioner has been set aside for the use of the public, quote authority:
9. Whether exemption in whole or in part is claimed, and, if in part, the amount thereof: £ P.....

10. Grounds on which exemption is sought:

I/We declare that no part of the property described above, for which application is made for exemption from payment of tax is used for any purpose the object of which is to derive pecuniary profit, and that to the best of our knowledge and belief the particulars stated above are correct,

Signature :

Title :

Address :

Date :

DECISION OF DISTRICT COMMISSIONER.

District Commissioner,
.....District.

To :

.....

Date:

(To be submitted in triplicate).

FOR USE IN REVENUE OFFICE.

Amount of Rural
Urban Property Tax due: £P.....

Note has been taken of the decision given and the necessary entries have been made in the Register of Exemptions, Volume No., page.....

Revenue Officer.

Date:

NOTE: To be submitted in triplicate, one copy to be returned to applicant, one for use in the Revenue Office, and the third for retention by the District Commissioner.

Not part of the statutory form.

TOWN PLANNING ORDINANCE.

No. 28 of 1936, Gazette No. 589.

as amended by: No. 58/36, Gazette No. 620,
No. 8/38, Gazette No. 770,
No. 5/39, Gazette No. 862,
No. 31/41, Gazette No. 1139.

NOTE: The Town and Country Planning and Building Draft Ordinance, 1947, was published in Suppl. 3 of the Gazette Extraordinary No. 1583 of 31st May 1947, page 115; see "Preface").

1. This Ordinance may be cited as the Town Planning Ordinance, 1936.

* 162, 163, 202. 2. (*S. 2 Draft Ordinance*). In this Ordinance "Building" means*

* 165. 9.—(2) (*6.—(2) Draft Ordinance*). A Local Commission shall take all steps to ensure that the provisions of this Ordinance and any by-laws or rules are complied with*

* 237, 239.

TOWN PLANNING SCHEMES.*

* 228. 12.—(1). (*10.—(2) Draft Ordinance*). Every Local Commission shall submit to the District Commission*

(2). (*10.—(2) Draft Ordinance*). every scheme shall make provisions for the following matters:—

* 167, 168, 227.

(a) construction of new roads*

* 167.

(3). (*10.—(3) Draft Ordinance*). The scheme shall be accompanied by a plan or plans* of the area.

* 166, 175.

(*10.—(4) Draft Ordinance*). It shall not be necessary to publish the scheme in the Gazette* but when it is so published judicial notice shall be taken thereof.

* 228.

14.—(1). (*12.—(1) Draft Ordinance*). Such scheme shall not have effect unless it is approved by the District Commission*.

* 168.

(2) (b). (*12.—(2) (b) Draft Ordinance*). the allotment of land for public purposes of all kinds, including roads*

(12.—(4) *Draft Ordinance*). It shall not be necessary to publish the scheme in the Gazette,* but when it is so published judicial notice shall be taken thereof. * 166, 175.

18.—(1). (16.—(1) *Draft Ordinance*). the District Commissioner may apply to the High Commissioner for authority to put the scheme into force.* * 235.

(3). (16.—(3) *Draft Ordinance*). The Scheme shall come into force at the date fixed by the High Commissioner:
Provided. the Scheme shall come into force fifteen days after the publication in the Gazette* of the notice. * 175.

19. (18.—(1) *Draft Ordinance*). The District Commission may from time to time modify* any detailed scheme. * 174.

21. (21 *Draft Ordinance*). the Local Commission shall not grant any Permit* and if any outline or detailed scheme has been put in force (or is deemed to have been put in force)* * 169, 170, 171. * 172.

22. (22 *Draft Ordinance*). Any person aggrieved by the refusal* of a Local Commission to grant a permit. * 169, 172, 233, 236.

(23. *Draft Ordinance*). The Local Commission may grant a relaxation* * 170, 173.

24.—(1) (25.—(1) *Draft Ordinance*). At any time. the District Commission may require the Local Commission to proceed to the expropriation* of any lands. * 238.

25. (26.—(2) *Draft Ordinance*). the expropriation* shall be carried out in accordance with. * 174.

(32.—(3) *Draft Ordinance*). A particular planning rate may be imposed. on any of the following works. * 227.

(a) the construction or improvement of roads*

34.—(1). (34.—(1) *Draft Ordinance*). Any person who is the owner of property injuriously affected by such scheme* * 174. Penalties for

35.—(1) (35. *Draft Ordinance*). Any person who, within a town planning area:— contraven- tions, etc. * 175, 175a,

(a) carries out any work or non-conforming use for which a permit is required under this Ordinance, without having obtained such permit or not in conformity with such permit,* or 178, 179, 180, 181, 224, 229,

(b) carries out any such work or non-conforming use otherwise than in accordance with any by-laws, rules or town planning 234, 241, 242.

* 166, 178,
179, 229,
230, 230a.

schemes made under the provisions of this Ordinance, or any Ordinance repealed by this Ordinance,* or

* 43, 44, 191.

(c) fails to comply with the provisions of any rule, by-law or order made under the provisions of this Ordinance, or made under the provisions of any other Ordinance as to the demolition of any dangerous structure,*

* 88, 185,
186, 187,
188.

shall be guilty of an offence* and shall on conviction, be liable to a fine not exceeding fifty pounds for any one offence and in the case of a continuing offence an additional fine not exceeding five pounds for every day during which the offence is continued after written notice from the Local Commission of such offence or after conviction, and the Court before which any such person is convicted may:—

* 176. 182.

(i) order that any building or structure in respect of which the offence was committed shall be pulled down or removed by such person* or, upon the application of the Local Commission* or of the Attorney General or his representative, by the Local Commission and in the case of the Local Commission being directed to carry out the order the Local Commission may themselves or by their representative freely enter upon the premises in respect of which the order was made, for that purpose, and the cost of carrying out the order shall in such case be payable to the Local Commission by the person convicted under the provisions of this subsection, and shall be recoverable as a civil debt; or

(ii) make such other order (including any closing order) against such person as to the street or building or structure or the construction or alteration thereof or otherwise as to the Court seems just:

* 188, 196,
197, 198,
199, 200,
201, 202,
203, 204,
205, 206,
207a.

Provided that where the construction of any building or structure is being constructed otherwise than in conformity with a permit, and at the date of commencement of any proceedings under this section such building or structure has not been completed, or such building or structure was completed within a period of six months prior to the date of the commencement of proceedings under this section, the Court shall, unless the defendant shall show good cause* to the contrary, order the building or structure to be pulled down and removed or make such other order as aforesaid. For the purpose of this proviso a building or structure shall be deemed to be completed when a certificate of occupancy or of comple-

tion * in respect thereof has been obtained from the Local Commission. * 178, 223, 232, 243.

The Court may specify the time within which any order made hereunder shall be carried out.* * 193, 209.

(2) Any person who shall fail or neglect to comply with any order of the Court made under subsection (1) * hereof within the time specified in the order or if no time is specified within a reasonable time, and any person who shall fail or neglect to comply forthwith with any direction of the Court given under paragraph (b) of this subsection with regard to the carrying out of any such order, shall be guilty of an offence and shall, on conviction, be liable to a fine not exceeding two hundred pounds or to imprisonment for a term not exceeding three months or both such penalties, and to an additional fine not exceeding five pounds for every day during which such failure or neglect is continued after the expiry of such specified or reasonable time or, in the case of a person who has failed or neglected to comply with a direction of the Court under paragraph (b) of this subsection after the giving of such direction, and the Court, upon such conviction, shall— * 210, 211, 240, 242.

(a) upon application by the Local Commission or by the Attorney General or his representative, direct that such order shall be carried out by the Local Commission, or

(b) in the absence of any such application, direct that such order shall be carried out by the person so convicted, and such order shall thereupon be carried out in accordance with the direction of the Court, and in the case of the Local Commission being directed to carry out the order the Local Commission may themselves or by their representative freely enter upon the premises in respect of which the order was made, for that purpose, and the cost of carrying out the order shall in such case be payable to the Local Commission by the person convicted under the provisions of this subsection, and shall be recoverable as a civil debt.

(3) Any person who gives to a Local or District Commission or Municipal Council, or to any official thereof, false or misleading information for the purpose of obtaining the approval of any town planning scheme or part thereof, or of obtaining any building permit, or for any similar purpose, shall be guilty of an offence and shall be liable, on conviction, to imprison-

ment not exceeding six months or to a fine not exceeding one hundred pounds or to both such penalties, and any such approval or building permit obtained by means of such false or misleading information shall, upon the conviction of such person as aforesaid, be deemed to be void and of no effect, and the work or use for which the permit was obtained shall be deemed to have been carried out without a permit.

No. 45 of
1939.
Cap. 37.
* 212.

(4) Notwithstanding anything contained in the Magistrates' Courts Jurisdiction Ordinance, 1939, or the Municipal Courts Ordinance, Magistrates' Courts and Municipal Courts shall * respectively exercise jurisdiction in cases under this Ordinance, and such Courts shall have all the powers set out in this section, save in the case of an appeal as provided for in subsection (8) hereof:

Provided that such Courts shall not inflict any fine exceeding the amount which such Courts are respectively authorised to inflict under the Magistrates' Courts Jurisdiction Ordinance, 1939, or the Municipal Courts Ordinance or under any Ordinance substituted for or amending those Ordinances.

(5) If the Court before which any person is brought under the provisions of this Ordinance finds such person guilty, the Court shall in addition to any penalty imposed and to the costs of the proceedings order such person to pay double the amount of any fees or dues connected with the charge which such person ought to have paid and which he failed or refused or neglected to pay, or, if the work in respect of which the charge was brought was work for which a permit should have been obtained by him, double the amount of any fees or dues which would have been payable by him if such permit had been granted.

All such fees and dues ordered by the Court to be paid shall be recoverable in the same way as fines and penalties are recovered under any law in force for the time being for the recovery of fines and penalties.

(6) All fines, fees, dues and penalties recovered under this section or under section 36 upon the order or judgment of a District Court or Magistrate's Court or Municipal Court in respect of offences committed within a town planning area shall be paid to the Local Commission.

(7) Notwithstanding anything in this or any other Ordinance or law contained, where an offence has been committed under

this section in respect of any building or structure upon a conviction for which the Court has power to order that the building or structure shall be pulled down or removed or otherwise dealt with, and the Court is satisfied that the offender cannot be located, or that it is impossible or impracticable to serve him with a summons * requiring him to pull down or remove or otherwise deal with the building or structure, or that the offender has divested himself of the ownership of the building or structure since the commission of the offence, or that it cannot be proved who was the offender, then the Court may forthwith and without serving a summons upon any person order that the building or structure be pulled down or removed or otherwise dealt, with, or make such other order as to the Court seems just, and upon application by the Local Commission or by the Attorney General or his representative such order may thereupon be carried out by the Local Commission, who, in the case of a demolition, may recover the costs and incidental expenses of carrying out the order by sale of the materials of the building or structure demolished. * 222.

(8) Any party to the proceedings or the owner of any property to which they relate if aggrieved by any order under this section of a Magistrate's Court or Municipal Court or (if the case was remitted under section 6 of the Magistrates' Courts Jurisdiction Ordinance, 1939) of a District Court, or by any refusal or failure to make such order, may appeal against such order,* or against such refusal or failure, as the case may be, to the District Court or (where the District Court made or refused or failed to make the order) to the Supreme Court, who may allow or reject the appeal, or may return the case to the Court from which the appeal was made, or may make any order that such Court could have made under the provisions of this section. * 122, 213, 214, 215, 216, 217, 218, 219, 220, 221, 222.

For the purposes of this section the District Court or Supreme Court shall be constituted as for the hearing of criminal appeals, and the period for lodging the appeal shall be as laid down in the case of criminal appeals.

(9). (35(1) Draft Ordinance). For the purpose of subsection (1) of this section the person carrying out any work or non conforming use means * the person who holds or ought to be holding a building or other permit under this Ordinance in respect of such work or non-conforming use, and includes also the registered or * 207, 208.

reputed owner * of the land or building (or in the case of co-owners any one of such co-owners), the architect, builder and general contractor, and all persons and their agents actually carrying out or originally responsible for the carrying out of the building or work or use for which a permit was issued or required, but not any workman in the employ of such person or persons, and where after a written request by the Local Commission or by the Attorney General or his representative the present owner or occupier of such land or building fails to furnish such commission with the name and address of the person carrying out the work or non-conforming use, it includes such present owner or occupier.

Power of
Court to
make
interim
order.

36.—(1) (*36 Draft Ordinance*). Where any work or non-conforming use for which a permit is required under this Ordinance is being carried out or continued without such permit having been obtained, or otherwise than in accordance with such permit, or otherwise than in accordance with the relevant town planning scheme or with any relevant town planning by-laws or rules, and proceedings have been instituted under section 35, application may be made to the Court for an order directing the person against whom such proceedings have been instituted to cease carrying out or continuing such work or non-conforming use, and the Court, if satisfied that the work or non-conforming use is being or has been so carried out or continued, shall make such an order accordingly. Such order shall remain in force until the hearing of the proceedings or until varied or revoked by the Court.

(2) Where any work for which a permit is required under this Ordinance is being carried out without such permit having been obtained, or otherwise than in accordance with such permit, or otherwise than in accordance with the relevant town planning scheme or with any relevant town planning by-laws or rules, and no proceedings have been instituted under section 35, application may be made to the Court forthwith for an order directing that pending the institution of such proceedings such work shall cease, and the Court, if satisfied that the work is being or has been so carried out, shall make such an order accordingly. Such order shall be posted on or in the immediate vicinity of the building or structure or operations to which it relates, and any person failing to comply therewith shall be guilty of an offence as provided in subsection (3) hereof. The order shall remain in force until

varied or revoked * by the Court or by the District Court as herein- * 223:
 after provided. Any person aggrieved by such order may appeal
 to the District Court and the provisions of sub-section (8) of
 section 35 shall apply to the hearing of such appeal, but the opera-
 tion of the order shall not be stayed pending the decision of the
 District Court upon such appeal.

(3) Any person failing or neglecting to comply with any order
 made under the provisions of subsection (1) or (2) hereof, shall be
 guilty of an offence and may be arrested by the police without
 warrant, and shall, on conviction, be liable to a penalty not ex-
 ceeding ten pounds for every day during which such failure or
 neglect is continued after the making of such order.

39.—(1). (39.—(1) *Draft Ordinance*). A Local Commis-
 sion may institute proceedings in accordance with . .
 S. 131 of the Municipal Corporations Ordinance, 1934.* * 120, 122,
 224.

(40. *Draft Ordinance*)

- (b) the attachment of special conditions to any permit;* * 225.
- (c) the work for which permits are required* * 226.
- (e) the construction of roads;* * 227.
- (f) the external appearance* * 228.
- (y) the recovery of cost of any work* * 227.

FIRST SCHEDULE. (*Rules*) (*Draft Ordinance*).

128. Work or use for which a permit is required is as * 226.
 follows:*

129.—(1) Application shall be signed by the * 236.
 owner*

131. The Local Commission shall attach special condi- * 225.
 tions*

144. No person shall occupy or use any building unless * 178, 223,
 and until a certificate of completion* 232, 243.

TRADE AND INDUSTRIES (REGULATION) ORDINANCE.

CHAPTER 143, LAWS OF PALESTINE 1933.

AN ORDINANCE TO PROVIDE FOR THE REGULATION
OF TRADES AND INDUSTRIES IN THE INTEREST OF PUBLIC
HEALTH, PUBLIC ORDER, *Public Safety and Town Planning*.

(29th December, 1927).

7/39.
P.G. 862 of
2.2.1939.

Short title.

1. This Ordinance may be cited as the Trades and Industries (Regulation) Ordinance.

Interpreta-
tion.

* 244, 245,
246, 247,
248, 249.

No. 29 of
1933.

2. In this Ordinance, unless the context otherwise requires—
✓ “classified trade”* means any trade or business specified in the Schedule to this Ordinance or which may be added to the Schedule by order under section 8;

“hawker” includes—

(a) Any person who, in any street or public place otherwise than in permanent premises, sells, or exposes for sale, any goods, wares or merchandise, or sells, or offers for sale, his skill in handicraft, and

(b) any person who goes from place to place, or to other persons' houses, carrying to sell, or exposing for sale, any goods, wares or merchandise, or selling, or offering for sale, his skill in handicraft;

“municipal area” includes the area of a local council;

“municipal council”* includes a local council constituted under the Local Councils Ordinance.

Cap. 84.
* 253, 254,
259.

Applica-
tion of
Ordinance
* 251.

28/45.

✓ 3. This Ordinance shall apply—

(a) in every municipal area in respect of every³ classified trade: *

Provided that the District Commissioner of the District in which any municipal area is situated may, by order, declare that in such municipal area the Ordinance shall not apply in respect of any classified trade specified in such order;

(b) in any area, other than a municipal area, to which it may, by order, be applied by the District Commissioner of the District within which such area is situated in respect of such clas-

sified trades as such District Commissioner may by such order declare that it shall apply.*

4.—(1) Save as aforesaid, no person shall carry on any classified trade in any area to which this Ordinance applies unless he is the holder of a licence granted under this Ordinance.*

* 250.
Licence required to carry on classified trade.
* 255, 256.

(2) A licence shall be issued—

(a) where the classified trade is carried on within the municipal area, by the municipal council;*

* 252, 253, 254, 259, 260, 262, 266.

(b) where the classified trade is carried on elsewhere, by the district commissioner within whose District the trade is being carried on.

(3) Where any person is the holder of a valid licence granted under the Sale of Intoxicating Liquor Ordinance, 1935, or under the Public Entertainments Ordinance, 1935, it shall not be necessary for such person to obtain a licence under this Ordinance for the premises in respect of which such licence was granted under the Sale of Intoxicating Liquor Ordinance, 1935,* or the Public Entertainments Ordinance, 1935, but the provisions of this Ordinance shall apply to such person and to such premises as though a licence had been granted under this Ordinance.

1/37.
* 265.

5.—(1) A licence shall be in such form and subject to such conditions as may be prescribed.

Forms and conditions of licence.

(2) A licence shall be valid for one year from the date of issue.*

* 256, 257.

(3) A licence shall not be transferable, and a fresh licence shall be required if the licensee transfers his trade from one place to another, or if the conditions of the premises in which the trade is being carried on are changed.*

* 258.

(4) A licence shall be exhibited in a conspicuous place on the premises specified therein.

(5) Fees shall be paid in respect of each licence at the rates prescribed in the Schedule to this Ordinance.

(6) Fees levied in a municipal area shall be paid to the municipal council; fees levied in any other area shall be paid to the Treasury unless the High Commissioner, by order, allocates such fees to a local authority.

7/39.

Licence to be approved by certain authorities.

* 256.

Refusal of licences and attachment of special conditions thereto.

* 251, 256, 260, 261, 262, 264, 265.

7/39.

6. Subject to the provisions of section 7(2), no licence shall be granted except with the approval of the Director of Medical Services or an officer authorised in writing by him and, in the case of licences to carry on a classified trade included in Class II of the Schedule to this Ordinance, with the approval also of the Inspector General of Police and Prisons * or an officer authorised by him.

7.—(1) The Director of Medical Services, or any officer authorised in writing by him, and the Inspector-General of Police and Prisons * or any officer authorised in writing by him, may refuse to approve any licence to carry on a classified trade under section 6 or may attach to any licence special conditions under which a classified trade shall be conducted, in the interests of public health, public order or public safety, or for the purpose of ensuring due compliance with any town planning provisions relevant to the conduct of such classified trade.

(2) Applications for licences to carry on a classified trade included in Class II of the Schedule to this Ordinance shall be referred for approval to the Inspector-General of Police and Prisons or an officer authorised by him whether or not they have been refused by the Director of Medical Services or an officer authorised in writing by him, and in the event of any difference of opinion between the Director or Medical Services and the Inspector-General of Police and Prisons* or the officers respectively authorised by them as aforesaid, as to whether any licence should be approved or as to what conditions should be attached to the grant thereof, the matter shall be referred to the High Commissioner, whose decision shall be final.

* 263.

Amendment of the Schedule. 18/41.

8. The High Commissioner in Council may, by order, make additions to or alterations of, the list of classified trades in the Schedule to this Ordinance and of the fees payable for a licence in respect of any such trade, and may in like manner exempt any person or class of persons from the payment of all or any such fees.

Right of entry. 28/45.

9.—(1) The following persons shall have power to enter at all times upon premises licensed in respect of a classified trade for the purpose of ascertaining whether any breach of this Ordinance has been committed—

(a) the district commissioner or the head of a government department or an officer authorised in writing by either of them;

(b) any district officer in charge of a Sub-District in respect of premises in the Sub-District;

(c) any medical officer of the Department of Health or any inspector of the Department of Health;

(d) any inspector of a municipality authorised in writing by the municipal council in respect of premises in the municipal area;

(e) any superior police officer and any police officer authorised in writing by him;

(f) any veterinary officer of the Department of Agriculture or a municipal council, in respect of premises specified in Class III of the Schedule to this Ordinance.

(2) A written authority to enter under this section shall specify the premises or class of premises upon which entry may be made.

(3) *Where any person having power under subsection (1) to enter upon premises licensed in respect of a classified trade has, with respect to any premises situated in any area to which this Ordinance applies, reasonable cause to believe that a classified trade to which this Ordinance applies in that area is carried on upon those premises otherwise than under the authority of a valid licence granted under this Ordinance, such person shall have power at any time to enter upon those premises for the purpose of ascertaining whether such classified trade is so carried on upon those premises:* 28/45.

Provided that the power to enter under this subsection shall not be exercised in respect of a dwelling house unless a warrant for that purpose shall first have been obtained from a magisarat.

10.—(1) Any person shall be guilty of an offence who— Offences.

(a) carries on a classified trade in any area, being a classified trade to which this Ordinance applies in that area,* otherwise than under the authority of a valid licence granted under this Ordinance; 28/45. * 245, 267.

(b) being the holder of a valid licence granted under this Ordinance in respect of a classified trade carried on by him in any area, being a classified trade to which this Ordinance applies in that area, contravenes, or causes or permits any other person to contravene, any of the conditions of the licence or any provisions of any rules made under section 13, or

(c) not being the holder of a licence as aforesaid, contravenes any rules made under section 13, or

(d) refuses or neglects to produce his licence on demand made by any person having power under section 9 to enter upon premises licensed in respect of a classified trade, or obstructs any such person.

(2) Notwithstanding any provisions of law to the contrary, all such offences shall be deemed for all purposes to be misdemeanours.*

* 268, 269.

Provisional
closing
order by
District
Commis-
sioner.
* 270.
28/45.

11.—(1) Where a charge has been brought under paragraph (a) or (b) of subsection (1) of section 10, the District Commissioner of the District in which the premises are situated may make a provisional closing order* in respect of all or any of the premises in which the classified trade is carried on by the person against whom the charge has been brought.

(2) A provisional closing order may at any time be revoked by order of the District Commissioner and shall cease to have effect—

(a) in the event of the charge being withdrawn; or

(b) upon a judgment being given by the court on the charge.

(3) A provisional closing order may authorise the police to enter upon the premises to which it refers and remove or seal up any goods found thereon and take such other steps as may be necessary to secure obedience to the order.

Penalties
for offences
against
section 10.
28/45.

12.—(1) Any person convicted of an offence against paragraph (a) of subsection (1) of section 10, or of an offence against paragraph (b) of subsection (1) of section 10 which is a continuing offence, shall subject to the provisions of subsection (2), be liable to a fine of two hundred and fifty pounds or to imprisonment for six months or to both such penalties, and to a further fine of ten pounds or to further imprisonment for seven days or to both such further penalties for each day during which the offence is continued.

(2) The High Commissioner in Council may by order direct that, in relation to any specified class or description of classified trade, higher or lower maximum penalties shall be substituted for all or any of the penalties set out in subsection (1) and thereupon this section shall have effect accordingly.

(3) Any person convicted of an offence against paragraph (b) of subsection (1) of section 10 which is not a continuing offence, or of an offence against paragraph (c) or (d) of that subsection, shall be liable to a fine of fifty pounds or to imprisonment for three months or to both such penalties.

(4) The court before which any person is convicted on any charge brought, in relation to any classified trade carried on by him, for an offence against paragraph (a) or (b) of subsection (1) of section 10 may, in addition to imposing a penalty in respect of such offence, make a closing order* in respect of all or any of the premises in which that classified trade is carried on by that person.

* 270, 271,
272, 273.

(5) A closing order may authorise the police to enter upon the premises to which it refers and remove or seal up any goods found thereon and take such other steps as may be necessary to secure obedience to the order.

12A.—(1) Any person who carries on a classified trade in any premises in respect of which a provisional closing order or a closing order is in force in relation to that classified trade shall be guilty of an offence* and shall, subject to the provisions of subsection (2) be liable to a fine of two hundred and fifty pounds or to imprisonment for six months or to both such penalties, and to a further fine of ten pounds or to further imprisonment for seven days or to both such further penalties for each day during which the offence is continued.

Penalty for carrying on classified trade in contravention of provisional closing order or closing order.

* 270, 271.
28/45.

(2) The High Commissioner in Council may by order direct that, in relation to any specified class or description of classified trade, higher or lower maximum penalties shall be substituted for all or any of the penalties set out in subsection (1) and thereupon this section shall have effect accordingly.

12B.— For the purpose of subsection (1) of section 12 and subsection (1) of section 12A—

Provisions regarding continuing offence.
28/45.

(a) it is hereby declared for the avoidance of doubt that the recommencement of an offence after an interval constitutes a fresh offence;

(b) a prosecution may be instituted, and the person accused may be convicted and sentenced, from time to time in relation to any portion of the period during which the offence continues to

be committed, not being a portion of such period in relation to which the person accused has been previously convicted and sentenced for the offence.

Rules No. 30
of 1934.

13.—(1) The High Commissioner in Council may make rules prescribing the conditions under which a classified trade shall be conducted and such rules may prescribe—

(a) the structural requirements of premises used for carrying on a classified trade, and the provision of appliances therein for securing the safety of the employees and of the public;

(b) the precautions to be taken in keeping and storing inflammable, explosive or other dangerous material;

(c) the sanitary conditions under which any classified trade may be conducted.

Ordinance
not to affect
liability to
taxes under
certain
laws.

14.— The provisions of this Ordinance shall not affect the liability of any person to pay any tax or fee leviable under the provisions of the Ottoman Municipal Tax Law dated 14 Rabi Thani, 1333, and any Ordinance or law concerning stamp duty.

SCHEDULE.

CLASS I.

TRADES AND INDUSTRIES AFFECTING PUBLIC HEALTH.

Trades and industries concerned with foodstuffs.

	<i>Fee payable for licence Mils.</i>
A. Bakeries, public ovens and establishments for the sale of bread and cakes, pastries and biscuits	500
Butchers shops, tripe shops, and establishments for the preparation or sale of sausages and prepared or dressed meats	500
Cold storage establishments	500
Confectionery, sweetmeats, jam and preserved fruit establishments	500
Establishments for the manufacture and sale of non-alcoholic beverages	500
Fish frying shops	500

2/41,
p. 978.

	<i>Fee payable for licence Mils.</i>
Fish shops	500
Flour or grain mills	500
Grain, cereal, or animal fodder stores	500 ^{2/44,} p. 677.
Groceries and food stores and establishments for the storage and sale of vegetables and fruits	500
Ice cream manufactories, shops and stores	500
Macaroni factories	500
Manufactories of water ice (barrad)	500
Milk, butter, cheese and dairy produce shops	500
Oil mills and oil stores, other than mineral oil stores	500
Pickle manufactories	500
Poultry shops	500
Preserved fish depots	500
Public kitchens	500
Transport of meat, fish, ice and milk	500
Aerated water factories	1,000
Factories for the manufacture or preparation of edible oils and fats	1,000
Enterprises for the supply of water by pipe to the public for domestic or industrial purposes	1,000
Factories for the canning, curing or preserving of meat or fish	1,000
Factories for the preparation or manufacture of patent flours, baking powders, patent cereal food preparations and invalid and infant foods	1,000
Factories for the preparation of dried or condensed milk	1,000
Ice factories and ice stores	1,000
Sugar refineries and factories and molasses fac- tories	1,000
Public markets (excluding horse and cattle mar- kets)	2,000
Factories for the canning or preserving of vegetables and fruits	1,000
Manufacture or bottling of imitation or artificial vinegar	500

Fee payable
for licence
Mils.

All shops or establishments, not otherwise enumerated in the Schedule to the Ordinance, for the manufacture, sale, storage and packing and preparation of foodstuffs	500
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TRADES AND INDUSTRIES IN WHICH PUBLIC HEALTH IS CONCERNED.

B. Barbers and hairdressers	500
Dyeworks, laundries and dry cleaning establishments, and establishments and depots for receiving clothing or other materials for dyeing, laundry or dry cleaning purposes	500
Factories for the heating, cording, pressing, weaving, spinning or otherwise preparing wool, hair, jute, cotton, <i>feathers</i> or silk for trade purposes	500
Pharmacies and drug stores	500
Public pathological and bacteriological laboratories	500
Rag and second-hand clothing establishments	500
Starch Factories	500
Cement factories	1,000
Factories for the preparation or manufacture of toilet requisites	1,000
Manufacturing chemists and druggists and manufacturing of medical products	1,000
Perfumery and scent manufactories	1,000
Stone crushing by machinery *	500
Waste paper, <i>sacking, cotton, wool</i> , and rag depots	500

2/44,
p. 677.

* 248, 249.
2/44
p. 677.

UNHEALTHY TRADES AND INDUSTRIES.

C. Alkali works	500
Blood boiling establishments	500
Bone boilers	500
Bone burners	500
Crematoria	500
Fellmongers	500
Gut scrapers	500

	<i>Fee payable for licence Mils.</i>	
Knackers	500	
Lime kilns	500	
Manure depots, including depots for refuse and artificial manure depots and factories	500	
Potteries, brickworks and establishments for the manufacture of tiles, mosaics, or terrazo works	500	
Tallows makers	500	
Tanneries	500	
Tripe boilers	500	
Candle factories	1,000	
Glue factories	1,000	
Mirror factories	1,000	
Paint, varnish and lacquer factories	1,000	
Paper factories	1,000	
Soap factories using animal or vegetable oils and facts	1,000	
Tobacco,* tobac, cigarettes or snuff factories and stores	2,000	* 245, 246, 247.

CLASS II.

TRADES AND INDUSTRIES AFFECTING PUBLIC SECURITY AND PUBLIC ORDER.

Public establishments and industries concerned with intoxicating liquors.

A.	Premises licensed under the Sale of Intoxicating Liquors Ordinance, 1935	No fee
	Places of public entertainment licensed under the Public Entertainments Ordinance, 1935	No fee 500
	Alcohol depots	500
	Cafés, restaurants, buffets and tea rooms not licensed under the Sale of Intoxicating Liquors Ordinance, 1935, or the Public Entertainments Ordinance, 1935	500
	Hotels, lodging houses, and boarding houses not licensed under the Sale of Intoxicating Liquors Ordinance, 1935	500

		<i>Fee payable for licence Mils.</i>
2/46, p. 963.	Public baths, bathing places, wash houses <i>and swimming pools</i>	500
	Breweries, wine presses and factories of alcohol, vinegar or any fermented or spirituous liquor	No fee
	Establishments where second-hand jewellery or second hand household or personal effects are purchased or sold	500
2/44, p. 677.	Money-lending establishments, <i>other than banks</i> ,* where jewellery and/or other articles of value are taken and held as security for loans	500
	Establishments for the sale or repair of bicycles	500
	<u>Dangerous trades and industries.</u>	
	B. Establishments for the retail sale of petroleum, paraffin and mineral oils	500
* 244.	Garages* for motor vehicles	500
	Asphalt and bitumen factories	1,000
	Factories of explosives or of articles containing explosives	1,000
2/41, p. 1804.	<i>Factories of potassium nitrate or potassium chlorate</i>	1,000
	Match factories and store houses for matches	1,000
	Premises on which materials containing poisons are made or sold for agricultural purposes	1,000
	Shops for the sale of explosives	1,000
	Stores for explosives, other than ammunition	1,000
	Factories for the manufacture of mineral acids and other chemical products and stores for such products	2,000
	Petroleum, paraffin and mineral oil stores	2,000
	Premises for the repair or sale of firearms or ammunition	} The fees payable under the Fire- arms Ordinance
	Ware-houses for firearms and ammunition	
2/47, p. 594. * 248.	Timber stores (not being customs warehouses)	2,000
	<i>Carpentry * workshops and sawmills and estab-</i>	

* this item shall be deemed always to have read as amended. (2/44, p.677.)

Fee payable
for licence
Mils.

lishments for the retail sale of timber including
furniture

500 2/41,
p. 1378.
2/46, p. 627.

Hawkers.

C. Hawkers . 50

CLASS III.

ESTABLISHMENTS REQUIRING VETERINARY SUPERVISION.

Cattle sheds for other than dairy purposes	50	
Cattle sheds for dairy purposes	250	
Cattle and horse markets	500	
Dairies in which milk and cream are prepared for distribution or butter or cheese is manufactured	500	
Pigsties and piggeries	500	
Public stables and khans, and all stables, premises or yards in which animals or birds are kept for commercial or industrial purposes	500	2/44, p. 677.
Slaughter houses	500	
Establishments for the slaughter of poultry	500	
Establishments for the preparation, packing or storage of butter or other dairy products	500	

TRADES AND INDUSTRIES (REGULATION) RULES.

Rules dated
24.8.1928
20.11.1929.

(CAP. 143, SECTION 13).

(1st September, 1928).

1. These rules may be cited as the Trades and Industries (Regulation) Rules. Short title.

2. In the rules—

Interpreta-
tion.

“Department of Health” includes the district offices of the
Department of Health;

“Ordinance” means the Trades and Industries (Regulation) Ordinance. Cap. 143.

Procedure governing application for, and issue or renewal of, licences.

3.—(1) The application for a licence in respect of a classified trade shall be accompanied by plans of the premises in which it is proposed to carry on the trade and shall be submitted to the Department of Health before any structural work is begun on the premises.

(2) The premises shall be inspected by a representative of the Department of Health who shall indicate in writing to the applicant the general and special conditions applicable: in the case of a classified trade which falls under Class II of the Schedule to the Ordinance, a representative of the Inspector General of Police and Prisons shall also inspect the premises.

(3) A definite period may be specified within which the conditions shall be completed.

(4) On receipt of notice from the applicant that the conditions have been completed or on expiry of the period prescribed for that purpose, the premises shall again be inspected; if the inspector of the Department of Health and, in the case of a classified trade which falls under Class II of the Schedule to the Ordinance, the representative of the Inspector-General of Police and Prisons are satisfied that the premises conform with requirements, the licence shall be signed by the *Director, Department of Health, or officer authorised by him* and, where necessary, by the representative of the Inspector General of Police and Prisons and shall then be signed by the mayor or his authorised representative if the premises are within a municipal area, or by the district commissioner or his authorised representative if the premises are outside a municipal area.

(5) At least one month before the licence expires the licensee shall apply for the renewal of the licence: fresh conditions additional to those already applied may be required before a licence is renewed: the applicant shall be informed in writing of any such further conditions and shall be allowed a reasonable period to complete them.

(6) If a licensee desires to enlarge or otherwise alter his premises during the period of the licence, he shall notify his intention to the district health office and submit plans for the enlargement or reconstruction of the premises, and the district health office shall inform him what conditions are necessary in respect of

the alterations; such conditions shall be endorsed on a fresh licence which will be issued to him.

4.—(1) A licence, other than a hawker's or transporter's licence, shall be in Form I in the Schedule to these rules.

P.G. 413 of
11.1.34.

Form of
licence.

Rule dated
20.11.1929.

(2) The licence for the following classified trades —

(a) hawkers or itinerant vendors of milk, fresh vegetables, confectionery, fruit, meat or other articles for human consumption;

(b) transport of meat, fish, ice and milk, shall be in Form III in the Schedule to these rules.

5.—(1) The building shall be constructed of masonry, burnt brick or concrete and shall be of an internal height not less than 2.75 metres,

Buildings.

(2) Every room shall be provided with adequate windows or sky lights for ventilation and light: in each room the area of window space opening directly to the open air shall be equal to at least one eighth part of the floor space.

(3) If the Department of Health so requires, —

(a) windows shall be covered with fine mesh wire gauze in such a manner as to exclude flies;

(b) perforated air bricks or other suitable ventilation openings shall be built into the external walls immediately below the level of the ceiling.

(4) All inside walls and ceilings shall present a clean smooth surface: the Department of Health may require all or any walls to be tiled or rendered in cement for a height of two metres from the floor level.

(5) All walls and ceilings shall be either oilpainted or lime-washed: limewashing shall be renewed twice annually and at other times when found necessary by the Department of Health; all woodwork shall be painted with three coats of good oil paint and the paint renewed when necessary; paintwork shall be washed with hot water and soap at least once in every six months and at other times when required by the Department of Health.

(6) The floors of all rooms shall be rendered impervious by tiles, stone slabs or cement properly laid and shall be at least

fifteen centimetres above the level of the adjoining street: the Department of Health may sanction a floor below street level where necessary for the specific purpose of the trade if effective drainage can be arranged: in no case shall a floor be sanctioned more than two metres below the ground level, and the height of the ceiling of any room where the floor is below ground level shall not be less than 1.50 metres above the adjoining street level: wooden floors may be sanctioned in special cases, where the Department is satisfied that the floors will not become insanitary.

(7) The minimum amount of air space to be provided for each person in any clasified trade may be specified in special conditions applying to the tradè.

(8) There shall be provided on the premises such appliances or installations as may be prescribed by the Department of Police and Prisons for securing the safety of the employees and the public.

Drainage
and sanitary
fittings.

6.—(1) All sanitary fittings and installations, water closets, sinks and drains shall be in accordance with conditions to be specified by the Department of Health in each case.

(2) No cesspit, or septic tank, and no direct inlet to a cesspit, septic tank or drain, except a connection from a properly trapped water closet apparatus shall be allowed under or in any building or roofed court yard or in such proximity to a water cistern as to be likely to cause pollution of the water therein: a cesspit shall be at least two metres distant from the external wall of the premises and shall be ventilated by a four inch cast iron pipe carried up at least one metre above the adjoining roofs and shall be so situated that it may be emptied without transporting the contents through any room forming part of the premises: when a public drainage system is available, the drains of the establishment shall be properly connected thereto and every cesspit adjacent to the premises shall be cleaned out and filled in.

Water
supply.

7. The water supply of the premises and the connection thereto shall be subject to the approval of the Department of Health.

Cleanliness.

8. All parts of the premises and the utensils used therein shall be kept clean and in good repair and free from effluvia arising from the drain, privy, water closets, urinal or other nuisance.

9. Except in case of hotels and boarding houses, no part of the premises shall be used for residential purposes: there shall be no direct communication between the premises used for the trade and any habitation or sleeping room.

No communication with Habitation.

10. No inflammable explosive or other dangerous material shall be manufactured or stored on any premises unless the premises conform to the special conditions prescribed by the Department of Police and Prisons for the trades under Class II B of the Schedule to the Ordinance.

Storage of explosives.

11. Refuse shall be removed daily or more frequently if required by the Department of Health: refuse from certain trades may, with a written authority from the Department, be kept for a longer period, if a nuisance is not caused thereby: adequate receptacles for refuse of an approved pattern shall be provided.

Removal of refuse.

12. Save in the case of trades providing exclusively for animals, no animal or bird shall be kept on the premises.

Animals.

13. Immediate notice shall be given to the Department of Health by the proprietor or manager of every case of infectious disease on the premises or amongst the employees.

Infectious Diseases.

14.—(1) If a chimney is required for the carrying on of the trade, it shall be prolonged at least two metres above both the roof of the premises and the neighbouring buildings and shall not be allowed to emit noxious vapours or fumes or to send forth smoke in such quantity as to be a nuisance.

(2) Every fireplace or furnace shall be so constructed as to consume as far as possible the smoke arising from the fuel used therein.

15. *Every room of any premises in which a classified trade is carried on shall be kept ventilated by the occupier thereof in such a manner as, in the opinion of the Director of Medical Services, or of any officer authorised in writing by him, to render harmless to the inhabitants, occupants or users thereof any gases, vapours, dust or other impurities generated therein.*

THE SCHEDULE.

FORM I.

RULE 4(1).

TRADES & INDUSTRIES (REGULATION) ORDINANCE.

No.
LICENCE.

Counterfoil.

District }
Municipal or } of
Local Council }
Name of licensee
Nature of trade or industry
Class in Schedule
Address of establishment
Date of issue of licence
Date of expiry of licence
Licence fee
Receipt No. dated

THIS LICENCE —

- (1) is valid for one calendar year from date of issue;
- (2) is not transferable and is liable to cancellation if the conditions under which the trade is carried on are changed.
- (3) shall be exhibited in a conspicuous place on the premises.

CERTIFIED that the rules and special conditions applicable to the trade or industry specified above have been complied with.

TRADES & INDUSTRIES (REGULATION) ORDINANCE.

No.
LICENCE.

Counterfoil.

District }
Municipal or } of
Local Council }
Name of licensee
Nature of trade or industry
Class in Schedule
Address of establishment
Date of issue of licence
Date of expiry of licence
Licence fee
Receipt No. dated

THIS LICENCE —

- (1) is valid for one calendar year from date of issue;
- (2) is not transferable and is liable to cancellation if the conditions under which the trade is carried on are changed.
- (3) shall be exhibited in a conspicuous place on the premises.

CERTIFIED that the rules and special conditions applicable to the trade or industry specified above have been complied with.

DEPARTMENT OF HEALTH.

Trades and Industries under Class I, II and III of the Schedule to the Ordinance.

(Date)

P.G.610 Director, Medical Services or officer authorised by him.

DEPARTMENT OF HEALTH.

Trades and Industries under Class I, II and III of the Schedule to the Ordinance

(Signed)

DEPARTMENT OF POLICE AND PRISONS

Trades and Industries under Class II of the Schedule to the Ordinance.

(Signed)

DEPARTMENT OF POLICE AND PRISONS

Trade and Industries under Class II of the Schedule to the Ordinance.

(Date)

Inspector-General of Police and Prisons or officer authorised by him.

Signature of { District Municipal or Local Council } Issuing Authority.

Office Stamp of Issuing Authority and Date.

Director of Medical Services or Officer authorised by him.

(Date)

Inspector General of Police and Prisons or Officer authorised by him

(Date)

Signature of { District Municipal or Local Council } Issuing Authority.

Office Stamp of Issuing Authority and Date.

(The reverse of the licence shall contain a statement of the rules relevant to the trade).

FORM III.
Rule 4 (3).

Rules dated
20.11.29.

(Council
Area

(Council
Area

TRADES AND INDUSTRIES
(REGULATION)
ORDINANCE.

HAWKER'S OR TRANSPORTER'S
LICENCE
Counterfoil.

Book No.	Serial No.
Name	
Age	
Full address	
Date of issue	
Expires on	
Nature of trade	
Fee	
Fee paid	
Receipt No.	
Date of Receipt	
Issuing Authority	
Medical Officer.	

TRADES AND INDUSTRIES
(REGULATION)
ORDINANCE.

HAWKER'S OR TRANSPORTER'S
LICENCE
Photograph.

Book No.	Serial No.
Fee paid	Name
	Age
Receipt No.	Full address
	Date of issue
Date of Receipt	Expires on
	Nature or trade
Accountant.	Fee

Issue approved:

Director, Medical Services or
officer authorised by him.

Signature of Issuing
Authority and Stamp.

PART II.

DIGEST

1. MUNICIPAL CORPORATIONS ORDINANCE, 1934.

a. ON ELECTIONS.

1. — (*...last para of S. 1 of the Schedule to the Order of the High Commissioner of 11.10.28: "in case of joint occupiers, each of them shall be treated as occupying the premises."... Petitioner who sub-leased one unfurnished room in a flat leased by another, claimed joint occupancy*); "Such a relation did not constitute a joint occupancy." — (*Followed: Brewer v. Mc Gowen, 1869, 5 C.P., 239*)

HC 21/32, 1 PLR 683, Krubi v. Chairman, Electoral C-ee for Local Council T-Aviv.

2. — (*Para 2 (d) of Schedule iv to the M.C.O.*)

"(1) The fact that any particular rates are paid by a person upon whom some of them or all of them are not imposed by law does not disentitle such person from the right of vote.

(2) If payment is by a stranger who is not in occupation of premises, the position is different, as it would be against public policy."

CADCJa, 138/45, 1946 Selected 154, Tannireh v. Election C-ee of Majdal.

2a. — "A de facto payer of rates is entitled to vote, unless it is proved that

other persons are entitled to be credited with a share of said sums."

CADCJa 81/46, 1946 Selected 487, Ashur v. Election C-ee (Khan Yunis).

3. — (*S. 15 of the M.C.O., S. 39 of the Interpretation Ord.*).

"(1) An Electoral C-ee is not like committees of a Council of the Municipal Corporation concerned and the rules regulating proceedings of such latter committees are not applicable to Electoral C-ee.

(2) The M.C.O. is silent as to quorum of Electoral C-ee nor does it expressly provide that the C-ee cannot function unless all members attend; therefore S. 39 of the Interpretation Ord. 1945 applies - although M.C.O. was passed when this section was not in existence - and majority of members constitutes quorum.

(3) While mere inconvenience is not by itself sufficient reason for constructing an enactment so as to render its provisions more practical or satisfactory, the Court will reject an interpretation likely to create a position which is not logical and satisfactory.

(4) (Per Curry, J.): Hight Court has no power to give effect to an order to all members of a committee to attend the meetings and it would be an improper order for the High Court to make."

HC 43/46, 1946 ALR 640, El Farra v. Chairman and Electoral C-ee of Khan Yunis & ors.

4. — "Once placed upon the register of voters any person not suffering from legal incapacity is entitled to vote. The refusal by a returning officer at an election to accept the vote of any person of capacity upon the register is an infringement of a right of property, and renders the returning officer liable to an action for damages".

Ashby v. White, 1703, 2 Lord Raymond, 938.

5. — (*The Electoral Committee commenced to prepare the register of voters on 15.5.45 while the date which was approved by the District Commissioner was 31.5.45; art. 5(1) of the Local Councils (Ramat-Gan Order, 1943). Order nisi made absolute.*)

"(1) (a). Where the date prescribed by a Local Council for commencement of preparation or revision of register of voters requires approval by the District Commissioner, commencement of preparation prior to approved date renders the register invalid.

(b). Retrospective ratification by the Local Council of the date approved by the District Commissioner for commencement of preparation of register is,

where there is no statutory provision for ratification, of no avail.

(2) (Obiter): The register of voters should contain addresses or other particulars to enable persons named to be identified".

HC 53/45, 1945 ALR 724, Caspi v. Chairman of Electoral Committee Ramat-Gan & ors.

6. — "The application is on a matter of fact which it is possible might have been listened to by us if the Petitioner had taken the necessary steps within a reasonable time; he applied to the Electoral Committee on June 30th, the last possible day. They replied on the 3rd July and the Petitioner lodged his affidavit on July 15th and he asks for an injunction. A rule nisi without an injunction would be worthless to Petitioner. In view of the Petitioner's delay we decline to grant an injunction and for this reason we must dismiss the petition".

HC 57/32, 3 PLR 10.

7. — (*The Petitioner handed in through his clerk to an officer in the office of the District C-er an objection to the register of voters of councillors for the Municipal Corporation on the ground that this name had been omitted from the register*); "Since the objection was not submitted through the proper channel and so did not reach the Electoral C-ee the latter were not seized of it and in consequence could not be called upon to show cause why they should not consider it. The petition was therefore dismissed."

HC 77/34, 2 PLR 171, Seligman v. Chairman of the Electoral C-ee for Municipal Elections, Jerusalem.

8. — "(1) A person who was not a party at the time of considering claim or objection before the Electoral C-ee, has no right of appeal.

(2) A lacuna exists under the Ordinance whereby a person is unable to object to the insertion of a fresh name in the list of voters after the time for publication of the list has elapsed." (M.C.O. S. 15, 16(1).

CADCJa 99/46, 1946 Selected 411, Agha v. Shafi.

9. — "S. 15 of the M.C.O. does not give the right to a person to claim that he should be inserted in the list of voters as eligible as councillor." (see form in the sixth Schedule to the Ordinance).

CADCJa 139/45, 1946 Selected 156, Tannireh v. Election C-ee of Majdal.

10. — (*Return to order nisi to show cause why Respondent's decision to strike off the name of Applicant as candidate from the list of Communist party of Palestine should not be set aside; order nisi discharged*). "Before taking the matter to the High Court an objection should be lodged with the Electoral C-ee if there is no indication in the Statutory Register that a person is entitled to be elected as a councillor."

HC 18/46, 1946 ALR 86, Lubiez v. Chizik, Returning Officer, for Rishon Letzion elections.

11. — (*Appeal from a decision of the Electoral C-ee of Khan Yunis allowed; the decision was given by 3 out of 7 members of the C-ee as appointed by the Dist. C-er under S. 13 (2) of the M.C.O.; the C-ee was therefore not properly constituted and its proceedings were a nullity*): "(1) An Electoral C-ee is a quasi-judicial body and when adjudicating claims or objections it must sit as constituted by law.

(2) Whether the C-ee was properly constituted is a question of law."

CADCJa 53/46, 1946 Selected 339, El Agha v. Barbakh.

12. — "Proceedings by Electoral C-ee not properly constituted are a nullity".

CADCJa, 6,7,9,36,43/46, 1946 Selected 353, Marrouf & ors v. Electoral C-ee of Khan Yunis.

13. — (*The Respondent refused to accept a form nominating the Petitioner as a candidate for elections for one of the Divisions into which the Acre Municipal Area was divided, on the ground that, though six electors nominated him, less than six of the persons signing the nomination form were on the register of voters for the division for which the Petitioner was a candidate*). "In view of the provisions of the Ordinance, the Returning Officer was correct and electors could nominate only for the division for which they were entitled to vote since any other interpretation would involve consequences repugnant to the clear intention of the legislature to be collected from the rest of the Ordin-

ance." (S. 3(1), 14(3), of the 7th Schedule, *Queen v. Parkinson* 1867, 3 Q.B. 11, *Becke v. Smith* 1836, M & W 191);

HC 70/34, 2 PLR 165, *Cotran v Returning Officer, Municipal Area of Acre*.

14. — (*On an application to set aside the nomination of a candidate for a municipal election on the ground that some or all the nominators were not voters in the particular electoral division*); "An application based, as admitted by the Petitioner, on mere suspicion, unsupported by any evidence, must be dismissed." (*The application was based on: "very strong reasons to believe that the nomination form has been signed wholly or in part by townsmen who are not entitled to vote for the election of a Councillor in Division 8*).

HC 78/34, 2 PLR 172, *Perelman v. Chairman, Electoral C-ee Jerusalem Municipal Elections & ors.*

15. — "(1) S. 2(1) of the 8th Schedule, which provides that a candidate who is nominated must deposit with the returning officer, at the time of the nomination, the sum LP. 25, should be read with S. 1(1) which provides that a candidate is nominated when his name is written on the nomination paper and handed to the returning officer. The deposit must be made at the time of the nomination.

(2) The application was made too late, seven days after the nomination day was fixed; the grant of an order nisi

would result in the postponement of the elections."

HC 45/40, 1940 SCJ 213, *Levy v. Returning Officer, Petach-Tiqva Elections*.

16. — "The officer adjudicating the nomination paper may reject a paper as invalid without waiting for formal objection to be made to him. But he is prevented from rejecting a paper upon any ground except one apparent on the face of it. He may reject because the paper is not in the proper form, or because it is not properly filled up, or because the persons signing it are not local government electors for the area; but he cannot reject it on an extrinsic ground, such as that the person nominated is disqualified."

Pritchard v. Mayor of Bangor (1888) 13 App. Cas. 241; 33 Digest 65, 394. *Beattie* 110.

✓ 16a. — "There is no necessity to obtain the High Commissioner's consent prior to the filing of an election petition which cites the Returning Officer as a respondent.

(2) An election petition is not a claim against Government as Government is defined in the Interpretation Ordinance.

(3) An election petition is a proceeding before a special tribunal and not one that falls within the scope of the Civil Procedure Rules or any other rules of Court.

(4) There is no inherent power conferred on the President of the District

Court to relax or extend any time prescribed under the Municipal (Election Petitions) Rules, 1935.

(5) The Registrar of the District Court has no power to order security for costs. Such security must be ordered by the Court upon summons, and the hearing of the parties upon that summons.

(6) Even if the Registrar had such power, it must be exercised after summons taken out, and which must be taken out at the latest at the time of the filing of the petition under Rule 2(1) of the Municipal (Election Petitions) Rules, 1935.

(7) Rule 7 means that each citation of a Respondent numbering more than one in any one petition is deemed to be a separate petition in respect of each Respondent and, therefore, there must be a separate security in the minimum sum laid in Rule 2(1) in respect of each Respondent."

CCDCHa 196/46, 1946 Selected, 834, Salem & ors. v. Fahoum & ors.

16aa. — (*Electoral Committee appointed by District Commissioner — One of its members was not a rate-payer — Committee appointed a special Committee of four members for preliminary preparation and perusal of register of voters — Another person from outside (not a member appointed by the Dist. Cer) co-opted to act as secretary*).

"(1) Irregularities as those of a member not being a rate-payer and of co-opting an outsider would be enough to make the election void.

(2) The action of the special Committee was of no effect and the schedule which they prepared was an absolute nullity. Section 13 of M.C.O. does not give power to the Electoral C-ee to delegate the duty of preparing the register of voters to a small minority out of their number. It follows that all what followed from the formation of that special Committee was vitiated and the Nablus Election of 6.5.46 was void.

CCDC Nablus (Election Petition) 25/46, (N.R.). Masri v. District Officer as Returning Officer Nablus Elections & ors.

16b — "(1) The amount of security to be deposited in an election petition must be determined by the Court and not by the Registrar.

(2) The Court competent to hear the petition is the District Court constituted in a special manner."

CA 369/46, 1947 ALR 407, Salem & ors. v. Fahoum & ors. (Appeal from CC 196/46).

16c. — "(1) S. 35 of the M.C.O., 1934, is not concerned with appeals regarding the preparation of the voters' register.

(2) Once the voters' register has been prepared, objections and appeals to the District Court, if any, heard under S. 14-16 of the Ord., and the register signed, it becomes conclusive and anyone whose name appears on it and who votes is to be deemed a person voting lawfully.

(3) There is nothing to require pub-

lication in the Gazette of any notice concerning nominations of candidates."

Motion 197/46 & 198/46, Dst. CJlem, 1946 Selected 853, Jabir & ors. v. Harb & ors.

17. — "The disqualification produced by conviction for an offence within five years before election or since election is so expressed as to make conviction before election a disqualification for election only. The result is that where a convicted person in fact is elected, and his election is not challenged by the appropriate method within the time available for that purpose, he is not in any way disqualified for continuing to act as a member."

Bishop v. Deakin (1936) Ch. 409; (1936) 1 All E.R. 255; Beattie 106.

b. ON QUALIFICATION, RESIGNATION, QUORUM, MEETINGS AUDITING, FUNDS;

18. — (*disqualification for being elected if he has any share or interest in any contract with, by or on behalf of the council*).

—"Interest" means "pecuniary interest."

England v. Englis (1920) 2 K.B. 636.

19. — (*Petitioner sent a letter of resignation to the Respondent and soon afterwards sent another letter withdrawing his resignation*). "Since the Mayor read first the letter from Petitioner withdrawing his resignation, no proper notice in writing to resign was given by the resig-

nation to the Mayor in conformity with the provisions of S. 46 of M.C.O., 1934."

HC 32/35, 2 PLR 272, Dajani v. Hussein (Mayor of Jlem).

20. — (*Interlocutory judgment—Allegation that no quorum was present as 3 councillors were disqualified having been absent more than 3 months — S. 47 of the M.C.O. — Resolution not signed by all the members — Reg. 12 of the 9th Schedule*).

"(1) The Court must presume that the Councillors were duly qualified and it cannot give a declaratory judgment in respect of the qualification to hold office of certain persons not before the Court.

(2) Even if the record was not signed by all the members assenting thereto, that is not an omission sufficient in itself to invalidate the proceedings.

(3) Finally, following the judgment of this Court in Civil Appeal No. 79/37 a copy of the resolution signed by the Mayor is a sufficient authority for the "Municipal Advocate" to appear in accordance with S. 131 of the M.C.O. and such authority does not require to be stamped and sealed with the Municipal seal."

Cr. Misd. 290/37 and 291/37 Dst. Ct. Jm. (N.R.).

21. — "Except of parish councils meetings are not required to be held in public."

Tenby Corporation v. Mason (1908) 1 Ch. 457; 33 Digest 61, 370. Beattie 129.

22. — "Any local government elector for the area of a local authority is entitled, on payment of a fee not exceeding one shilling, to inspect the minutes of a Council meeting and to make copies or extracts; this right may apparently be exercised through a skilled agent."

Glamorganshire Country Council.
Ex parte Collier (1936) 2 All E.R.
168; 155 L. T. 31;

23. — "No member of the public, not even an elector, has any statutory right to attend a meeting of a local authority or any committee thereof."

Tenby Corporation v. Mason, (1908)
I Ch. 457.

24. — "The Treasurer is not a mere servant of the council; all payments to and out of the borough fund must be paid to and by him. He is unable to plead the orders of the council as an excuse for an unlawful act."

Att. Gl. v. De Winton (1906, 2 Ch.
106, p. 116; 33 Digest 77, 497.

25. — "To some extent the ordinary law provides machinery for protecting the Trust Funds from improper or unauthorised application, for it has long been decided that they are held upon charitable trusts for the public purposes declared by the statutes which regulate local authorities' financial transactions."

Att Gl. v. Aspinall (1837), 28 Digest
464, 766; Beattie 195.

26. — "The accounts to be audited, and all vouchers, must be deposited at the appropriate office of the council in ques-

tion for seven days before the audit, and during that time all persons interested, who so desire, must be permitted to inspect and take copies of them. A ratepayer may appoint a professional expert (not himself a ratepayer) to inspect on his behalf."

R. v. Bedwelty Urban District Council. Ex parte Price (1934) 1 K.B.
333.

27. — "The district auditor has quasi-judicial functions to perform; he must surcharge any sum which has not duly been accounted for upon the person liable, and he must surcharge any loss upon the person whose negligence or misconduct caused it. It is not sufficient to show to him the resolution of the council under which payment was made and the receipt given by the payee; he may, and indeed must inquire further and satisfy himself that the resolution itself was warranted by law. Thus a payment made to an officer in respect of extra-wrok retrospectively, and not in pursuance of any prior agreement, is made without consideration and so is a mere gift. As local authorities have no general power to make gifts, such a payment is illegal."

Re Magrath (1934) 2 K.B. 415;
Beattie 203.

28. — "The Attorney General may obtain an injunction against the local authority itself to restrain unauthorised expenditure."

Att. Gl. v. Newcastle-upon-Tyne Corporation & ors. (1889) 23 Q.B.D.
492; 33 Digest 85, 550.

29. — "Any person who deals with local authorities funds in a manner unauthorised by law and with notice of the trust is personally liable for breach of trust."

Att. Gl. v. Wilson (1840) 13 Digest 419, 1391.

30. — "The Poplar Metropolitan Borough Council, being empowered to engage employees and to pay them the wages it deemed reasonable, resolved to pay to each of its lowest grade male and female workers a minimum wage of four pounds a week, which far exceeded the wages paid to similar classes of labour by other employers in the neighbourhood. The district auditor disallowed a large part of these payments holding that the excess could only be regarded as gratuity paid by the council without any legal authority."

Roberts v. Hopwood (1925) 33 Digest 20, 83.

(Upheld by the House of Lords on the ground that the council, being in effect a trustee of the ratepayers' money, must act in a fiduciary manner and the excess paid was unlawful).

31. — "The Attorney General may take proceedings to recover sums improperly paid from the individuals making or authorising the payments, or even from the recipients taking with notice of the trust."

Att. Gl. v. Wilson, (1840) 13 Digest 419, 1391.

32. — "Attorney General may obtain an injunction against individual members or

officers to restrain unauthorised expenditure."

Att. Gl. v. De Winton (1906), 328 Digest 368, 38.

33. — "A metropolitan borough, in paying an increased price over the contract price for the disposal of all refuse in the borough, was not acting contrary to law, and therefore the surcharge must be quashed."

Surrige & ors. v. Hurle- Hobbs (1942) K.B.D.

34. — (*On the question how far the audit could extend*) Held: "A mere examination of vouchers and payments was insufficient, and the auditors should make a fair and reasonable examination to ensure that there have been no improper payments."

Thomas v. Devonport Corporation (1900), 1 K.B. 16.

35. — "A retrospective payment for extra work, not made in pursuance of a previous arrangement is not permissible."

Re Magrath (1934) 2 K.B. 415.

36. — "A borough treasurer is not merely the servant of the council, but also the custodian of the borough funds; he owed a duty and stood in a fiduciary position to the burgesses as a body, and hence could not plead the orders of the council in defence of an unlawful act."

Att. Gl. v. De-Winton, (1906) 2 Ch. 106.

The county treasurer is in a similar position.

(R. v. Sanders (1854), 24 L.J. (M. C.) 45).

c. ON CONTRACTS, SEAL;

37. — "(1) If an agreement on the face of it appears to be regularly and properly made the onus probandi is on the party disputing it.

(2) Illegality is not presumed. (Roscoe's Evidence in Civ. Actions, 20th edition, p. 44 ff.).

(3) There is a presumption in favour of the regular appointment of an officer in the execution of his duty.

(4) Council could not legally ratify an unauthorised contract."

CADCJm, 26/46, 1946 Selected 625; Mentlik v. Municipal Council of Jlem.

(Referred to: Hunt v. Wibleton Local Board, 4 C.P.D. 48; Halsbury, vol. 8, p. 97 and footnote).

38. — "Local authorities are empowered to appoint officers as may be necessary and pay them such reasonable remuneration as the local authority may determine. But the sums paid must be reasonable, having regard to local conditions."

Roberts v. Hopwood (1925) A.C. 578; 33 Digest 20, 83.

39. — "Contracts made by local authorities must not be ultra-vires; a corporation can only enter into contracts expressly or impliedly for the purposes of their statutory duties and is not bound by a contract into which it has no power to enter."

Ashbury Railway Carriage v. Riche (1875), L.R. 7 H.L. 653.

40. — "The plaintiffs could not recover for breach of a contract because it was not under the seal of the corporation."

Young v. Mayor of Leamington Spa (1883), 8 App. Cas. 517.

41. — "When the local authority gave orders for the rendering of services and accepted the services, so that the whole consideration for payment was executed, it was held that the law would imply on the part of the authority a contract to pay for them, and the absence of a seal did not protect the corporation from liability for payment."

Lawford v. Billericay R.D.C., (1903) 1 K.B. 772.

42. — "The corporate will is signified by the affixing of the seal to the necessary documents by person having authority to do so. The resolution of a meeting, however numerously attended, is, after all, not the act of the whole body. Every member knows that he is bound by what is done under the corporate seal, and by nothing else. It is a great mistake therefore, to speak of the necessity of the seal as a relic of ignorant times. The seal is required as authenticating the concurrence of the whole body corporate."

Mayor of Ludlow v. Charlton (1840), 6 M. & W. 815.

d. ON S. 96 (DUTIES OF A COUNCIL);

43. — (*Acre (Demolishing of Dangerous Buildings) By-laws, 1940, Suppl. 2, of 1940, p. 521*). "The powers given to a Council by the M.C.O. to take action in

connection with dangerous buildings do not conflict with the powers granted by the Town Planning Ordinance to demolish buildings which interfere with a town planning scheme."

HC 38/43, 1943 ALR 199; *Huda v. Aere Municipal Commission*.

44. — (*Demolition of Dangerous Buildings By-laws, 1938, Revised Laws of Palestine, vol. 2, Pal. Gaz. Suppl. 2, p. 579*); "Where a building is pulled down after the service of the statutory notice, but the time given in the notice is too short, the damage suffered by the owners is purely nominal." (*The notice under By-law 4(2) required the Respondent to take action within 5 days of the date of the notice instead of 5 days after service of the notice. As a result thereof the Municipality commenced to demolish the building 4 days too soon*). "The Respondent is entitled to nominal damage for the possible loss suffered by him by reason of the demolition taking place 4 days too soon and allowed him LP. 10 instead of LP. 100, as decided by the courts below."

CA 182/45, 1946 ALR 46; *Municipal Council of Khan-Yunis v. Batta*.

45. — "The Private Street Works Act, 1892, provides that a local authority may resolve "to sewer, level, pave, metal, flag, channel, or make good, or to provide means of lighting"; a specification of the works required, an estimate of the probable cost and a provisional apportionment of the cost among the premises liable must then be made, approved by

the local authority, and published and served on the owners of the premises mentioned in the provisional apportionment. This apportionment may be made in accordance with either of two principles: the probable expense may be divided simply according to frontage, or, if the local authority so resolves, a different method may be employed, e.g. having regard to the greater or less degree of benefit derived by any premises adjoining the street. The discretion whether so to resolve rests solely with the local authority, so that the justices on an appeal cannot quash the apportionment because the local authority has not resolved to adopt the wider principle."

Hornchurch Urban District Council v. Webber (1938) 1 K.B. 698;

46. — "By-law 26 of Tulkarm Municipal By-laws, 1935, was ultra vires S. 96(5) of the M.C.O. which did not authorise the collection of fees in respect of immovable property sold in the Execution Office."

CA 191/40, 1940 SCJ 527, *Municipal Corporation of Tulkarm v. Segal*.

47. — (*Nablus Municipal By-laws, 1935; — how far affected by the Tr. & Ind. (Reg.) Ord.?*) "(1) By-laws made by the Municipal Corporations under the Ordinance are not uniform, and as a matter of interest it may be observed that the Beit-Jala By-laws expressly refer to the Tr. & Ind. (Reg.) Ord.

(2) The Court of Appeal will uphold the judgment of the trial Court discharging a person tried for an offence

against Municipal By-laws prohibiting sale of fruit in a place other than a Municipal market if accused was the holder of a licence under the Tr. & Ind. (Reg.) Ord."

CrA 88/38, 1939, SCJ 102 and Ct LR 135; Municipality of Nablus v. Maslamini.

48. — (*Application for an order nisi to show cause why Respondent should not be stopped from collecting municipal fees on fish sold at Gaza seashore*);

"(1) The applicant's conviction was based on the By-laws regulating the sale of fish in open spaces. There was nothing on record to show that the Municipal Corporation had asked fees from the Petitioner.

(2) The Petitioner had chosen the wrong court as he should have contested the validity of the By-law in the District Court, after applying for leave to appeal from the decision of the Magistrate's Court."

HC 42/40, 1940 SCJ 179, Hasirah v. Mayor of Gaza.

49. — "(1) Municipal Courts as to their powers and procedure should be in line with Magistrates' Courts and governed by the legislation presently in force governing such matters in the latter Tribunals. The right of election and the right to be informed by the Court of the existence of such right of election is clearly a rule of procedure and a very important one.

(2) By-law 4 of the Jaffa Municipal (Amendment) By-laws, 1944, is ultra-

vires S. 99 of the M.C.O. It is furthermore bad as unreasonable and in restraint of trade."

CrADCTA 5/46, 1946 Selected 447, Trachtenberg v. Att. Gl.

(On validity of By laws see Halsbury, vol. 26, p. 604 and seq.).

50. — (*Butcher excluded from use of slaughter-house Order not given by Respondents*). "The order objected against was given by a committee of management of the slaughter-house and not by the Respondents and the proper parties, consequently, were not before the Court."

HC 92/41, 1941 SCJ 483, Winarski v. Local Council Ramat Gan.

51. — "(1) There is nothing to imply that the requirement as to stamping under the Slaughter-House Rules is restricted to meat which has been slaughtered in the slaughter-house; nor is there any inherent absurdity or impossibility in the slaughter-house stamp (which is not a fixture in the slaughter-house) being used to stamp meat slaughtered outside the slaughter-house."

CrADCTA 41/45, 1945 Selected 351, Att. Gl. v. Leo Gel.

52. — (*Slaughter-House Rules, Laws of Palestine, vol. 3 p. 1646, as amended*). "It is an offence to expose swine meat for sale if it does not bear the official stamp of the Municipal Slaughter-House. "Stamping" referred to in Rule 21 is part of the procedure of "inspection and examination" referred to in Rule 22(2)."

CrA 162/45, 1946 ALR 135, Caspi v. Att. Gl.

53. — "(1) By-law 40(b) of the Haifa Municipal By-laws 1934, clearly covers any permanent or temporary place of habitation and therefore can be applied to a building erected before the enactment of the M.C.O. 1934.

(2) The fact that the building was not originally used for a dwelling place is immaterial. It is equally immaterial whether the Respondent agreed to its transformation from an office to a dwelling house. There being evidence that the Respondent took rent from the occupiers he should have evicted them or abate the nuisance, failing which he is responsible for the consequences under By-law 41 (failing to abate an insanitary nuisance)."

CrADCHa 186/44, 1944 Cohen 45.

54. — (*A sign board erected prior to the enactment of 1938 Amendment — (Suppl. 2 p. 573) to Jerusalem (Advertisements) By-laws 1937*); "The word 'fix' in By-law 15, means 'maintain, or display' and the conviction is lawful."

CrADCJm 22/39 (N.R.) Vitenberg v. Att Gl.

55. — "(1) Following Cr. App. 22/39 the Advertisements By-law 1937 and the Amendment of 1938 apply retrospectively.

(2) Although S. 3 of the Advertisements Ordinance exempts signboards not exceeding in area 2 and a half metres from Municipal control, the Municipal Council has power to make by-laws under S. 96 and 99 regulating signboards even if they are less than a.m. area."

CrCMgJm 7780/39, Att. Gl. v. Shalem.

56. — (*By-law 3 of Jlem Advertisements By-laws 1937/38.*)

"(1) Although the said advertisements are distributed by the drivers but those who provide them for advertisement are the owners (Respondents) of the vehicles, the latter are responsible under the said By-law 3.

(2) Respondents are the "owners" of the vehicles not having objected to the notices signed by the Mayor and served on them as being the owners of such vehicles."

CrADCJm 51/41, (N.R.) Att. Gl. v. Sheikh & ors.

57. — "A ratepayer is entitled to the gratuitous services of the local authority's fire brigade, not only where fire has actually broken out on his premises, but whenever there is a reasonable apprehension of fire breaking out of such dimensions that he would be incapable of dealing with it himself."

Grays U.D.C. v. Grays Chemical Works Ltd., (1918) 2 K.B. 461.

58. — "(1) The animal Disease Ordinance deals with more than the spread of disease among animals, and the Rules intended to preserve the health of the public fall within the general scope of the Ordinance and are not therefore ultra-vires.

(2) Keeping meat for consumption by servants as part of their remuneration

is included in the expression "exposed for sale."

CrADCTA. 18/43, 1943 Selected 294, Zveig v. Att. Gl.

e. ON S. 98 (POWERS OF A COUNCIL);

59. — (*Waqf — Registration of property as State Domain—Property taken over by the Municipal Corporation for a road — Claim for compensation*). "(1) If the Appellant could establish his claim to the property prima facie, he might be entitled to compensation either from the Government or from the Municipal Corporation of Jaffa.

(2) The case would be sent back to the Land Court for the Appellant to join the Municipal Corporation of Jaffa as Defendant and for the Court to adjudicate on his rights. Should the Court decide as to the disputed rights to the land there should be no difficulty as to the compensation, if any, to which the Appellant was entitled."

CA 31/39, 1939 SCJ 190, The Waqf D-ment, Jaffa v. Att. Gl.

60. — "By-law 4 of Jaffa By-laws 1944, forbidding sale of scheduled commodity, unless it previously passed through one of the general municipal markets and the appropriate fees paid thereon, is ultra-vires S. 96 (5) (a) of the M.C.O."

CrADCJa 70/46, 1946 Selected 634, Hussary v. Jaffa Municipal Corporation.

(Referred to Rossi v. Edinburg Corporation, 1905, A.C. 21).

61. — (*By-law 4 of Jlem (Construction of Streets) By-laws, 1937—Notice of intended road served in due time—Respondent sold abutting premises after the Council began the work on the road*).

"(1) The fact that the amount of contribution is not known until work completed does not affect the matter.

(2) Serving of notice imposes a statutory liability on the householder of which he cannot get rid of by subsequently selling his property.

(3) No obligation on the Council to serve a new notice on a purchaser after the work is commenced even if vendor (the original served person) has notified them that he has sold the property."

CADCJm 82/42, (N.R.) Jlem Municipal Council v. Levi.

62. — "(1) Such part of By-law 6 of the Haifa Municipal Area (Construction of Footways and Pavements) By-laws, 1938, (Pal. Gaz. 1938, Suppl. 2, p. 1001) conferring authority on the Municipal C-ssion to attach goods of an owner against the costs of such construction which shall be recoverable in the same manner as rates due to the Corporation, is ultra-vires S. 99 of the M.C.O., 1934.

(2) "Payment" cannot be read as to mean: "means of enforcing payment if such is refused."

CrADCHa, 41/42, 1942 C. of J. 52; Municipal C-ssion of Haifa v. Naser Abyad.

63. — (*Leaking roof — Insanitary nuisance*).

"(1) A nuisance must be an act affecting the public at large and not only a particular person (tenant) complaining.

(2) A person cannot be convicted under S. 40 of the Haifa Municipal By-laws, 1935, this sub-section being merely one of definitions.

(3) (Semble) A person can only be prosecuted for failure to abate a nuisance only after proof of service of notice to abate the nuisance and non-compliance with the order of the Magistrate made under S. 43(1) of those By-laws."

CrADCHa 122/42, 1943 C. of J. 192; Kattan v. Att. Gl.

64. — "In order to found a conviction under the Jlem (Insanitary Nuisances) By-laws, it is necessary for evidence to be adduced that the premises constituting the insanitary nuisance complained of are in the Municipal Area of Jlem."

CrADCJm 12/43, 1943 Selected 250, Rosenthal v. Att. Gl.

65. — "(1) Municipal By-laws relating to insanitary nuisances remain unaffected by, and operate quite independently of the provisions as to insanitary nuisances contained in the Public Health Ordinance, 1940.

(2) Under By-law 5(1) of the Prevention and Abatement of Nuisances (T-Aviv) By-laws, 1935, the notice to abate a nuisance may in all cases be served on the owner of the premises, if he is the person by whose act, omission, default or sufferance the nuisance arises or continues.

(3) S. 62 and 72 of the Public Health Ordinance provide that its provisions are in addition and not in derogation to any Ordinance or law."

CrADCTA 5/45, 1945 Selected 475, Mizrahi v. Att. Gl.

66. — "(1) Under By-law 4 of the Prevention and Abatement of Nuisances (Tel-Aviv) By-laws, 1935, the owner may be guilty of permitting a nuisance if he could have access to premises.

(2) By-law 4 is not bad for being unreasonable or uncertain as neither the owner nor the occupier is automatically liable but only if the one or the other is found to have committed or permitted the nuisance.

(3) The By-law is not ultra-vires for inconsistency with Art. 532 of the Me-jelleh as S. 96(8) of the M.C.O. under which it is made is wide enough to cover a By-law imposing on an owner of premises (as distinct from an occupier) criminal liability for committing a sanitary nuisance.

(4) An ordinance may always make inroads upon any provisions of the Me-jelleh."

CrADCTA 59/45, 1946 Selected 734, Liphshitz v. Att. Gl.

67. — "(1) Every thing apart from flats occupied by the tenants, such as roof, courtyard, staircase and cesspool which is in the courtyard, was not let to the tenants (accused) but remained in the possession and control of the landlord.

(2) It is a principle of law that the liability for a nuisance lies on the person in possession of the property constituting the nuisance.

(3) The present nuisance (an overflowing cesspit) falls under the class of nuisances which arise from want or defective constitution of a constructural convenience.

(4) The landlord is the owner as well as the occupier (although not living in that house) and it makes no difference if the nuisance in question falls within the scope of By-law 5(1) or 5(2) of the Jlem (Insanitary Nuisances) By-laws 1937, as amended in 1942."

CrCMgJm 13709/42, Att. Gl. v. Mar.

Referred to:

a. Reg. v. Parbly (1889), 22 B.B.D. 520, 60 L.T. 422;

b. Halsbury, Hailsham edition, vol. 20, p. 337, para 405;

c. English and Empire Digest, vol. 31, p. 99;

d. Bank Mill Ltd. & ors. v. Nelson Coropration & ors. 1402, K.B.D. 477 (1042) 2, All E.R. 477;

e. Brown v. Russel, Francomb v. Freeman, (1868) L.R. 3 Q.B. 251, 18 L.T. 19.

f. Clayton v. Sale Urban Dst. Council 1926, 1 K.B. 41, 134 L.T. 147;

g. Rhymnsny Iron Co. v. Gellinger Urban Dst. Council 1917, 1 K.B. 589, 116 L.T. 339.

68. — "I entirely agree with the reasoning of the learned Magistrate supported

as it is by relevant authority and with the result at which he arrived."

CrADCJm 81/43 (N.R.) (Bourke, J., R./President; appeal against CrCMg Jm 13709/42).

69. — "(1) By-law 4(1) (occupier shall be responsible for the abatement of an insanitary nuisance) of the Jerusalem (Insanitary Nuisances) By-laws, 1945, is ultra-vires S. 98 (m) of the M.C.O. (Power of Council to require *owner* to construct and when constructed to maintain...cesspools).

(2) Every tenant of a house of several flats having a common cesspool occupies nothing more than his own flat which consists of the "premises actually demised" while the cesspool remains in the possession of the landlord and cannot be considered as forming part of the flats leased and therefore, as being occupied by the tenants, notwithstanding that such cesspool is necessary for the common convenience of all the tenants."

CrCMgJm 14321/45, Att. Gl. v. Straus & ors.

(Followed: CrCMgJm 13709/42, confirmed in CrADCJm 81/43; Halsbury's Laws of England, Hailsham edition, vol. 20, p. 337, subs. flats, para 405; Maxwell on Interpretation of Statutes, 7th edition, p. 254-57.

70. — "Under the provisions of the M.C.J.O., 1939, the Attorney General has no right of appeal on a question of pure law; hence no appeal lies at instance of the Attorney General against a judgment of a Magistrate's Court declaring a

piece of subsidiary legislation to be ultra vires the legislation under which it purports to have been enacted."

CrADCJm 15/46, 1946 Selected 455;
(appeal from Mg. Cr. Case 14321/
45) Att. Gl. v. Strauss.

71. — "I find no reason to differ from the view of my colleague Mr. Yedid Levi in Cr. Case 14321/45 and I decide that in as much as By-law 4(1) read together with By-law 2(e) (g) of the Jlem (Insanitary Nuisances) By-laws, 1945 made under S. 99 of the M.C.O., 1934, cast the liability to abate an insanitary nuisance, created by an overflowing cesspool, on an occupier, the Municipal Commission exceeded its powers and the provision in By-law 4(1) is therefore ultra vires subsection (m) and (o) of S. 98 of the M.C.O. which is a substantial law and must prevail as it stands until amended."

CrCMgJm 2380/46 and 2381/46.
(H.W. Chief Mag. Mr. Azulay).

72.— "(1) S. 22(2) of the Municipal Corporations (Amendment) Ordinance, 1946, (Pal. Gaz. No. 1536, Suppl. 1 of 20.11.46), only preserves the validity of by-laws made and acts done under subsection (1) of S. 98 of the new Ordinance. It certainly confers no retroactive effect in respect of new powers and provisions contained in the new ordinance. To be more specific, it cannot possibly provide that where, — prior to the enactment of the new Ordinance, proceedings were taken against an owner of premises under By Law 4 of the Jerusalem

(Insanitary Nuisances), By-Laws, 1945 — in the exercise of powers purporting to have been conferred under S. 98 (0) of the Ordinance — which enabled such action to be taken against an occupier of premises only — now, by virtue of the amendment to S. 99, those proceedings may be regarded as having been properly and validly taken, or — in other words — that the amendment to S. 99 has retroactive effect and validates proceedings wrongly taken against the owner — as distinct from the occupier — to abate an insanitary nuisance of the nature contemplated under S. 98 (0) of the Ordinance.

(2) Therefore By Law 4, in so far as it purports to impose any responsibility for the abatement of an insanitary nuisance upon the *owner* of premises, is ultra vires S. 99 — prior to its amendment — and S. 98(0), of the M.C.O., 1934.

(3) (Obiter Dicta) Having regard to the express words of S. 98(0), repealed and re-enacted as they now are, and bearing in mind the maximum "expressio unius est exclusio alterius" which is applicable in the interpretation of statutes, there is much force in the argument that By Law 4 is still ultra vires."

CrADCJm 2/47, (N.R.) Roesler v.
Att. Gl.

72a. — (*Farming out taxation illegally imposed — Quaere whether farming out rates is legal—*).

(1) "The Municipality had shown no authority for the imposition of the Tax. It could, therefore, not seek the assistance

of the Court in deriving the benefit of farming out such tax.

(2) No legal enactment can be found authorising Municipal Corporation to farm out taxes or rates."

CA 69/37, 1937 SCJ 195, Mayor of Gaza v. Lufti.

73. — (*Farming out taxes*, — S. 99(1), 94(b) M.C.O.).... "The powers of Municipal Corporations are limited to those contained in the Ordinance and there is nothing in the Ordinance to authorise the Municipal Corporation to auction the right to collect taxes in their area. They are authorised to levy and collect certain taxes themselves — they cannot delegate the collection to others in return for a lump sum payment."

CA 45/38, 1938, 1, SCJ 248, Habeeb & ors. v. Municipal Council Ramallah.

f. ON S. 99 (POWER TO MAKE BY-LAWS);

— To be good the Bye-laws must, in addition to having been made regularly so far as the procedure prescribed by statutes is concerned, also satisfy four judicial tests, namely:

1. INTRA-VIRES.

74.— (a) "A by-law ordering that, "no person shall in any street or public place, or on land adjacent thereto, sing or recite any profane or obscene song or ballad or use any profane or obscene language", was held to be invalid because it was not stipulated that the acts must

be done to the annoyance of the public. A conviction was impossible without anyone hearing the obscene language or being annoyed by it and it would be difficult to prove the offence without someone having heard it."

Strickland v. Hayes (1896), 60 J.P. 164.

75. — (b) "A Bye-law must not be wider in its scope than the statutory power under which it is made; in the narrow sense of that term it must not be ultra-vires. For instance, a bye-law prohibiting the alteration of existing buildings in new streets cannot be justified as having been made under a power to make bye-laws dealing with the level, width and construction of new streets."

Brown v. Holyhead Local Board of Health (1862) 38 Digest 194, 313.

2. CERTAIN.

76. — (a) "A by-law imposing a penalty of £ 5 or less, at the discretion of the Corporation, for breaches thereof was held to be invalid —

On the other hand, a by-law which imposed a penalty not exceeding £ 5, as a court of summary jurisdiction should determine, would not be illegal. At first sight, there may appear to be no substance in this distinction, but on examination it will be observed that there is the intervention of a judicial body, the justices, between the offender and the authority making the by-law."

H.T. Rose, English Local Government Law, 1938, p. 47.

77. — (b) "It must be certain in its terms, so that a person subject to it can know that it refers to him and what it is that it requires him to do or refrain from doing. Thus a bye-law which provided that, "no person shall wilfully annoy passengers in the streets", has been held to be too uncertain and, therefore, void."

Nash v. Finlay (1901) 85 L.T. 682;
38 Digest 163, 89.

3. NOT REPUGNANT.

78. — "It must be repugnant neither to the Common nor Statute Law. It means that the bye-laws are limited to supplementing the ordinary law, and have no force in so far as they conflict with its positive provisions. They may properly limit the freedom of action which the law tacitly leaves untouched, but they cannot assume to repeal or to alter the requirements of the general law in a matter in which it lays down rules to be observed. So it was held that where an authority, or body of persons, have been given power to make bye-laws for the preventing of nuisances, they have also power to declare that particular things, if capable of being nuisance, are when done in their district, nuisances, i.e. they have power to say what, in particular places and circumstances shall be nuisances."

Per Channel J. in *Gentel v. Rapps*
(1902) 1 K.B. 160, p. 165; 13 Digest
328, 653.

4. IT MUST BE REASONABLE.

79. — (a) "This last test is undoubtedly vague, and is purposely kept so in order

that the courts may retain an adequate method of controlling the exercise of powers to make bye-laws. The test of reasonableness is impossible to define positively, but it may be said that a bye-law is not to be held unreasonable merely because the particular judge, before whom the question comes, thinks that it goes beyond what is prudent or necessary in the circumstances."

(*Beattie*, 222).

80. — (b) "(The Defendant borough council, acting under S. 94 of the Public Health (London) Act, 1891 (b), which empowered them to make bye-laws "for the cleansing and limewashing at stated times" of houses let in lodgings, made a bye-law requiring landlords to cause every part of such premises to be cleansed in the month of April, May or June in every year). Lord Alverstone C.J. held: "that as the landlord may be quite unable to carry out the work without breaking a contract or committing a trespass, the bye-law is unreasonable and bad."

Arlidge v. Inslington Corporation
1909, 2 K.B. 127.

81. — (c) "Under the power to make bye-laws for regulating the selling or hawking of any article on a beach of foreshore the following bye-law, i.e. "that a person shall not on the said beach or foreshore sell, or hawk or offer or expose for sale any article, commodity, or thing, except in pursuance of an agreement with the corporation," was held to be unreasonable."

Parker v. Bournemouth Corporation,
(1902) 86 L.T. 449;

82. — (d) "A by-law ordering that "no person shall sound or play upon any musical or noisy instrument or sing in any public places or highway or within 50 yards of any dwelling-house after being required by any constable or inmate of such house"...was held not to be unreasonable." (It was contended that the by-law was invalid of the ground that it gave power to interfere with the liberty of the subject arbitrarily and capriciously).

Kruse v. Johnson (1898), 62 J.P. 469.

83. — "An authority having power to enforce by-laws cannot legally waive compliance therewith, unless the by-laws themselves contain dispensing powers and this is seldom allowed."

Bean & Sons v. Flaxton R.D.C. (1929) 1 K.B. 450;

84. — (*T-Aviv made a By-law prohibiting the opening of shops and of factories on the Jewish Sabbath provided that the prohibition should not apply to shops and factories owned by Moslems and Christians*). "(1) The word "Ordinance" in Art. 17 P.O. in-Council must include subordinate legislation as well as Ordinances strictly so called.

(2) (Frumkin, J., dissenting) That the By-law was ultra-vires inasmuch as it discriminated in favour of Moslems and Christians against not merely Jews but against all persons of belief different from that of Moslems or Christians or of no belief at all.

(3) The By-law was unreasonable and ultra-vires by reason of its being partial and unequal in its operation as between different classes."

Misd. App. 18/28, 1 PLR 283, Att. Gl. v. Altshuller.

84a. — "(1) The Haifa Hadar Hacarmel Shop Closing by-laws are unfair and unequal in their application. They apply only to a certain quarter within the Municipal area, a not inconsiderable portion but nevertheless a minority portion. Unless the Municipal Corporation has express powers to forbid between certain hours the opening of shops in a part of its area any such restriction is ultra vires the M.C.O.

(2) Obiter: The Municipal Corporation having power to make by-laws subject to the provisions of any order, Ordinance or Law, it cannot by by-law reduce the hours permitted under the Intoxicating Liquors Ordinance."

CrADCHa 26/47, 1947 Selected 255, Bahaj v. Att. Gl.

85. — "(1) There was no necessity to publish a draft of the by-laws before their enactment. It is clear from Art. 17 P.O. in-Council that the word "Ordinance" does not include any Rules or Regulations or By-laws made under the provisions of any Ordinance.

(2) The Interpretation Ordinance has no reference to the Order-in-Council."

CrA 121/37, 1937 SCJ 125; Floyd v. Att. Gl.

85a. — "(1) By-laws made by a municipal council are no valid unless confirmed by the High C-er if they are made under the M.C.O. or under any other Ordinance if that Ordinance does not contain independent empowering provision for the making of by-laws and independent provision with regard to what person's or body's consent to or confirmation of such by-laws is necessary.

(2) Confirmation by the High C-er is not necessary for municipal by-laws made under S. 25 of he Road Transport Ordinance which specifically empowers a municipal council to make by-laws and requiring the consent of the district c-er and the licensing authority to such by-laws."

CrADCTA 4/47, 1947 Selected 232,
Hadomi v. Att. Gl.

86. — (*By-law 8 of the Haifa Municipal By-laws, 1935, P.G. subsidiary legislation, 1935, p. 139 (amended later in 1940).*)

"(1) Mere fact that the by-law made under S. 99(1) of he M.C.O. does not specify who, owner or occupier, should pay the fees, does not render the by-laws ultra-vires.

(2) (Obiter) The courts lean to holding that Municipal by-laws should, wherever possible, be regarded as intra-vires."

CA 197/43, 1943 ALR 674; Jasin v. Municipal Corporation of Haifa.
(Referred to Kruse v. Johnson 1898, 2 Q.B. p. 91, 108, 109).

87. — Annotations: "Municipal By-laws

should, whenever possible, be regarded as intra-vires".

CA 49/44, 1945 ALR 79; Muzaffar v. Municipal Corporation of Jaffa.

88. — "The bye-laws of local authorities are enforceable by the recovery of a penalty; but this may prove an entirely inadequate remedy, especially in cases where the profit to be derived from a breach far exceeds the penalty, or where, as in the case of building bye-laws, infringement is of a continuing nature."

Beattie, on Local G-ment, 1946, p. 382.

89. — "A bye-law is an ordinance affecting the public, or some portion of the public, imposed by some authority clothed with statutory powers ordering something to be done or not to be done, and accompanied by some sanction or penalty for its non-observance... Further, it involves this consequence that, if validly made, it has the force of law within the sphere of its legitimate operation."

Lord Russell of Killowen C.J. in the case of Kruse v. Johnson (1898) 2 Q.B. 91, p. 96; 13 Digest 326, 631.

g. ON S. 101-120 (RATES AND RATING);

90. — "A person may be the rateable occupier of land although the rights granted to him therein are only in the nature of an easement, if the exercise of such rights requires and brings with it exclusive possession."

Talagoreh Mining Co. v. St. Asaph, 1868, L.R. 3, Q.B. 478.

91. — "If more than one person has rights in a hereditament, the person who has the right of regulation and control over the other persons enjoying subordinate rights is the rateable occupier. The question whether a person is an occupier or not within rating law is a question of fact, and does not depend upon legal title."

Holywell v. Halkyn Drainage Co.,
1895, A.C. 117.

92. — "The occupier upon whom the rates are imposed must be the exclusive occupier, i.e. a person who, if there was a trespass committed on the premises would be the person to bring an action of trespass for it."

Allan v. Liverpool 1874, L.R. 9 Q.B.,
191.

93. — "The hypothetical tenant could only of course be expected to pay a rent when his occupation would be beneficial. But beneficial occupation is not limited to an occupation from which profit is derived, and therefore public bodies occupying premises which enable them to perform their statutory duties are properly rateable in respect of the benefit they derive, although the upkeep of the premises is expensive to them and is not offset by any pecuniary advantage derived from their use."

London County Council v. Erith
Parish & Dartford Union Assessment
C-ee (1893) A.C. 562; 38 Digest
429;

94. — "The unit for the purpose of assessment is the "hereditament", which

may be defined as such parcel of land, buildings, sporting rights, etc., separately occupied."

North Eastern Railway Co. v. York
Union (1900) 1 K.B. 733; 38 Digest
453, 193.

95. — "Occupation is not synonymous with legal possession; the owner of an empty house has the legal possession, but he is not in rateable occupation, which however must include actual possession, and it must have some degree of permanence; a mere temporary holding of land will not constitute rateable occupation. Where there is no rival claimant to the company, no difficulty arises, but in certain cases there may be a rival occupancy in some person who, to some extent, may have occupancy rights over the premises. The question in every case must be one of fact — namely, whose position in relation to occupation is paramount, and whose position in relation to occupation is subordinate."

Westminster Corporation v. Southern
Railway Co. (1936) A.C. 511, p.
529; 1936 All E.R. 322;

96. — "In many trades the trader must necessarily contemplate the occupation for considerable periods of parts of his premises as spare room. If and so long as he uses the premises for the purposes of his business, no matter how small such use may be, he is in occupation of them for rating purposes."

R. v. Melladew, 1907, 1 K.B. 204;

97. — "The true test of beneficial occupation is not whether a profit could be

made, but whether the occupation is of value."

L.C.C. v. Erith, 1893. A.C. 562.
and O'Malley v. Congested District
Board, 1919 2 L.R. 28. Crew 117.

98. — "Occupier" as defined in S. 101 of the M.C.O. only includes persons who do in fact occupy. A lessor who has sublet does not continue to occupy." (This section was amended by 59/46).

CADCJa 143/46, 1946 Selected 753;
Municipal Corporation of Jaffa v.
Levant Bonded Warehouses.

99. — "(1) An orange grove is "occupied land" for the purpose of rating.

(2) The rate is due if no objection as provided in S. 110 was made."

(Stroud, 2nd edition, p. 1310, 1314)
CA 48/45, 1945 ALR 831, Himmo
v. Municipal Corporation of Jaffa.

100. — (*Action for rates in respect of "Hejira year 1355"*).

"As the M.C.O. has prescribed that the financial year for every corporation shall be from 1st April and as there is no provision in the Law of Palestine which establishes the Hejira year as a legal year, the Municipal Corporation of Jaffa, in basing their assessment on the Hejira year, have acted ultra-vires their powers under the Ordinance and the rates imposed are illegal."

CADCJa 38/38, (N.R.) Zion v. Municipal Corporation, Jaffa.

101. — "Rateable value is determined by the actual user independently of any

prior use. A change of user may thus change rateable value."

Metropolitan Board of Works v.
West Ham Overseers, 1870, (L.R. 6
Q.B. 193).

102. — "The actual rent paid is not conclusive. What has to be ascertained is the rent at which the property might reasonably be expected to let."

Poplar Assessment C-ee v. Roberts,
1922) 2 A.C. 93. Ladies Hussiery and
Underwear v. West Middlesez Assess-
ment C-ee, (1932) 2 K.B. 679;

103. — "The rateable value is not what the hypothetical tenant would in fact pay if he was the real tenant which is all the landlord would get, (looking at the matter from the landlord's point of view), but what is the value to the occupier, and this is now decided to be not dependant on the statutory restriction on rent."

Poplar v. Roberts (1922, 2 A.C. 93).
Crew, 83.

104. — (*A house to which the Rent Restriction Acts applied was entered in the valuation list at the rent demanded by the owner from the tenant, viz. the standard rent plus the permitted increases.*) "The fact that the owner, like many others in the district, had been unable to recover, and might never recover, more than the standard rent, was no ground for reducing the valuation, in view of the fact that he had not withdrawn his demands for the increases."

Dickie v. Dumbartonshire (1926,
S.C. 464) Crew 83.

105. — "(1) S. 104(3) of the M.C.O. provides for the rateable value to be assessed by deducting a certain sum from the amount of the estimated rental value. The proviso enables the assessment to be made otherwise. This includes the power to assess on the basis of estimated rental value without deductions."

CA 49/44, 1945 ALR 79, Muzaffar v. Municipal Corporation of Jaffa.

106. — (S. 104(3) M.C.O.) "Any voluntary payment in excess of standard rent can be taken into consideration in assessing the rateable value of premises." (Followed: Metropolitan Borough of Poplar v. Roberts, (1922), 2 A.C. 93, 38 L.T. 499, L.T. 99 English and Empire Digest vol. 38, p. 520, para 698).

CA 124/44, 1945 ALR 197; Spivak v. The Mayor, Councillor & ors T-Aviv.

107. — (S. 104, 107 M.C.O., Jaffa (*Rateable Value of Buildings*) By-laws, 1937, Suppl. 2/37, p. 500). Facts: *The assessment c-ee raised the rateable value from LP. 20 as it was in 1943 to LP. 150 in 1944*. "In assessing the rateable value of a building a municipal corporation need not be bound by the assessment for purpose of Urban Property Tax or by the maximum rent payable under the Rent Restrictions legislation."

CA 199/45, 1945 ALR 801, Saba v. Municipal Corporation of Jaffa.

108. — "The duty of the C-ee is to determine the rent a hypothetical tenant

would pay on the date of the proposal for a yearly letting."

Barrat and ors. v. Gravesend A.C. 1941, K.B.D.

109. — (*A cinema Co. became the tenants of two empty dwelling houses in order to have accommodation available for offices, should their present offices be rendered unfit for use by enemy action. No use had been made of the houses*). "The company was not rateable, as they had never entered into physical occupation."

Associated Cinema Properties, Ltd. v. Hampstead Borough Council (1944) C.A.

110. — "The Oldham Assessment C-ee considered the Townley Mill to be in beneficial occupation for the purpose of a warehouse for the storage of their plant and machinery and fixed the rateable value accordingly. The company appealed on the ground that there was no beneficial occupation by them as their plant and machinery was not rateable. Manchester Quarter Sessions upheld the decision of the Assessment C-ee. The House of Lords found in favour of the millowners on the ground of the plain language of S. 24 of the Rating and Valuation Act 1925 which forbade any account being taken of process plant and machinery."

Townley Mill Co. Ltd. v. Oldham Assessment C-ee, (1937) All E.R. II; A.C. 419.

This decision is of considerable importance to owners or lessees of mills and

factories which have temporarily ceased working, but in which the process plant and machinery remains installed, and is being kept in condition in anticipation of recommencing work.

(Clarke, Local Government in U-Kingdom, 1925).

111. — "We are fully in agreement with the judgment of the District Court with regard to the construction of S. 107 of the M.C.O., 1934 which did not relieve the Municipal Council from the necessity of publishing each year a list with regard to any person the rateable value of whose property had already been assessed under the Urban Property Tax Ordinance and which assessment was adopted by the Assessment Committee of the Corporation." (Decision of Dist. Ct. in Civ. App. 157/37).

C.A. 216/37, 4 PLR 367, Municipal Corporation of Jerusalem, v. Joseph Weinberg.

112. — "(1) Objection to assessment cannot be made on grounds other than those set out in S. 110 of the Ordinance.

(2) The Ordinance does not specify how to "post" the assessment lists and placing the lists on specially prepared tables in the Revenue Section of the Municipal Offices was a sufficient compliance with S. 109.

(3) The Magistrate is not a Court of Appeal from the assessment committee nor can a person appeal even to Appeals Tribunal unless either he has applied to the assessment committee for rectification or has been affected by any such application.

(4) There is no law requiring a new assessment committee to be appointed each year."

CADCJM, 28/39 (N.R.) Mayor of Jlem v. Nachman.

113. — "(1) A civil matter is any matter properly brought before a court otherwise than on the criminal side and is different from a civil case.

(2) The District Court acting under S. 111(4) of the M.C.O. is acting as a court of first instance, and an appeal from its decision lies as of right."

CA 124/44, 1944 ALR 199, Spivak v. Mayor of T-Aviv & ors.

114. — "Municipal rates cannot be claimed twice for the same year in respect of the same property."

CA 126/34, 1934 ALR 559, Custodia of Terra-Santa v. Municipal Council or Jerusalem.

115. — "(1) Under the M.C.O. (S. 115 and Local Councils Ordinance 1941 (s. 6) the books of the Local Councils are prima facie evidence of "making and validity" of the rate mentioned therein, not of the fact that a rate payer has failed to pay such rate."

CADCTA 214/44, 1946 Selected 362, Buchalter v. Bat Yam Local Council.

116. — "(1) Attachment under S. 116 of the M.C.O. cannot affect a rate payer who has had no previous notice of a claim for rates due.

(2) Compensation money paid into Land Court in expropriation proceedings

under Land (Expropriation) Ordinance to be distributed to owners of the land does not constitute a debt that can be attached under S. 116 (1) (a) of the M.C.O."

HC 58/46, 1947 ALR 228; Lipman v. Registrar, Dst. Ct. Jlem and Chairman, Municipal C-ssion Jlem.

117. — "(1) S. 116 deals with what is purely a question of procedure for enforcing the payment of taxes and payment of a debt accrued due before S. 116 was enacted can be enforced under its provision.

(2) The business carried on by the Appellant is category "D" in the first schedule to the Local Authorities (Business Tax) Ordinance, 1944 and it consists of two words: "bonded warehouses". Therefore the Appellant Co. carries on business at all its warehouses."

CADCJa 142/46, (N.R.) Levant Bonded Warehouse v. Municipal Corporation of Jaffa.

h. ON S. 131 (RIGHT TO APPEAR);

118. — (*The appeal against the judgment of the Dst. Ct. was filed without any resolution by the Municipal Council, (the Appellants) to appeal having been passed*). "The appeal had not been filed in accordance with law, (S. 131, M.C.O.) and must therefore be dismissed."

CA 80/34, 2 PLR 349, Municipality of Haifa v. Afnan.

119. — "(1) A party is precluded from raising the point in appeal that advocate's

power of attorney was void, if he took no objection in the Court below.

(2) It is clear that S. 131 of the M.C.O. is merely permissive, allowing a corporation to appear, if it wishes, by its town clerk or an official or councillor duly authorised, but it does not take away its right to be represented by an advocate in legal proceedings."

CA 194/35, vol. viii, Rotenberg, C. of J. 677, Municipality of Jlem v. Mizrahi.

120. — "(1) The term "legal proceedings" in S. 131 of the M.C.O. includes criminal proceedings and the term "to institute proceedings" includes power to lodge an appeal and the term "any Court" means also a Criminal Court.

(2) Thus, the LBTPC has power under S. 39 of the T.P.O. to appear and prosecute under the T.P.O."

CrADCJ 27/37 (N.R.) Jlem LBTPC v. Dahan.

(Followed Stroud's Dictionary, 2nd edition, p. 1081).

121. — (*Allegation that the "Municipal Advocate" cannot appear on behalf of the Municipality without a duly executed power of attorney*). "The resolution of the Municipal Council of which a copy signed by the Mayor has been produced in the court below is a sufficient authority for the Municipal Advocate to appear in accordance with S. 131 of the M.C.O., 1934."

CADCJm 79/37, (N.R.) Kandel, v. Municipal Corporation of Jlem.

122. — "(1) A Local Commission being a Municipal Commission may institute criminal proceedings. (S. 39 Town Planning Ordinance, S. 131 M.C.O.).

(2) The word "proceedings" apply to civil and criminal proceedings

(3) An appeal from an acquittal in such prosecutions, can only be filed by the Att. Gl. or his representative (Mag. Ct. Jur. Ord.: Att. Gl. or convicted person may appeal)."

CrA 128/37, 1937 SCJ 305, Ulitzki v. Jlem LBTPC.

Note: Under S. 35(8) of the Town Planning Ord. as amended in 1941, "any party" to the proceedings may appeal...

123. — (*Application for a general declaration that the authorisation issued by the Corporation to the Municipal Advocate is null and void owing to certain persons participating at the meeting at which the authority was granted who were disqualified for acting as Councilors*).

"(1) There is no difference whether the advocate is appearing on behalf of an ordinary citizen, a company or a Municipality.

(2) It is not within the jurisdiction of this Court to hear such application which is in the nature of a petition."

CCDCJm 227/37, (N.R.) Mizrahi v. Municipal Corporation of Jlem.

124. — "(1) The power of attorney in existence at the time action was instituted was given before the M.C.O., 1934, came into effect. When the new Municipal Corporation of Jaffa was constituted the

power of attorney given by the old Municipal Council lapsed and therefore when this action was instituted, a fresh power or authorisation was required.

(2) The power of attorney which was given to Harry Kattan and Amin Akel after the institution of this case is neither an express nor an implied ratification of the action of Amin Akel in instituting the original plaint."

CA 176/38, 5 PLR 412. Municipal Corporation of Jaffa v. Zion.

125. — (*Appeal out of time — Whether judgment delivered in presence or in absence — Presence through agent*). "The Appellant Municipality was present at the delivery of the judgment through its agent, the Secretary of the Council, and the appeal was therefore out of time."

CA 22/41, 1941 SCJ 94, Municipality of Safad v. Sama'an.

126. — "Proceedings on behalf of a Municipal Council may be instituted by a municipal advocate, if appointed an officer of the Council and authorised by resolution to act for the Council. It is for the Defendant in any proceedings to prove that there was no proper authority."

CA 126/43, 1943 ALR 559; Custodia of Terra Santa v. Municipal Council of Jerusalem.

i. ON S. 133 (REPEALED OTTOMAN LAW);

127. — (*The Petitioner, relied upon the Vilayet Law of 1281, A.H. which was*

repealed many years before the British occupation of Palestine and all subsequent laws affecting the same subject, that is to say, the Law regarding the administration of Vilayets of 1287 A.H. ...etc. have been repealed by S. 133 (1) of the M.C.O. and by Schedule 13).

"(1) There was no law defining the conditions of service of Mukhtars who, therefore, held office at the District C-er's pleasure.

(2) The High Court could not order a public officer to do or refrain from doing something where there was no law applicable and hence, no legal duty upon him."

HC 43/42, 1942 SCJ 269, Abdul Al v. District Officer, Haifa.

128. — "Provisions of Ottoman Law relating to lease of immovable property that lessee's or lessor's death does not dissolve the lease, are not affected by S. 133 of the M.C.O.; it applies however, only to a lease under an existing control not to a statutory tenant."

CA 319/43, 1944 ALR 453, Riterband v. Rosenblum.

2. MUNICIPAL COURTS ORDINANCE.

128a. — "Evidence in the Municipal Court should be recorded by the Magistrates in their own handwriting."

CrADCTA 70/43, 1943 Selected 322, Idelsberg v. Att. Gl.

129. — "Proceedings in a Municipal Court should be conducted in accordance

with the Magistrates' Courts Procedure Rules, 1940."

CrADCTA 90/43, 1944 Selected 31, Eisenstaat v. Att. Gl.

130. — "A Municipal Court is a Magistrate's Court as contemplated by Art. 39 P.O. in-Council, but a Magistrate's Court of a jurisdiction limited and quite different from that of those created by the Mag. Ct. Jur. Ord. and that part of the Municipal Courts Ordinance providing that any person sentenced to a fine may apply to the President of the Dst. Ct. for leave to appeal in the manner provided by the Mag. Ct. Jur. Ord. provides in what form and within what time and subject to what deposit of fees such application for special leave shall be made. As there was no such application for leave to appeal by the person fined, the President of the Dst. Ct. was acting ultra-vires in granting leave on a point of law on the application of the Att. Gl. and the appeal was dismissed with costs."

Misd. App. 13/34, 2 PLR 173, Att. Gl. v. Bayzer.

131. — (*Petitioner was sentenced by the Municipal Court to pay a fine of LP. 5 and ordered to apply for a licence to erect the extension within 15 days or to demolish it, failing which it was to be demolished at his expenses*).

"(1) Following Misd. Appeal 13/34 the constitution of the Municipal Court was intra-vires, the P. O. in-Council.

(2) That leave to appeal which under the Municipal Courts Ordinance may be

granted by the President of the Dst. Ct., is leave to appeal from the judgment as a whole of which sentence forms a part and that therefore an application to set aside the demolition order would have been within the jurisdiction of the Dst. Ct. had the President given leave to appeal, and that the Petitioner's failure to seek such leave did not give the High Court jurisdiction in the matter under para 2 of Art. 43 of the P.O. in-Council."

HC 62/34, 2 PLR 208, Pensak v. T-Aviv Municipality.

132. — "(1) The effect of S. 2 (1) of the Municipal Rates (Validation) Ordinance, 1941, is that where a Municipal Council has adopted the assessment of any building or land under the provisions of the Urban Property Tax Ordinance as the rateable value of such building or land then such assessment must be deemed to have been valid and the rates imposed thereunder were legally recoverable.

(2) The Respondent had failed to take any steps to object against the assessment in accordance with the provisions of the Municipal Corporation Ordinance."

CA 92/42, 1942 SCJ 501, Municipal Council of Jerusalem v. Hevrat Harhavat Hayishuv.

3. MUNICIPAL CORPORATIONS (SEWERAGE, DRAINAGE AND WATER) ORDINANCE, 1936.

133. — "If a private drain was altered to take the drainage of two or more

houses in separate occupation, it became a sewer from the point where it first conveyed the drainage of a second house."

Beckenham U.D.C. v. Wood, 1896, 60 J.P. 490 D.C.).

134. — "S. 4 of the Public Health Act, 1875, defines a "drain" as a pipe serving merely to carry the drainage of one building only to a cesspool or sewer; all the other drainage pipes were "sewers." Accordingly when a local authority took proceedings to compel the owner or occupier of premises to carry out his duty to repair what in ordinary speech would be called a drain, the proceedings were bound to fail if it could be shown that the pipe in question is connected to more than one house, since in such a case the pipe in question was technically a "sewer" and was vested in the local authority on whom rested the liability to repair."

Acton Local Board v. Batten (1884)
41 Digest 5, 16.

135. — "Once you get the drainage of two buildings, whether occupied by the same or by different persons, into a drain, it becomes a sewer repairable by the local authority, though it is on private land, and though no one else can drain into it without the authority of the owner of the land."

Hill v. Aldershot Corporation (1933)
1 K.B. 259. (Beattie, 504).

136. — (*Petitioner sought an order directed to the Local Council to show cause why they should not supply water to Petitioner, who was the tenant of a landowner*). "The owner of the land in

Rechovoth had no right to object to the supply by the Local Council of water to his tenant and, by S. 5(f) of the Rechovoth Local Council Order, 1922, he was under no liability to pay for water so supplied as the sub-section of the order in question made the water rate payable only by the person enjoying that service."

HC 41/35, 2 PLR 284, *Michaeli v. Local Council Rechovoth.*

137. — "No obligation under S. 96(4) (e) of the M.C.O. or under S. 15, 21, or 24 or the Sewerage, Drainage and Water Ordinance to supply water to a tenant."

HC 6/40, 7 PLR 117, *Cohen v. Municipal Council of Jlem.*

138. — "The proper test in determining the meaning of "domestic purposes" within the Waterworks Clauses Acts, is to look to the use to which the water is put, and not to the nature of the premises or the purpose for which they are occupied."

Metropolitan Water Board v. Colley's Patents Ltd., (1911) 2 K.B. 38.

139. — "A local authority is not liable for failure to provide water at a certain pressure in order to provide means for dealing with fires."

Atkinson v. Newcastle Waterworks Co., 1877, 2 Ex. D. 441 and 36 L.T. 761.

4. LOCAL COUNCILS ORDINANCE, 1941.

140. — "In absence of statutory provisions vesting in the Local Council the

liabilities of the pre-existing Committee of the Colony, such liabilities of the Committee could not bind the Local Council."

CA 2/29, 1 PLR 489, *Local Council Petach-Tiqva v. Zionist Executive.*

(See: 1. *Petach-Tiqva Municipal Corporation Proclamation, 1937.* (*Pal. Gaz. No. 676 of 1937, Suppl No. 2 p. 276.*), and

2. *Municipal Corporation of Petach-Tiqva (Authorization of Payments) Ordinance, 1944* (*Pal. Gaz. 1380 of 1944, Suppl. No. 1 p. 185.*)

141. — (*Regulation 4 (4) of the Local Councils (Ramat Gan) Order, 1926.*)

"1) An objection to the inclusion of a person in the Register of Voters to be well founded must relate to something which is contrary to law. If the objection has the words "contrary to law" crossed out, on the face of it, the objection was not well founded on something contrary to law.

(2) The only duty imposed upon an Electoral Committee is the duty to consider objections in writing lodged with them. There is no duty imposed upon the Electoral C-ee to grant a hearing to anybody."

HC 40/38, 5 PLR 357, *Slutzki v. President Local Council Ramat-Gan & ors.*

142. — "(1) Whatever else the letter sent by the Village Committee of Hedera to the Appellants, it constituted a clear admission of indebtedness.

(2) Whether the Respondents were liable depended upon the date when they assumed their functions as a Local Council. If the admission was given after the date when the Local Council assumed office then clearly the latter will not be liable. If it were given before the Local Council assumed office then the debt would be a liability of the Village Committee and the admission of indebtedness would have been validly given and the Respondents would be liable thereon."

CA 245/38, 1939 SCJ 28, Gan-Shmuel v. Local Council Hedera.

143. — (*Property included within the Local Council's Area — Owners objected and their objection was overruled.*)

"It was not the function of the High Court to decide what the area under the jurisdiction of a Local Council should be and there is nothing in the law that says that we have such power on it."

HC 70/42, 9 PLR 410, Mizrahi v. Local Council Bnei-Brak.

144. — (*The Magistrate, H. W. Mr. Kassar held on 25.1.43 that para 22 of the 4th Schedule to the Local Councils (Township Nathania) Order, 1940, is ultra-vires Art. 39 Palestine Order-in-Council, S. 2 of the Local Councils Ordinance and S. 3 of the Mag. Ct. Jur. Ord. (the a.m. Order was made under S. 2 of the Local Councils Ordinance 1921) and consequently having no jurisdiction, he dismissed the application. The High Court in application No. 12/43 refused the application for rule nisi on the admission of the Petitioner's advo-*

cate that there was an alternative remedy, namely that the judgment of the Magistrate's Court was subject to appeal. The District Court granted leave to appeal; the learned President in that appeal No. 2/43 came to a conclusion that an appeal did not lie and the application was dismissed. The learned President gave leave to further appeal to the Supreme Court which held as follows:) "There is no appeal from a Magistrate's Court in an election petition under the Local Councils (Township of Nathanya) Order, 1940."

CA 257/43, 1943 ALR 802, Chrust v. Hagiladi & ors.

145. — (*Art 24 of the Schedule of Local Councils (Rechovoth) Order, vol. iii Drayton 1863*),

"(1) The District Commissioner is empowered to correct any eventual mistake of the returning officer in carrying out his statutory duties; he cannot refuse to take action upon a complaint made to him within prescribed time regarding conduct of elections to Local Councils.

(2) Where the District Commissioner refused to take action upon complaint, proper course for person concerned is to ask High Court for an order nisi against District Commissioner."

HC 33/45, 1945 ALR 720, Teilberg & ors v. District Commissioner Lydda & ors.

146. — "There was no provision in the law (Local Council of T-Aviv Order, 23.2.26) for an appeal from the decision of the Dst. C-er (in appellate capacity)

against the decision of the Local Council in assessment for tax purposes."

CA 120/28, 1 PLR 421, Export & Import Co. v. Township of T-Aviv.

147. — (*Payment of poll-tax made on 3.12.31; on 30.11.31 the Local Council nominated certain voters to form an Electoral C-ee; Dst. C-er approved the names of the nominees on 12.1.32*).

"(1) S. 4(1) of the Schedule to the Order of 28.10.31 made under the Local Councils Ordinance, 1921, requires the approval of the Dst. C-er to be antecedent to the Electoral C-ee having any powers and that therefore the date of "appointment" of the Electoral C-ee must be subsequent to the approval of the Dst. C-er.

(2) In the absence of words in the order creating the franchise, expressly requiring the payments of rates or taxes to the prescribed amount to be in respect of the current year, a payment within the prescribed year of rates or taxes to this amount, no matter when they accrued due, would secure franchise."

HC 22/32, 1 PLR 737, Sharf v. Chairman, Electoral C-ee, Ramat-Gan.

148. — "(1) As the budget of the Local Council for the current year 1.4.35-31.3.36 which had been framed on 17 April, (i.m. after the appointment of the Electoral Committee), had not yet received the approval of the District Commissioner, it is therefore clear that the rates and taxes for that current year were not legally recoverable: that is to say that a payment already made in respect of that

current year by any person was not a payment of a sum "due from him to the Council" as required by S. 1(e) of the Schedule of Regulations for conducting elections.

(2) The decision in H.C. 57/32 was not applicable to the present petition (petitioner late in his petition), since an order restraining the Returning Officer from proceeding had already been made; a consideration by this Court of the merits of the petition does not involve any additional delay in the procedure of election of the new Local Council.

(3) No approval has ever been given by the District Commissioner of the imposition of a poll tax other than under S. 5 (d) and that the approval of the District Commissioner under S. 7 must be express and there was nothing in the budget to suggest that the poll-tax was to be levied upon persons other than those who were otherwise entitled to vote."

HC 64/35, 3 PLR 8, Levin v. Local Council Rishon Letzion & ors.

149. — (*Petitioner paid in the relevant year 750 mils to the Local Council T-Aviv of which 270 mils was in respect of water rate. The Electoral C-ee refused to place his name on the register on the ground that water rate was not a rate of tax so that he had not paid "rates and/or taxes to the amount of at least 500 mils*).

"Payment for water is one of the imposts expressly entitled "rates" both in the principal Order of the 11th May 1921 and the amending Order of 27th July 1929; in order not to render the

word "rates" occurring in S. 1(e) of the Schedule to the Order of 11th October 1928 superfluous or void and in order to give the same meaning to the words "rates" occurring in these three statutory orders which are all in *pari materia*, it is necessary to assume that "rates" in the last named Order includes water rates and hence payment thereof can contribute to payment of imposts of an amount adequate to secure the franchise."

HC 23/32, 1 PLR 687, Kaufman v. Chairman, Electoral C-ee, T-Aviv.

150. — (*Subs. 1(e) of the Schedule to the Order under Local Councils Ordinance 1921, dated 11.10.28; payment by Petitioner was payment of taxes due in respect, not of the current but of a previous year*). "In absence of words in the Order creating the franchise, expressly requiring the payment of rates and taxes to the prescribed amount to be in respect of the current year, a payment within the prescribed year of rates or taxes to this amount no matter when they accrued due, would secure franchise."

HC 24/32, 1 PLR 691, Horin v. Chairman, Electoral C-ee T-Aviv & ors.

151. — (*Application for the inclusion of the Petitioner's name on the register of voters for a local council*); "Inasmuch as the liability to pay a poll-tax is, by S. 5 (a) of the High Commissioner's Order of the 10th March, 1926, only imposed upon a person who already has a right to vote, the payment of such tax in the amount of 500 mils cannot be taken to satisfy the requirements under

S. 1(e) of the Schedule to the Order of the 28th October, 1931 by which the payment of not less than 500 mils on account of rates and taxes due during the preceding twelve months constitute the necessary qualification of a voter."

HC 23/35, 2 PLR 280 Bronstater v. Returning Officer Ramat Gan & ors.

152. — "(1) Mere authority to charge a maximum rate in the absence of a valid resolution to charge same, is insufficient.

(2) The Defendant was entitled to compound by payment of a fixed tax, to be determined by the Local Council..

(3) Fees for removing refuse (this being a service) the person charged should have enjoyed the benefit of such service.

(4) The final item of the claim, (a single charge to be charged once only to each plot owner), is a contribution and not a tax, rate or fee and is therefor not authorised by the Ramat Gan Order.

(5) There was no evidence to show that the books of the Council were regularly kept (the books have not been produced before the Court).

(6) Evidence which is purely confirmatory or in the case of neglect to prove facts in the usual way, will not be allowed in rebuttal."

CCDCTA 136/40, TALR, 1941-1942, 106, Local Council Ramat Gan v. Halevy.

153. — (*S. 7(1) and 9 of the Local Councils (Ramat Gan) Order*).

"(1) There was no evidence of any

decision, meeting or resolution fixing and determining the rates and taxes payable, therefore any claims in regard thereto were invalid and of no effect, and it is absurd to contend that mere delivery of a demand for rates with particulars is evidence of the imposition and levying of such rates.

(2) The education rate was also not recoverable because there was no evidence of the fixing of such rate.

(3) As regards the rate for public works it could not be recovered because the authorisation for imposing it was ambiguous.

(4) A taxing provision must be clear and unambiguous in its terms and moreover it is construed in favour of the person taxed.

(5) As regards the fees for removal of refuse:

(a) (Frumkin, J., dissentiente): This rate has not been properly imposed and

(b) It had not been proved that the Respondent had enjoyed the benefit of the services in question."

CA 106/42, 9 PLR 510, 1942, SCJ 458, Local Council of Ramat Gan v. Halevi.

154. — (S. 16 (1) (a) of the Local Councils (Holon) Order).

"(1) In the Local Councils (Holon) Order, 1940, the word "owner" means the "reputed owner" within the meaning of S. 2.; therefore neither registration in the Land Registry nor actual possession does entail ownership within the meaning of this word in the Hulon Order.

(2) The registered owner of a plot

of land which was designated under an approved parcellation scheme as public road, will not be considered as "owner" within the meaning of the Hulon Order.

(3) A piece of land which was, according to a parcellation scheme, designated for a public road, is deemed to be a public road from the day of the approval of the scheme by the survey d-ment and not from the day of its being passed for the approval of the High Commissioner.

(4) Public road is not "unoccupied land" nor is it "occupied land" within the meaning of S. 2 and 16(1) (a) of the Hulon Order.

(5) Land designated for a road is deemed to be "used" as a road for the purpose of a.m. sections even if the degree of the development of the neighbourhood does not require the actual use of such.

(6) Failure of the rate-payer to object to the assessment in accordance with the procedure laid down by the law (in this case in the 7th Schedule to the Hulon Order) does not prevent him of his right to object to the imposition of the rate in a trial instituted against him by the authority imposing the rate.

(7) Payment of rates within several years does not prevent the payer to object to the imposition of the rates in respect of future years.

(8) It is impossible to base a claim on the conduct of the defendant which would amount to "estoppel" even if such conduct would be a good defence in a trial instituted by the defendant against the plaintiff in the same matter, especially

when such conduct was not mentioned in the statement of claim."

CA 18/45, 1946, Hamishpat 33, Local Council Hulon v. Bank Kupat Am Ltd.

155. — (*Local Council — Assessment Committee and Appeal Committee — Power to impose improvement rate —*).

"(1) Assessment of property and persons for purposes of levying rates and taxes is a power vested in Assessment C-ee and not delegated to it by Local Council.

(2) There is no sound reason why "rates" in S. 5(1), Local Councils Ord., 1941, should not include "improvement rate", and any Local Council empowered to levy rates may law fully levy improvement rates, particularly so where the Order constitutnig such Council gives them general power to levy "any other rates and taxes on property and persons... under the Local Councils Ord."

(3) (a) An Appeal C-ee acts in its own right and does not exercise powers delegated by Council.

(b) An Appeal C-ee can lawfully appoint an expert to inspect the land in question on its behalf.

(4) (a) A necessary prerequisite to levying a property tax is an assessment of the property on which it is to be levied.

(b) Where there is a statutory period of a specified number of years for which an assessment shall be made, no new assessment can validly be made before such period has elapsed."

HC 7/47, 1947 ALR 509, Kassab v. Holon Local Council & ors.

5. RATES AND TAXES (EXEMPTION) ORDINANCE, 1938.

156. — "Waqf lands administered for benefit such as cultivation by the heirs of the dedicator, do not come within the exemption of S. 9 (b) of the Rates and Taxes (Exemption) Ordinance."

CA 230/43, 1943 ALR 641, Wirsani v. Att. Gl.

156a. — "(1) To constitute a society a charitable organisation, under S. 12 (c) (B) of the Rates & Taxes (Exemption) Ordinance, its object or purpose must be one that is beneficial to the public or any section of the public.

(2) A society formed for the purpose merely of benefiting its own members though that may be to the public advantage is not a Charitable Organisation."

CCDCHa 277/46, 1947 Selected 154, Lishkat Hakarmel v. District Commissioner.

157. — "Under S. 13(b) of the Rates and Taxes (Exemption) Ordinance it is the house property or land that must possess the quality or character of not being administered for profit."

CCJm 51/43, 1944 Selected 128; Hadassah v. Att. Gl.

158. — (*Respondents claimed exemption from tax under an agreement made in 1923 whereby the Applicant in consideration of the Ramat Hasharon quarter raising no objection to its being included within the boundaries of T-Aviv (as it was by the*

T-Aviv Local Council Validation Ordinance, 1928), *undertook not to levy the tax*); "The Township of T-Aviv being the creature of a statutory order, in the absence of any provisions in the order creating it enabling the Township to grant exemption from taxation to one class of its inhabitants such an agreement was ultra-vires and void and that under the T-Aviv Local Council Validation Ordinance, 1928, the Respondents were liable to pay the tax in question."

CA 58/30, 1 PLR 627, Township of T-Aviv v. Moyal & ors.

159. — "It is for a Petitioner under S. 15(b) of the Rates and Taxes (Exemption) Ordinance to prove his claim and the Dst. Court was right in holding that the Appellant had failed to do so."

CA 180/40, 1940 SCJ 357, Apostolic Throne v. Att. Gl.

160. — "(1) The wider application should be given to the word "taxation" in S. 15(b) of the Rates and Taxes (Exemption) Ordinance, 1938, which should be taken as meaning "all sums levied by the Government or by any local authority" (the latter term including a municipality).

(2) I do not agree with the view of the District Court in CCDCJm 74/39 which held that as the M.C.O., 1934, contained no exemption clause (with the possible exception of S. 103 which was immaterial for the purpose of the present appeal) any rights which have existed by virtue of any treaty or firman lapsed and could not be revived by a

subsequent Ordinance in the absence of express words. I consider that the intention of S. 15(b) of the Rates and Taxes (Exemption) Ordinance and the effect of its language was to grant relief in appropriate cases, notwithstanding the provisions of the M.C.O., 1934.

(3) No exemption can be claimed under S. 15(b) of the a.m. Ordinance from Municipal Rates as the Firmans did not specify it irrelevant that by the time the Firmans were given "Municipalities" were not yet known."

CA 133/40, 7 PLR 417, The Orthodox Patriarchate v. Municipal Corporation of Jerusalem.

161. — "(1) S. 15(b) of the Rates and Taxes (Exemption) Ord. which refers to "taxation" does not apply to municipal rates.

(2) The M.C.O. overrides any exemptions from taxations granted by Edicts or Firmans..." (appeal from the Supreme Court in CA 133/40)."

Privy Council Appeal, 34/41, 1943 ALR 800, Orthodox Patriarchate Jerusalem v. Municipal Corporation of Jerusalem.

6. TOWN PLANNING ORDINANCE,

a. ON "BUILDING," SCHEMES, PERMITS;

162. — "A hoarding has been held not to be a "building."

Slaughter v. Sunderland Corporation (1891), 55 J.P. 519.

163. — "A wooden structure placed on wheels with the object of avoiding compliance with by-laws has been held to be a "building".

Andrews v. Wirrall R.D.C., (1916)
1 K.B. 863.

164. — (*A resolution was passed by a LTPC the two members of which nominated by the Central TPC, under S. 4(d) of the T.P.O. 1921, had held office for more than three years without being reappointed*). "The disqualification of these two members vitiated the resolution."

CA' 25/35, 2 PLR 277, LTPCHa v. Sahyoun.

165. — (*Licensing, Public Entertainments Ordinance, S. 4(3); Town Planning Ordinance S. 6*). "When premises comply with statutory requirements and there is no other objection to the licensing of the premises, the High Court may enforce the grant of a licence under the Public Entertainments Ordinance."

HC 122/43, 1944 ALR 12, Haas v. Municipal Council of Haifa.

166. — "A detailed schme must be proved by laying before the Court a copy of the Palestine Gazette (not a reprint)."

CRADCHa 4/45, 1945 Selected 136,
Att. Gl. v. Goldrinz.

167. — "Owners of properties abutting to road may be called upon to share in the expenses of constructing — only if the road is included in the map forming part of the Haifa Outline Town Planning Scheme." ("Road in S. 1 of that Scheme

means highways, streets..... and land forming sites for roads as indicated on Map No. 1; said road not included in map.)

CRADCHa 156/42, 1942 HLR, Cohen
146, Municipal C-ssion of Haifa v.
Pollack.

168. — (*Application for an order to issue to TPC to cancel permit granted to neighbour, 2nd Respondent—Contention that building in question constructed without any set-back from the road while the Regulations require 3 m. set-back*); "The Regulations apply to a road which the C-ssion has adopted as a road under its Town Planning Scheme and the road in question has not been so adopted."

HC 33/31 Rotenberg, C. of J. vol.
V, 1759, Ad-tor of Estate of Mandelbaum v. LTPCJm & Hashem.

169. — "It is the LTPC and not the Municipality which has power to grant a building. Such LTPC was not made a party and even if it had been, an appeal would have laid from its refusal to grant a permit to the Central TPC and hence the High Court would have no jurisdiction."

HC 81/27, 1 PLR 243, Fitiani v. Toukan (President of Municipal Council, Nablus.

170. — "(1) The Haifa TPC has-power to issue a temporary building permit only in respect of a type of building enumerated in Rule 2 of the Rules made by the Central TPC for the construction of temporary buildings.

(2) The power to relax building re-

strictions contained in S. 5 subs. 3(a) of the Haifa Outline Town Planning Scheme does not authorise the Local Commission to relax the requirements of any Town Planning Scheme."

CrADCHa 65/42, 1942 HLR, Cohen 109, Butros v Khayat.

171. — (*Application against the Mayor to enforce grant of building permit*); "The Mayor has no standing in the case and that the decision of the LTPC is subject to revision of the Central TPC."

HC 82/29, Rotenberg C. of J. vol v, 1757, Namli v. Chairman LTPC Haifa.

172. — "(1) The High Court will not interfere with a refusal of a building permit unless satisfied that the permit was refused capriciously and on no reasonable ground.

(2) A LBTPC is justified in examining an application for permit in the light of the existing "outline scheme" and to take into consideration any road, street etc., whether existing or proposed if covered by the definition of "road" in the local scheme. S. 13(2) of the T.P.O., 1936, provides for restrictions on buildings when an "outline scheme" is in existence, and the definition of "road" in part II of the Jerusalem Outline Town Planning Scheme (Modification) 1943, clearly includes any street, etc. whether existing or proposed."

HC 109/45, 1946 ALR 167, Ta'ah v. LBTPCJm.

173. — "Unless the consent of the Minister is given the requirements of build-

ing by-laws may not be relaxed or dispensed with in any particular case. An attempt to do so without such consent renders the approval of plans invalid and inoperative."

Yabbieom v. King, (1899) 1 K.B. 444.

174. — "(1) Where a Dist. Commission sees it fit to modify a town planning scheme submitted to them by a Local Commission, they need not send it back for approval by latter.

(2) Where provisions of S. 16 T.P.O. were not fully carried out and scheme affects Petitioner's property, the High Court will grant relief.

(3) Statutory provisions empowering the Local Commission to expropriate without compensation any area not exceeding one quarter of owner's plot does not preclude Commission from entering into possession of more than such quarter, though any excess area must be compensated for.

(4) No alternative accommodation, which is obligatory under S. 29, for non dwelling houses."

HC 35/45, 1945 ALR 714, El-Agha v. Chairman of the BTPC Gaza Sub-Dst. & ors.

b. ON S. 35 (1) (PENALTY SECTION);

175. — "(1) The charge fell under S. 35(1) (b) of the T.P.O. 1936 as amended in 1938 which is a penalty section. (carrying out work contrary to approved plans and restrictions of the Outline Scheme). The charge was therefor not bad although it would have been better had it been clearer.

(2) Under any system of town planning the liberty of the individual must to some extent be sacrificed for the benefit of the public and Courts must be careful that the safeguards which the legislator has imposed are observed.

(3) S. 41 of the Ordinance preserves town planning schemes in force at its commencement. The present scheme was not published in the Gazette but came in force by virtue of a notice in the Gazette of the 15th February 1934. The scheme had not been proved before the Magistrate.

(4) In order to obtain a conviction it is necessary for the prosecution to show:-

a) that the property in question was within the town planning area, and

b) that there was a town planning scheme lawfully made, the contents of which would have to be proved; and

c) that the provisions of the scheme upon which reliance was placed, if challenged, was *intra-vires* the Ordinance; and

d) that work has been done for which a permit was required and that such work has been done otherwise than in accordance with the material provisions of the scheme."

CrA 10/39, 1939 SCJ 155, Att. Gl. v. Azari & Libovsky.

175a. — (*Allegation that: a) there must be a Town Planning Scheme in respect of the Block on which building work was carried out without a permit, b) that the contents of such scheme must be proved, c) that the relevant provision must be intra-vires the T. Pl. Or-*

dinance and d) that the work complained of had been done otherwise than in accordance with the relevant provision of the Scheme).

"The question whether or not there is a Town Planning Scheme affecting this block does not arise. S. 11 and 35 of the T. Pl. Ord. prohibit the erection of a building without a permit, irrespective of whether there is a Town Planning Scheme in existence."

CrA 136/46, 1947 ALR 437, Hasson & ors. v. Att. Gl.

176. — (*Demolition order under S. 35 (1) did not indicate who shall demolish—Plea of guilty under S. 35(2) and fine of LP. 1.- and demolition to be carried out by the LBTPCJm.*)

"(1) The Appellant might have been misled as to whether he or the LTPC or some other person should have carried out the order given under S. 35(1) and on these facts we find him not guilty and the fine shall be remitted.

(2) As to the demolition order the Magistrate was entitled to explain his order under S. 35(1) as to who should carry it out and we see no reason to interfere with this part of the judgment."

CrADCJm 58/39, (N.R.) Yehezkiel v. Att. Gl.

177. — (*Application by wife for an order to TP C-ssion to restrain from carrying out a demolition order of a building erected by husband; — Order to accused or to the T.P. authority).*

"(1) Words "some other person" in S. 35 (before the amendment of 1941, N.B.) does not mean the T.P. C-ssion.

(2) The judgment does not specify what buildings are to be demolished and where they are.

(3) As the applicant had not been heard before the Magistrate she had not mistaken her remedy and was entitled to apply to the High Court."

HC 9/41, 8 PLR 95; Cohen v. LTP
C-ssion, Jlem.

178. — "(1) Omission to construct something appearing on an approved plan is not an offence under S. 11(b) or 35(a) and (b) of the T.P.O. 1936/41.

(2) Omission to demolish something already existing at the time a plan is submitted for approval and not shown thereon is not an offence under the T.P.O. or under Haifa Detailed Scheme 794.

(3) Failure to comply with a provision of a Detailed Scheme (occupying a shoplet without a certificate of occupancy) is not an offence under S. 11(b) or 35(a) or (b) of the T.P.O.

Obiter: Such occupancy may be a contravention of clause 16 of the Town Planning Building By-laws and as such falling within the scope of S. 35(c)."

CrADCHa 109/42, 1942 HLR Cohen,
139, Farman v. Att. Gl.

179. — (*Use of room as a shoemaker's shop — Non-conforming use as per S. 35(1) (a) and (b) of the T.P.O.*)

"(1) If the Town Planning Scheme of Jerusalem contains a regulation to the effect that for such a use the special consent of the Dst. TPC is required then the accused is guilty under S. 35(1) (b), if not, then he is not guilty.

(2) Under Zoning Table I (Use) (Pal. Gaz. 774 of 1938) and Zoning Table in the amendment of the Outline Town Planning Scheme (Pal. Gaz. 1180 of 1942) and Schedule of Trades and Industries, the use of a room as "Boot repairs and makers" shop is allowed in Residential Zone "C" without the need of the special consent from the Dst. TPC-ssion."

CrCMgJm 13185/42.

180. — (*"Carrying out work" (conversion of a dwelling house into a pension) and "carrying out a non conforming use" both without a permit — The use permitted in the building permits was: "Lisakan" an Arabic word which was translated in the charge sheet as: "a dwelling house"*).

"(1) The word "Lisakan" means "for habitation" and the use of a building as a pension is a use for human habitation in the sense of building permits in question and consequently it is not a non conforming use.

(2) A pension is not a hotel and as the use of the building as a pension is not contrary to the building permit and the conversion of the building from a "dwelling house" into a pension does not require a special permit under the T.P.O. or Town Planning Permits (Jlem District) By-laws, 1937.

(3) A change of use is not "a conversion of building" if the new use is not contrary to the building permit."

CrCMg. Jm 10940/43, Att. Gl. v.
Dr. Shmorak.

Followed CrA 89/38, 5 CILR 55; Referred to: Elias' Modern Arab-English Dictionary; Maxwell, Interpretation of Statutes, 7th edition 1929, p. 246 and 280; Gibson v. King, 1812, 10 M.X.W. 667; 4 Digest 22/151; Smith v. Scott 1832, Bing 14; 4 Digest 22/148; Stroud's Judicial Dictionary, p. 891; Farmby v. Barker (1903), 2 Ch. 548;

181. — "There can be no evidence of an offence of building a wall contrary to a section of the Ordinance without evidence as to the time when the wall was erected so as to show whether the law was in force when the wall was erected."

Cr. Leave to App. DCJa 127/43.
1943 Selected 414; Santarisi v. Att. Gl.

182. — (Demolition order — Word "hadem" did not refer to any person).

"Accused may not be convicted for disobeying an order of demolition if the order does not specify who is to demolish."

CrADCHe 166/43, 1944 Selected 30,
Att. Gl. v. Savransky.

184. — "Building without a permit and building not in conformity with permit are two distinct offences which cannot be joined in one count."

CrADCJm 30/46, 1946 Selected 421,
Att. Gl. v. Abu-Ghosh.

(On duplicity see: CrA 137/45, 1945 Selected 508; CrA 98/44, 1944 Selected 447, CrA 32/43 1943 Selected 302);

(ON FORM OF CHARGE SHEET IN TOWN PLANNING CASES):

(1) 185. — (The particulars of the time of offence were given as follows: "on divers dates unknown between... (two stated dates), carried out the work...)

"To charge the commission of an offence on "divers dates" is incorrect."

CrADCJm 76/45, 1945 Selected 527,
Veinberg v. Att. Gl.

(2) 186. — "The decision in CrA 76/45 was binding on the Magistrate's Court. The correct form of charge sheet which should be used is given at page 44 of Archbold's "Criminal Proceedings", 31st edition: "Where the exact date is not known the time should be stated as being on a date unknown between stated dates not merely as between those dates."

(Ross, J.,) CrADCJm 37/46, (N.R.)
Ayesh v. Att. Gl.

(3) 187. — "I would remark that I disagree with His Honour Judge Ross in his decision in CrA 76/45 and consider that the charge sheet in the present case was a perfectly valid one" (on divers dates unknown between...)

(Morgan, J.,) CrADCJm 97/46 (N.R.)
Att. Gl. v. Fried.

(4) 188. — "(1) The erection of different parts of the same house at different dates in non-compliance with the same building permit constitutes one continuous offence, notwithstanding that the erection of the window alone or the balcony alone would have been enough

to constitute the offence; nor was it necessary to make any more particular allegation as to time than "during the months of September and October, 1946.

(2) Where a charge had originally been brought against a man and a woman for unlawfully building a window and a balcony, and later been struck out against the man, the remaining charge against the woman only reading "they built the window" and he built the balcony" was bad for uncertainty.

(3) A demolition order will be set aside on appeal if the accused was not asked to show cause why it should not be made."

CrADCTA 122/46, 1947 Selected 57; Flint v. Att. Gl.

For references in support of CrA 97/46;

1. Empire Digest, vol. 14, No. 2047, 2048, 2049;
2. Halsbury's Laws of England, vol. 9, Hailsham, 2nd edition, p. 133;
3. Archbold's Criminal Pleadings, 31st edition, p. 46;
4. CrA 112/44, 1944 Selected 581;
5. CrA 118/42, 9 PLR 479;
6. CrA 143/44, 1945 ALR 291;
7. CrA 106/44, 1944 ALR 485;
8. CrA 151/44, 1945 ALR 267;

189. — "(1) Property must be in possession, order or disposition of person and constructive possession is sufficient, f.i. even if property is in the hands of a lessee.

(2) The person is deemed reputed on facts capable of being known to those who took means to inform themselves on the subject. ...It is enough if the goods are in such a position as to convey the minds of those who know their situation, the reputation of ownership."

Williams on Banruptcy, 14th edition, p. 282.

190. — "Reputed owner is the person whom the Local Authority really believes to be the owner and a person whom the Local Authority has dealt with as such is certainly a reputed owner."

Walsend Local Board v. Murphy, 1903, 1 K.B. 651.

191. — "The Dst. Ct is the only court which has jurisdiction to hear a case for the abatement of a nuisance constituted by a dangerous structure. (*Action in the Dst. Ct. for failing to comply with an order of the Acre Municipal Council issued under S. 98 of the M. C. O. ordering to demolish the said premises dismissed on the ground (inter-alia) that one of the judges was of the opinion that the Dst. Ct. had no jurisdiction.*)"

CA 93/36, 1937 SCJ 413; Khalifeh (as Mayor of Acre) v. Kheizaran & ors.

192. — (*Petitioner on 24.4.30 purchased from a vendor a house. On 9.5.30 the Petitioner received from the City Engineer a copy of a letter addressed to the vendor citing a notice dated 27.3.30, which called upon her to obey*

an order of the Magistrate's Court. The letter further stated that if the changes ordered were not made by 1st Moharrem, the City Engineer would send workmen to demolish them).

"Any order under S. 38 of the T.P.O., 1921, lay not in rem but in personam and that therefore the Order of the City Engineer of 9.5.30 must be set aside."

HC 84/30, 1 PLR 510, Elk v. Chairman of LTPCJm.

193. — (Petitioner was sentenced by the Municipal Court to pay a fine of LP. 5 and ordered to apply for a licence to erect the extension within 15 days or to demolish it, failing which it was to be demolished at his expenses).

"(1) An order to demolish is not part of the sentence and that hence its being superimposed under S. 38 of the T.P.O. upon a sentence to pay a fine of LP. 5 was not in breach of S. 4 of the Municipal Courts Ordinance, by which such courts may not pass a sentence exceeding a fine of LP. 5 or 15 days imprisonment, or both these penalties in respect of any one offence.

(2) The Court was entitled to give the Petitioner a locus poenitentiae of 15 days in which to pay or obtain a permit ex post factum."

HC 62/34, 2 PLR 208, Pensak v. T-Aviv Municipality & ors.

194. — "It must be clearly laid down in the demolition order who was to demolish and what was to be demolished; otherwise no prosecution for disobedience of such order can be brought."

CrADCHa 52/42, 1942 HLR Cohen 96, Att. Gl. v. Perkins.

195. — (Application by Respondent under Rule 21A of the Civil Procedure Rules to dismiss a statement of claim lodged by Plaintiff in which he asks for a declaratory judgment against Defendants to restrain them from carrying out a demolition order given in CrA 86/44 on the ground that the judgment is ineffective in that it does not specify with the requisite degree of particularity the structure or structures to be demolished. Interim injunction ex parte, restraining the Defendants from demolishing the property obtained);

"(1) The judgment of the Appellate Court in that CrA 86/44 is effective and clearly capable of execution.

(2) The statement of claim is therefore dismissed on the ground that the subject matter of the claim is res judicata and this Court has no jurisdiction to deal with it."

CCDCTA 250/45, (N.R.) Forshtat v. Mayor of T-Aviv & ors.

c. ON S. 35(1) PROVISIO (GOOD CAUSE);

196. — (Defendant argued that he built in accordance with the existing Regulations (though without a permit);

"As there was no evidence of the prosecution to show that Defendant contravened such Regulations, a "good cause" has been established."

CrCMgJm, 4966/37 Att. Gl. v. Stavri Sleheet.

197. — (*Submission that as there was no definition of what constitutes "good cause" for the purpose of S. 35 of the T.P.O., recourse must be had to English Law*).

"We consider that it is for the Court to decide what is good cause in the light of the particular circumstances of each case."

CrCDCJm 34/39 (N.R.), *Lys v. Att. Gl.*

198. — (*Submission that the demolition order could not be made against the Appellant without first hearing the mortgagees*);

"The Magistrate made no order against the mortgagees, nor has the Appellant any authority to make an application on behalf of the mortgagees."

CrADCJm 19/39, (N.R.) *Levy v Att. Gl.*

199. — "The Appellant having pleaded guilty the Magistrate should have afforded him an opportunity to show cause why the building should not be demolished in accordance with S. 35. It does not necessarily follow that because he pleaded guilty the building should necessarily be ordered to be demolished."

CrADCJm 46/38, (N.R.) *Cohen v. Att. Gl.*

200. — "(1) The owner of the building, being the person for whose benefit and at whose instance the building was erected and who employed and should have controlled the architect or contractor, he must be held to be a person carrying out the work.

(2) The Town Planning Permits (Jlem Dst.) By-laws, 1937 are of a later date than the Model By-laws of the Central TPC 1925 and consequently of greater force.

(3) The Appellant doing illegal work after the case has been instituted he did so at his own risk and must be held to be aware of what building was done. He is in no way taken by surprise.

(4) The fact that the building would have collapsed in the street endangering human lives if there had been delay while waiting for a permit does not constitute "good cause."

CrADCJm 37/39, (N.R.) *Muradoff v. Att. Gl.*

201. — (*Dst. Ct. ordered demolition; Appeal to Supreme Ct.*).

"It appears from evidence that the accused cannot proceed with the construction of the seven storeys building (because of the war) for which he has a permit and that the building he erected now improved the site and there was no evidence of Appellant suffering unduly by the breach of law. The accused therefore succeeded in showing "good cause."

CrA 11/43, 10 PLR 93, *Khayat v. Butros*,

202. — "(1) The re-erection of a building upon a site where one has been burned down is a construction within the meaning of the T.P.O.

(2) What is "good cause" is a question of law and appellate Court may say on the facts that no good cause in law has been shown although the Ma-

gistrate held that the accused did show good cause why an order of demolition should not be made."

CrADCJm 11/44, 1944 Selected 199,
Att. Gl. v. Shasha.

203. — "(1) Under the proviso of S. 35(1) of the T.P.O. the Court is bound to order demolition unless the accused shows good cause to the contrary.

(2) The Court of trial must indicate what was the circumstances which it considered to be good cause, and that circumstances must be of such a nature as in the opinion of the Court of Appeal furnish good cause."

CrADCTA 86/44, 1944 Selected 356;
Att. Gl. v. Forshat.

204. — "Good cause" must be shown by the accused by sworn evidence upon which the prosecution may have an opportunity of cross-examining him, and that a mere inspection of the premises by the Court does not amount to the accused showing good cause. The demolition or non demolition of the offending structure is often in reality the most vital issue in the case — vital for both, sides, — and it ought not, therefore, to be determined upon an inspection alone. Where an accused brings such sworn testimony the prosecution must be given the opportunity, not merely of cross-examining him (and any other witness brought by him on the point), but also of themselves bringing rebutting evidence."

CrADCTA 65/45, (N.R.) Att. Gl. v.
Forshat.

205. — "If the Magistrate is satisfied, by his own inspection, that demolition should not be ordered, he may order accordingly without hearing evidence, unless invited by the prosecution to do so."

CrA 181/45, 1945 ALR 829, For-
shat v. Att. Gl.

206. — "The fact that the accused moved, without having obtained a permit, the water tanks from the first floor to the second floor which was erected according to the permit, does not amount to "good cause."

CrADCJm 55/46, (N.R.) Att. Gl. v.
Zinkawi.

206a. — "The wording of the proviso to S. 35 (1) is mandatory and it is the duty of the Court upon conviction for building without a permit to order demolition unless good case to the contrary is shown."

CrADCJm 115/46, 1947 Selected 99;
Att. Gl. v. Dweik.

d. ON CHARGE, BY-LAW, PER-
IOD, FAILING, JURISDICTION:

207. — "(1) There had been no amendment of the charge after the beginning of the trial, but only a further description of the property.

(2) S. 38 of the T.P.O. had not been wrongly applied as the proceedings had been brought against Appellant in personam."

CrA 55/38, 1, 1938 SCJ 417, Jamal
v. Att. Gl.

208. — (*Accused convicted by virtue of By-law 13 of Town Permits Southern Dst.*) *By-laws, 1937, which says that any contravention of those By-laws shall be deemed to be committed by the building owner*);

"(1) The accused being the attorney of the owner who is abroad he could not be convicted since it is not possible to charge and convict an attorney of a criminal offence or a contravention.

(2) The By-laws are ultra-vires S. 4(1) of the T.P.O. which makes the person carrying out the work liable while the By-laws make the reputed owner liable which it cannot."

CrADCTA 2/39; 1939 TALR 130, -
Dreiangel v. Att. Gl.

209. — (*Counsel for Appellant has requested that the Court grant him a certain period in order to obtain a permit, and that in the meantime the demolition order given by the Magistrate should be stayed*); "There is nothing in the record to show that the Appellant has made any application to the Town Planning Commission to obtain a permit, and in the circumstances there is nothing to justify the grant of the application."

CrADCHa 20/44, 1944 HLR Cohen 8.

210. — (*Building sold subsequently to the date of the demolition order*).

"(1) When Court orders structural alteration or demolition under 35(1) of the T.P.O. and order not complied with and application is made under S. 35(2) for a direction that the order be carried

out by the Local Commission, Court has no discretion and must give such direction.

(2) It would be a strange position if a person could flout an order of demolition, dispose of the building and then successfully put forward the fact of disposal as a ground for avoidance of the order made, which would become a dead letter."

CrADCJm 22/44, 1944 Selected 112,
Att. Gl. v. Steinovitz.

211. — (*Order of demolition under S. 35(2) — Conviction quashed by the Dst. Ct. but demolition order upheld*). "Although the judgment of the Dst. Ct. was open to some criticism, the proviso to S. 11(2) of the Mag. Ct. Jur. Ord. could be applied, no miscarriage of justice having actually occurred."

CrA 20/40, 1940 SCJ 145, Jehzekiel v. Att Gl.

(*Appeal from judgment of Dst. Ct. 58/39*).

212. — "It is no doubt true that the effect of S. 35(4) of the T.P.O. is to confer upon Mag. Courts and Mun. Courts jurisdiction in a class of cases which were it not for that provision, would be beyond their jurisdiction; it seems to us however, that that is by no means the same thing as providing that the jurisdiction of a District Court is ousted from cases which would normally fall within its jurisdiction, and the effect of that subsection is that matters of the present class and kind may be brought either before a Dst. Court or

before a Mag. Court or a Municipal Court."

CrA 88/44, 11 PLR 451, Att. Gl. v. Kamenetzky.

e. ON S. 35(8) (APPEALS);

213. — "The word "order" in S. 35(8) of the T.P.O. includes punishment by fine or imprisonment which is thus appealable."

CrA 76/37, 1937 SCJ 568; Att. Gl. v. Abboud.

214. — "(1) The word "proceedings" in S. 39(1) of the T.P.O. and in S. 131 of the M.C.O. is not limited in any way and we have no hesitation in holding that it applies equally to civil and criminal proceedings instituted by the LBTPCJlem.

(2) Under S. 5 of the Mag. Ct. Jur. Ord. only two persons have a right to appeal: firstly, a convicted person, and secondly, the Att. Gl. or his representative. The Respondents had no right to appeal from the judgment of the Magistrate acquitting the Appellants."

CrA 128/37, 4 PLR 325, Ulitzi v. LTPCJm.

215. — "In an acquittal under the T.P.O. the State is the aggrieved person and the Att. Gl. rightly represents the State in a case under that Ordinance and he has the right to appeal against any prosecution under the T.P. Ordinance."

CrA 127/41, 8 PLR 488, Libovsky v. Att. Gl.

216. — "The term "order" used in S. 35 of the T.P.O. is general and includes

conviction, sentence and any other order as to the structure."

CrADCHa, 26/44, 1944 HLR Cohen 13.

217. — "No proper appeal lies against acquittal on behalf of the Attorney General because the Attorney General's representative confined himself to the particular provision of the Town Planning Ordinance and stated in the grounds of appeal that: "this in appeal ...in accordance with S. 35(8) of the T.P.O." while a general right of appeal against "judgment" (acquittal or conviction) exists under the Mag. Ct. Jur. Ord., S. 11(3)."

CrADCHa 134/45, 1945 Selected 555; Att. Gl. v. Dingot.

218. — "Att. Gl. has a right of appeal against "any judgment" under S. 11(3) of the Mag. Ct. Jur. Ord. in absence of restricting provisions in the T.P.O. that notwithstanding the provisions of the Mag. Ct. Jur. Ord. appeals shall be decided solely on S. 35(8) of the T.P.O."

CrADCHa 45/45, 1945 Selected 333; Att. Gl. v. Azari.

219. — "(1) Leave to appeal is required from a judgment of the Dst. Ct. in its appellate capacity under S. 35(8) of the T.P.O.

(2) A Criminal Appeal cannot be heard if the Appellant died before the date of hearing."

CrA 128/45, 1945 ALR 759, Aboudi v. Att. Gl.

220. — "(1) There is no doubt that S. 35(8) of the T.P.O. 1936/41 contains a "lacuna" when referring to S. 14(1) of the M.C.J.O., 1939; the latter dealing with a party known in the case who was or was not present at delivery of judgment and implies official notification of the judgment while the former deals with an appellant who was not a party to proceedings and was not known to Respondent at the time judgment was given.

(2) Whenever a doubt arises out of a correct interpretation of the law, it must be directed for the benefit of the accused.

(3) Registered ownership at time the appeal is lodged gives right of appeal against the demolition order. Even if we hold that the Appellant must be registered owner at the time the order is given it will be for such Appellant to prove this point before the Magistrate's Court during proceedings."

CrADCJm 78/46, 1946 Hamishpat 230, Farkash v. Att. Gl.

221. — "(1) The words "by any order" under this section are all embracing and must include an order dismissing a charge and acquitting an accused. So, appeals in Town Planning prosecutions are regulated by the T.P.O. and not by the more general Mag. Ct. Jur. Ord.; Such appeals lie at the instance of the At. Gl. from "any order".

CrA 107/46, 1946 ALR 671, Nussbaum v. Att. Gl.

f. ON S. 35(7), 36, 39, 40,
SCHEDULE:

222. — "(1) S. 35(7) of the T.P.O. does not apply to cases where the person against whom an order for demolition has been made dies before the expiry of the period within which he was ordered to effect the demolition or obtain a permit.

(2) If in such circumstances an order under S. 35(7) is obtained ex-parte, the heirs may appeal under S. 35(8)."

CrA 137/47, 1947 ALR 266, Abboud & ors. v. Att. Gl.

223. — "No appeal by Att. Gl. from an order varying or revoking a previous order under S. 36(2) of the T.P.O."

CrADChA 70/46, 1946 Selected 522, Attl Gl. v. Montague.

224. — "(1) If the Police refuses to prosecute under the T.P.O. any person may prosecute as a private complainant, even if he is not aggrieved by the offence.

(2) The rights given by virtue of S. 39 of the T.P.O. to a Local C-ssion to institute proceedings are in addition to and not in restriction of the rights of the Police or a private complainant to prosecute."

CrADChA, 34/42, 1942 HLR Cohen 26; Att. Gl. v. Khayat.

225. — (*The Municipal Engineer approved the application for a permit subject to compliance with certain structural alterations being effected in the plan*).

"There was no question of importing into the permit conditions other than those contained in S. 4 & 5 of the Town Planning Rules."

HC 8/35, 2 PLR 251, Lucatsh v. LTPCHa.

226. — "(1) S. 11 of the T.P.O., 1936, requires a permit to be obtained in accordance with the By-laws before buildings can be erected. By definition, buildings include walls, roofs, etc. The Appellant, not having obtained a permit to build a wall, roof, etc. was rightly convicted.

(2) As to numbers by which parcels are notified, it appears on the survey of Palestine map that a note when referring to Urban Assessment Blocks, the number of 30.000 should be added to the numbers shown on this map."

CrA 65/39, 1939 SCJ 515, Muradoff v. Att. Gl.

227. — "The words "construction, diversion and alteration of streets" in S. 11(2) (a) of the T.P.O. do not empower the LTPC under an Outline Town Planning Scheme to make provisions for the cost of such roads or streets and the persons upon whom such costs should be levied." (*Such provisions were made in para 9(a) of the Haifa Outline Town Planning Scheme which para was declared by both Courts below to be ultra-vires*).

CA 153/43, 1943 ALR 439, Municipal C-ssion of Haifa v. Jacoub & ors.

228. — "(1) The functions of the Local C-ssion are purely consultative and

advisory and it has no power to approve or disapprove a scheme. When the Local C-ssion has considered a scheme it forwards it to the Dst. C-ssion for recommendation, which the Dst. C-ssion is not, however bound to adopt.

(2) Service of summons on the Chairman of the Dst. C-ssion was sufficient as this has been done in accordance with the rule nisi previously granted by the Court. The body is a statutory body whose members may vary from day to day their names not being published. It is therefore sufficient to cite the Chairman and members of the Dst. C-ssion" and to serve the Chairman.

(3) The powers of the Dst. C-ssion are not absolute. They are governed firstly by the provisions of the Ordinance. S. 14(2) (i) of the Ordinance allows the C-ssion to make provisions for the external appearance of buildings but the by-laws which applied to the area allowed several alternative methods of construction including concrete as well as stones. The C-ssion was bound by those by-laws and could not alter their effect by ad-hoc decision. The provisions which they were seeking to enforce was not covered by any by-law.

(4) The C-ssion owed to the Petitioner the duty of dealing with their application in accordance with the law and the Petitioner's right was to insist that the application be so dealt with.

(5) The Petitioners did not have another remedy as they had already made their objections to the Dst. C-ssion, under S. 17 of the Ordinance and the

Dst. Commission had refused to give effect to them. S. 17 cannot be held to apply where the objection is to the legal competence of the Dst. Commission to do something which it proposes to do."

HC 37/39, 1939 SCJ 365, Keren Kayemeth Leisrael v. Dst. TPC & ors.

g. ON THE RELATION BETWEEN THE TOWN PLANNING ORDINANCE AND OTHER LEGISLATION (contracts, expropriation, eviction).

229. — (*On a building having been erected in conformity with the Town Planning Regulations*); "That this fact did not bring it outside the mischief of Art. 1202 of the Mejelleh if its windows overlooked the women's quarters in a neighbouring house."

CA 79/30, 1 PLR 559 Hagenlocker v. Hanawi.

230. — "A purchaser is entitled to refuse transfer of property where the house thereon was not built in accordance with the building permit, that being a defect."

CA 44/37, 1937 SCJ 355; Rosenberg v. Berman.

230a. — (*Liability of purchaser, S. 35 (9) of the T. Pl. Ord.*).

"A purchaser of land on which a building is being put up contrary to Town Planning Regulations is participating in the offence. The Appellants must have been aware, when they negotiated for the purchase of the land, that there was a partly constructed building

on it without a permit."

CrA 136/46, 1947 ALR, 437; Hasson & ors. v. Att. Gl.

231. — "(1) A purchaser is entitled to refuse to complete upon hearing that the property is subject to a demolition order which fact was not disclosed by vendors at the time of the agreement.

(2) Occupation until disclaimer need not constitute waiver of the breach."

CA 104/37, 1937 SCJ 525, Laudman v. Kivilis.

232. — (*Sale of house—Vendor undertook to supply to purchaser a certificate of completion of the building from the Municipality—Certificate not supplied—Transfer effected in the Land Registry office; (Following 97/35 where it was laid down that by agreeing to the transfer and registration of the house and land the purchaser waived his right to any claims for damages arising out of minor omissions subsidiary to the main objects of the contract)*; "The non supply of the a.m. certificate is such a minor omission and is of no importance."

CCDCTA 160/37, TALR 59; Cohen v. Drexler.

233. — "The refusal to grant the necessary licence for the premises by the City Engineer is not a defect inherent in the premises or internal to them, and the lessee cannot therefore rescind the lease."

CADCHa 271/37, 1938 Northern Law Rep. Liphshitz 6; Kastelanitz v. Shwisha.

234. — "(1) Building erected without a permit creates a defect within the meaning of Art. 339 of the Mejlleh entitling party to rescind contract. Declaration by purchaser that he has seen the building is, in such case ineffective.

(2) No judgment can be given on the presumption that the purchaser checked the plans of the building as approved by the Municipality in the absence of clear evidence that he did in fact so before signing the contract.

(3) The fact that the Municipality issued a certificate of occupancy in respect of the said building, without which it would be impossible to register the transfer in the Land Registry and the fact that the same Municipality took no steps with regard to the said unauthorised part of the building are irrelevant."

CCDCTA 86/42, TALR 1941-42, 168; Pavzner v. Rigler.

235. — (*Agreement for sale of land — Approval by the competent authorities of parcellation scheme to be obtained within certain time.*).

(1) "To determine what is meant by the term 'approval by the competent authorities' we must refer to the T.P.O., and the approval required in the contract must be the approval of the bodies specified in the said Ordinance.

(2) A parcellation scheme is not a disposition, since a disposition means a disposal of ownership or possession and a parcellation is not such a disposition unless and until effect is given to it by registration of the various plots in the

names of the new owners."

CA 78/40, 7 PLR 237, Banco di Roma v. Friedman.

235. — (*Waqf applied for a building permit to Hebron Municipality—Subsequently Petitioner applied for same producing a Kushan in respect of the same plot of land—Respondent refused to grant a permit on the ground that it was difficult to know whether land falls within or outside the boundaries shown in the Kushan and therefore no permit could be granted until the matter was settled by the Court*). "Municipality properly exercised its discretion in refusing the permit until the dispute was settled."

HC 2/36, Palestine Post 28.4.36, Sharabati v. Mayor of Hebron.

237. — "A Town Planning Scheme does not effect equitable rights of ownership vested in party before scheme came in force."

Land case DCHa 23/41, 1942 HLR Cohen 71; Fleishman v. Levanon.

238. — (*Part of land expropriated—Subsequently land in question came into the ownership of a new owner—Another part expropriated*).

"(1) That the Appellant being the owner of a plot of land within a Town Planning Scheme, so long as no more than one quarter of his land was expropriated, was not entitled to compensation, and the fact that at an earlier date the same piece of land belonged to another owner and a portion of it was then expropriated without compensation seems to be irrelevant.

(2) Having regard to the wording of S. 27 of the T.P.O., 1936, the word "owner" must mean the person owning the land at the time of its expropriation; any other interpretation would not make sense in view of the remaining provisions of the Ordinance. In the absence of any special definition of the word "owner" it seems that the ordinary meaning of the word should be applied."

CA 91/42, 9 PLR 419, Barakat v. Municipal Corporation Jaffa.

239. — "The objection that the plot of land claimed could not be registered independently as it was smaller than the minimum area prescribed by the Town Planning Scheme in force and that, for the same reason, the partition, envisaged as condition precedent, could not now be carried out, was unsound as the Land Court in granting specific performance was merely aiming to give effect to a state of affairs existing at the time when the Town Planning Ordinance was not yet applicable in Hedera and Respondent's position as regards this parcel was similar to the position of owners of land who, prior to the coming into force of the scheme had already held plots not conforming with the requirements of the Town Planning Ordinance or Scheme. The partition envisaged in the agreement entered into in 1936 was not a partition under the Town Planning Ordinance but a regular partition which would then have been accepted by the Land Registry."

CA 207/42, 1942 SCJ 861, Levanon v. Fleishman.

240. — (*Failing to comply with a discontinuing order of a non-conforming use of an outbuilding — Allegation that the order was impossible of performance because of the Rent Restriction (D.H.) Ord.*)

"(1) A mere expression of views or opinions is not a proof that the order is or was impossible of performance and in order to decide whether a case for evic^{tion} may or may not succeed in a court of law some action must be done.

(2) The only person who is really to be blamed for the difficulties which are expressed by the accused is he himself; he was the man who let the outbuilding in spite of the fact that he had no permit to use it for habitation. He cannot now after having committed a breach of the law plead innocence and clean hands.

(3) It does not concern the court whether the intention of the prosecution by bringing the present case is to keep the order alive or not, the fact remains that in spite of the fines he paid, he enjoys a much greater income from the rent."

CrCMag.Jm. 2821/46, Att. Gl. v. Baddour.

241. — (*Respondent leased from Appellant certain premises without permission to use the same for certain trades specified in contract of lease—Respondent nevertheless used them as a wholesale grocery shop by virtue of a licence from the Tr. & Ind. section of the Haifa Municipality—Appellant argued: a). that the use is contrary to parcellation Scheme of the Reclaimed Area. b). that it is a non-conforming use contrary the S. 35 of the*)

T.P.O. c). that he is therefore entitled to sue for eviction, the use being illegal).

"(1) To constitute a user of premises for an illegal purpose within S. 4(1) (d) of the R.R. (B.P.) Ordinance there must be an improper user for furtherance of an unlawful purpose.

(2) The proper test to be applied is not whether there is an isolated instance or continual unlawfulness or breach of a by-law or of the T.P.O. in carrying out that which is a lawful purpose; for it has not and cannot be argued that the carrying out of the business of wholesale grocery is not a lawful purpose."

CADCHa 67/44, 1944 Selected 274;
Moses v. Barzel.

242.—(*Washroom and store let for dwelling purposes—Charge under S.35(1) of the T.P.O. brought against lessor for non-conforming use—Conviction and order against lessor "to arrange for the eviction of the outbuilding" — Failing to comply with such order, charge under S. 35(2) — Conviction as per CrC 2821/46 — Lessor (convicted person) seeks for an eviction order on the following grounds: a. the lease is void as being illegal and contrary to law and T.P.O.; b. the continued use of the premises as a dwelling house by the Defendant is illegal to law and constitutes an offence under the T.P.O.*).

"(1) (Following CCDCJm 67/44 1944 Selected 274) The fact of a person using some premises for dwelling purposes for himself and his family does not make the premises unlawful.

(2) The order under S. 35(1) "to arrange for the eviction" did not render the lease null and void.

(3) Even if the contract were illegal, if the illegality of the transaction was brought to the notice of the Court and the person invoking the aid of the Court is himself implicated in the illegality, the Court will not assist him.

(4) The order under S. 35(1) could not affect the rights of the lessee as the order was not given in rem but in personam. Would the order have been given to the LTPC it would be an order in rem which would affect the rights of any person whether he uses the premises as lessee or landlord."

CCMg.Jm. 1364/46, Baddour v. Strauss.

Referred to:

1. CCDCJm 67/44, 1944 selected 274;
2. CA 279/44, 12 PLR 62;
3. Chitty, Law of Contracts, 19th edition, 296;
4. Halsbury's Laws of England, 2nd edition, vol. 7, p. 148;
5. Alexander v. Rayson, Ct. of App. 1936, 1 K.B. 169;
6. Feret v. Hill, 1854, 15 Q.B. 207;
7. Blake v. Smith (1921) 2 K.B. 685.

243.—"(1) A purchaser of a house cannot rescind the contract before transfer on the ground that the building contains controlled materials which were used without a licence.

(2) (Obiter) But where By-laws provide for a certificate of occupancy, the

contract may be rescinded if the vendor fails to produce such a certificate."

CA 16/46, 1946 ALR 301, *Cohen v. Perel*.

7. TRADE AND INDUSTRIES (REGULATION) ORDINANCE, 1927.

244. — "Person using workshop for purpose of repairing his own buses cannot be held to be carrying on business or trade of a garage within the meaning of Tr. & Ind. (Reg.) Ord."

CrA 5/43, 1943 ALR, 69; Att. Gl. v. Motor Car Society, Bat-Galim.

245. — "I is not an offence under S. 10 (1) (a) of the Tr. and Ind. (Reg.) Ord. for a tobacco Co. to use premises as a store for their own products and for no other purposes."

CrADCHa 86/44, 1944 H.L.R. Cohen 32.

246. — "A distributing centre and retail shop is not a store within the meaning of the last item of Schedule C to the Tr. & Ind. (Reg.) Ord."

CrADCHa 16/44, 1944 Selected 66, Att. Gl. v. Karaman, Dick & Salti.

247. — "A special licence should be taken out under the Tr. & Ind. (Reg.) Ord. in respect of a store used in connection with a classified trade in respect of which a licence has already been issued."

CrA 116/44, 1944 ALR 830, Att. Gl. v. Arab Union Cigarette Ltd.

Referred to: Att. Gl. v. Plymouth Corporation, 1909, 100 L.T. 742; Halsbury Vol. 32 p. 307, para 490.

248. — "A furniture store, though separate from the retail place of business, used as an integral part of general business, requires a licence for a classified trade."

CrADCHa 81/46, 1946 Selected 652; Att. Gl. v. Yarkoni.

249. — "For the purposes of licensing under the Tr. Ind. (Reg.) Ord. stone crushing machinery is not part of the industry of quarrying, for not all the stone quarried is being put through the crushing machine. The machinery is not one for the purposes of or in connection with excavation or quarrying of stones."

CrA 156/46, 1947 ALR 54, *Sham v. Att. Gl.*

250. — "Charge under S. 4(1) and 10 of the Tr. Ind. (Reg.) Ord. is deficient if it does not allege that the place where the factory was situated was one to which the provisions of the Ordinance had been applied by order of the District Commissioner."

CrADC T-A. 73/44, 1945 Selected 120, *Mandelbaum v. Att. Gl.*

251. — "(1) The Tr. & Ind. (Reg.) Ord. apply to the whole of the Haifa District and it is therefore sufficient to prove that a cafe is situated in one of the principal streets of Haifa in order to bring it under the provisions of the Ordinance.

(2) A prohibition in the conditions of a licence against "card games" includes all card games, whether gambling or not.

(3) On the interpretation of S. 7(1) of the Ordinance both the Director of Medical Services and the Inspector General may attach conditions to any licence."

CrA 159/43, 1944 ALR, 130; Att. Gl. v. Mizrahi.

252. — (*Petitioner applied for a licence; Municipality received a letter from the District Officer informing the following: "The District Commissioner decided not to grant the licence. I ask you to enforce the decision." The Council on this letter decided not to grant the licence*). "This was not a proper exercise of the discretion vested in the Council, but merely giving effect to a decision made by the District authorities. The Council must take into consideration any objection, must give the Applicant an opportunity of answering such objections and must use its own discretion."

HC 34/31, 1 PLR 595, Ayoub v. Mayor of Beit-Jala.

253. — "Refusal to renew pharmacy licence under S. 4(2) of the Tr. & Ind. (Reg.) Ord. on ground of arrear in payment of rates is not proper exercise of discretion (not on legal reason)."

HC 12/40, 7 PLR, 127, Roginsky v. Local Council Raanana.

254. — (*Refusal to issue a licence for a new shop, restricting the number of butcher shops in its area — Order nisi discharged*); "The High Court will not interfere with refusal of Local Council to grant a licence for a shop in addition to those already existing and whose

number the Council regards sufficient."

HC 51/44, 1944 ALR 457, Reznice v. Local Council Holon, (Para 10 of the Local Councils, (Holon) Order, P. G. 993, Suppl. 2, p. 429).

255. — "(1) A licence under the Tr. & Ind. (Reg.) Ord. need not be issued only to the owner, but may be given to an authorised agent.

(2) Judgment will not be given that the licence should be given to one person rather to another going into the question of ownership of the business."

CA 348/46, 1947 ALR 250, Halperin v. Halperin.

256. — (*Refusal to grant renewal of hotel licence on ground that the hotel is used for keeping a brothel.*) "The Superintendent of Police has told us, very fairly, that he proposed to lay a charge under the Criminal Law but that the Law Officers advised that the evidence was not strong enough to justify a prosecution. That being so, we cannot say that the Superintendent of Police has exercised his discretion in a judicial manner when he refused his approval on the ground that the house is frequented by prostitutes for the purposes of their trade when that is the very matter which he is advised there is not enough evidence to substantiate in a Court of Law under an Ordinance which expressly creates it an offence to keep a house which women frequent for such a purpose."

HC 95/30, Rotenberg, C. of J., vol. iv, 1201, Fawal v. Superintendent of Police Haifa & ors.

257. — "Conduct of business after expiry and before renewal of the licence is an offence even if licence subsequently renewed." (*Rule 3 of the Tr. & Ind. (Reg.) Rules, Drayton iii, 2262*).

CrADCHa 31/44, 1944 HLR Cohen 14.

258. — "Alterations in premises causing a change in the conditions in which a trade is carried on require the taking out of a fresh licence to carry on such trade."

CrADC Ha 80/46, 1946 Selected 602, Att Gl. v. Patt.

259. — "It was clearly laid down in HC 8/36 that the discretion to grant or refuse the licence asked for is vested in the Municipal body concerned; but in the present case we cannot hold that the refusal of a licence based upon an agreement with a third party, that nobody save that party shall be allowed to sell water, is an exercise thereof for a legal reason in as much as the Council has no statutory power to grant a monopoly in respect of water supply."

HC 7/36, 3 PLR 77 Abramovitz v. Local Council Rishon Letzion.

260. — "The Regulations of Tr. & Ind. Ord., 1927, quite clearly gives the Municipal Council a discretion as to granting or withholding a licence. We cannot agree with the Petitioner that the function of a Municipal Council is, merely to receive the fees, and that the only people whose discretion is to be invoked are the Director, Department of Health or the Commandant of Police, under S. 7 of the

Ordinance in question."

HC 8/36, 3 PLR 34. Cooperative Matechet v. Local Council P-Tiqva.

261. — "It is not necessary in a case like this, where the Police wishes to refuse a trade licence that they should have available sufficient evidence to constitute a prima facie case in a criminal charge; they may base their disapproval on strong grounds of suspicion."

HC 39/37, 4 PLR, 259, Sayegh v. Municipal Council of Jaffa.

262. — "(1) The Local Council (Kfar Yona) Order, 1940, enabled, the first Respondent to limit even the number of cafes for which licences might be granted in the area under jurisdiction; particular stress is laid on the words in para 10(p) of the Local Councils (Kfar Yona) Order: "to regulate and control the establishment of business."

(2) The mere fact that the Petitioner is one of the first of a large number of applicants to apply for licence of cafe is no reason why she should have been given preference, provided always the Local Council did not act capriciously or with obvious bias or from wrong motives.

(3) Paras 10(o) and 10(p) of the Local Councils (Kfar Yona) Order do not prevent the Local Council from approving a zone within which cafes should be situated, even although no town planning scheme had yet been made for the area within their jurisdiction.

(4) The real question before the Local Council, seems to have been whether

the Petitioner was a suitable person to have a licence for a cafe, having regard to the fact that she was only one of apparently many candidates for a licence, the number of which the Council had every right to restrict to twenty; there was nothing before the High Court to show that the Local Council acted capriciously or with bias or from improper motives or from other wrong reasons."

HC 3/42, 9 PLR, 75, Ben-Ami v. Local Council. Kfar Yona & ors.

263. — (*Police D-ment had no objection to grant a cafe licence to Petitioner while Health D-ment refused approval*). "S. 7 (2) of the Tr. & Ind. (Reg.) Ord. as amended does not apply where Police D-ment have no objection to grant a licence and Health D-ment refuses approval unless applicant carries out certain constructural alterations."

HC 68/45, 1945 ALR, 824; Nissan v. Municipal Commission Jlem.

264. — (*Licensing authority endorsing restriction on licence granted by them*). "Fact that several other trades are being or may be carried on without the restriction attached to Petitioner's licence—not sufficient to induce High Court to hold that licensing authority exercised discretion arbitrarily." (*the condition endorsed under the Tr. & Ind. (Reg.) Ord. was that the premises shall be closed between 10 p.m. and 5 a.m.*).

HC 104/45, 1946 ALR, 122; Shemen Yehuda v. Inspector General of Police.

265. — "Although the holder of a licence under the Public Entertainment Ordinance does not require a licence under the Trade and Industries (Regulation) Ordinance, his licence may be endorsed with conditions by the Director of Medical Services and the Inspector General of Police and Prisons, as though it had been issued under the latter Ordinance. (*S. 7 of the Tr. & Ind. (Reg.) Ord., Sale of Intoxicating Liquors Ord. 1935, Public Entertainment Ord. 1935*).

CrA 7/46, 1946 ALR, 274; Att. Gl. v. Panorama Hotel Ltd.

266. — "(1) The person carrying the trade must obtain a licence from the Municipality under the Tr. & Ind. (Reg.) Ord. and not the person who hired the shop.

(2) The issue of a licence under the a.m. Ord. is within the exclusive discretion of the Municipality and the Court will not issue an order directing the Municipality to grant a licence to a certain person."

CCDCTA 180/46, 1946 Hamishpat 262, Hilperman v. Hilperman.

267. — (*Wrong section of law — appellant charged under S. 11(1)(a) of the Tr. & Ind. (Reg.) Ord. instead of S. 10 thereof*). "If accused pleaded guilty to charge under wrong section of law he is deemed not to have appreciated the nature of the charge and conviction therefore is quashed."

CrADCJa 80/42, 1943 Selected 179; Zacharia v. Att. Gl.

268. — "(1) Offence contrary to S. 10(1)(a) of the Tr. & Ind. (Reg.) Ord. is a misdemeanour and if accused not informed of right to be tried by a British Mag., the Magistrate's Court had no jurisdiction to try the accused."

CrADCJa, 120/43, 1944 Selected 114, Raek v. Att. Gl.

269. — "The punishment laid down in S. 10(1)(c) of the Tr. & Ind. (Reg.) Ord. (Cap. 143, Drayton) is imprisonment for 15 days or LP. 5 fine or both; such punishment makes the offence a misdemeanour; it was therefore the duty of the Magistrate to have put the accused to his election as required by S. 6 of the Mag. Court Jur. Ord., 1939."

CrADCHa 57/44, 1944 HLR Cohen 24.

270. — "(1) Under S. 10(2) of the Tr. & Ind. (Reg.) Ord. it is to the person carrying on the trade that the closing order must be directed.

(2) There is nothing in the Tr. & Ind. (Reg.) Ord. or under S. 143 of the Cr. Code Ord. 1936 that requires service of a closing order on the accused.

(3) S. 12 of the Tr. & Ind. (Reg.) Ord. creates an offence only where the premises "have been closed" under or in pursuance of a closing order and a person then proceeds thereafter, despite the existence of the order, to carry on the classified trade thereon."

CrADCJm. 83/44, 1944 Selected 359; Houminer v. Att. Gl.

271. — "S. 10(2) of the Tr. & Ind. (Reg.) Ord. does not give the right of appeal to a person against whom an order for closing unlicensed premises has been made and the general rule laid down in the Mag. Ct. Jur. Ord. as regards appeals applies."

MisdADCHa, 66/37, 1938, Northern Law Reports, Liphshitz, 66. Weismark v. Att. Gl.

272. — (*Order given by the Municipal Court under S. 10(2) of the Tr. & Ind. (Reg.) Ord., cap. 143, that the premises in question be closed if the accused should not obtain a licence within 3 months from the date of the conviction*) "Such order would be tantamount to the Court condoning the continuance of an unlawful act, and the Court had no power to allow the convicted man to carry on, after conviction, a classified trade without having a licence."

CrADCTA, 74/37, 1937 TALR 93 Att. Gl. v. Feigin.

273. — "The charge against the Appellant was contrary to S. 383 of the C.C.O., 1936 to which he pleaded guilty. The Magistrate's Court could not according to that section give a closing order in respect of the said hotel the books of which have not been kept in order; nor could the prosecution ask for such an order as per S. 10(2) of the Tr. & Ind. (Reg.) Ord. because the charge was not instituted according to that section. We therefore cancel the closing order."

CrADCTA 86/41, TALR 1941-1942, 193, Fish v Att. Gl.

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1. (a) Advertisements	1941	1130	1474
(b) Advertisements (Amendment) .. .	1942	1238	1858
(c) Advertisements (Amendment) .. .	1943	1266	449
(d) Advertisements (Amendment) .. .	1946	1520	1060
2. (a) Bicycles and Tricycles, Licensing of .. .	1936	655	1450
(b) Bicycles and Tricycles, Licensing of (Amendment) .. .	1944	1329	278
3. (a) Building Model .. .	1925	150	520
(b) Building (Modifications) .. .	1927	194	618
(c) Building (Amendment) .. .	1931	278	142
(d) Building (Amendment) No. 2) .. .	1931	282	317
(e) Building (Amendment) .. .	1935	539	894
(f) Building (Amendment) .. .	1936	619	795
(g) Building (Amendment) .. .	1937	695	502
(h) Building (Amendment) .. .	1938	800	873
(i) Building (Amendment) .. .	1939	936	874
(j) Building (Amendment) .. .	1940	1055	1570
4. (a) Business Tax .. .	1945	1448	1235
(b) Business Tax (Amendment) .. .	1947	1571	533
5. Courtyards .. .	1939	941	904
6. Dangerous Buildings, Demolition of .. .	1940	1055	1563
7. (a) Dogs, Licensing and Control of .. .	1937	709	736
(b) Dogs, Licensing and Control of (Amendment) .. .	1937	744	1315
(c) Dogs, Licensing and Control of (Amendment) .. .	1943	1273	550
(d) Dogs, Licensing and Control of (Amendment) .. .	1946	1528	1230
8. (a) Drains and Cesspits, Cleansing of .. .	1937	732	984
(b) Drains and Cesspits, Cleansing of (Amendment) .. .	1941	1118	1172

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10. (a) Insanitary Nuisances	1945	1453	1314
(b) Insanitary Nuisances (Amendment)	1946	1475	287
11. Lifts and Escalators, Control of	1942	1117	510
12. Municipal Markets	1937	728	961
13. Municipal Markets	1943	1279	709
14. Nuisances, Prevention of	1935	549	1087
15. Parking Space for Public Entertainment Buildings	1939	877	279
16. Pasturing Animals, Control of	1947	1577	669
17. (a) Pensions Municipal, Regulations	1938	793	747
(b) Pensions Municipal, Regulations (Amendment)	1938	808	1058
(c) Pensions Municipal, Regulations (Amendment)	1942	1198	947
(d) Pensions Municipal, Regulations (Amendment)	1944	1325	292
(e) Pensions Municipal, Regulations (Amendment)	1945	1392	149
18. Plants, Protection of	1938	844	1543
19. Rates, Payment of	1934	457	691
20. Refuse, Removal of (Fees)	1947	1557	304
21. Sewers and Drains, Construction of	1941	1104	917
22. Sewers and Drains, Construction of	1945	1424	760
23. (a) Sidewalks, Municipal Area	1935	511	455
(b) Sidewalks, Municipal Area (Amendment)	1937	732	983
(c) Sidewalks, Municipal Area (Amendment)	1940	990	368
(d) Sidewalks, Municipal Area (Amendment)	1941	1098	770

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24. Slaughter House (Fees)	1940	984	274
25. Slaughter House	1946	1468	57
26. (a) Stationary Vehicles, Regulation of	1935	535	837
(b) Stationary Vehicles, Regulation of (Amendment)	1937	672	217
27. (a) Streets, Construction of	1937	732	981
(b) Streets, Construction of (Amendment)	1940	990	368
28. Street Name Plates	1938	808	1060
29. Street, Preservation of	1936	593	337
30. Street Trades	1938	773	436
31. (a) Tariffs for Public Vehicles	1942	1221	1413
(b) Tariffs for Public Vehicles (Amendment)	1943	1266	449
(c) Tariffs for Public Vehicles (Amendment)	1944	1347	679
(d) Tariffs for Public Vehicles (Amendment)	1945	1407	543
32. Town Planning (Fees)	1947	1592	986
33. (a) Town Planning Permits	1937	705	663
(b) Town Planning Permits (Amendment)	1939	971	1465
(c) Town Planning Permits (Amendment)	1940	1001	615
(d) Town Planning Permits (Amendment)	1941	1118	1190
(e) Town Planning Permits (Amendment) (No. 2)	1941	1134	1566
34. (a) Walling and Fencing	1939	855	7
(b) Walling and Fencing (Amendment)	1940	990	369
35. Waste Paper, Collection and Disposal of	1943	1254	206
36. Water Supply	1941	1113	1075

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(b) Advertisements (Amendment)	1935	541	948
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(d) Advertisements (Amendment No. 2)	1947	1586	881
2. Bathing	1935	539	881
3. (a) Bicycles and Tricycles, Licensing of	1937	702	622
(b) Bicycles and Tricycles, Licensing of (Amendment)	1947	1580	769
4. Buildings, Numbering of	1940	1063	1676
5. Buildings, Rateable Value of	1943	1259	324
6. (a) Business Tax	1945	1461	1465
(b) Business Tax (Amendment)	1946	1475	287
7. Certificates Fees	1945	1447	1208
8. Cinemas, Licence Fees for	1945	1446	1173
9. Dangerous Buildings, Demolition of	1938	787	611
10. (a) Dogs, Licensing and Control of	1937	735	1068
(b) Dogs, Licensing and Control of (Amendment)	1939	958	1152
(c) Dogs, Licensing and Control of (Amendment)	1943	1249	127
(d) Dogs, Licensing and Control of (Amendment)	1947	1586	882
11. Drains and Cesspits, Cleansing of	1943	1253	191
12. (a) Entertainments Charges	1943	1256	281
(b) Entertainments Charges (Amendment)	1947	1585	831
(c) Entertainments Charges (Amendment)	1947	1586	885
13. Intoxicating Liquor, Sale of (Licence Fees)	1945	1451	1275
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(b) Noises, Prevention of (Amendment) ..	1947	1586	883
17. (a) Nuisances, Prevention and Abatement of	1935	506	403
(b) Nuisances, Prevention and Abatement of (Amendment)	1947	1586	880
18. (a) Plants and Preservation of Public Gardens (Protection of)	1945	1440	1026
(b) Plants and Preservation of Public Gardens Protection of (Amendment)	1947	1586	886
19. Porters, Licensing and Control of	1947	1572	561
20. Poultry, Slaughter of	1945	1446	1174
21. Rates, Payment of	1934	448	509
22. Refuse or Filth, Prevention and Accumulation of	1935	517	556
23. (a) Refuse, Removal of	1935	523	689
(b) Refuse, Removal of (Amendment)	1947	1586	881
24. (a) Shops, Opening and Closing of	1937	715	799
(b) Shops, Opening and Closing of (Amendment)	1947	1586	882
25. (a) Signboards	1941	1085	467
(b) Signboards (Amendment)	1947	1585	830
(c) Signboards (Amendment)	1947	1586	884
(d) Signboards (Amendment)	1947	1596	1081
26. Slaughter House	1941	1078	241
27. Slaughter House Fees	1946	1516	1017
28. Social Welfare Charge	1945	1937	972

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(b) Stationary Vehicles, Regulation of (Amendment)	1947	1580	770
30. Street Collection	1941	1085	473
31. (a) Streets, Construction of	1944	1362	986
(b) Streets, Construction of (Amendment) ..	1947	1586	885

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1. (a) Advertisements	1937	722	885
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2. (a) Animals, Slaughter of	1935	493	139
(b) Animals Slaughter of (Amendment) ..	1944	1349	738
3. Animals, Burial of	1935	493	139
4. Animal Markets	1947	1611	1406
5. Architectural designs	1941	1131	1519
6. Assessment	1945	1421	724
7. Bathing	1938	818	1271
8. Bicycles and Tricycles, Licensing of ..	1936	560	6
9. Buildings, Numbering of	1938	797	789
10. Business Tax	1946	1469	94
11. Cesspools, Cleansing of	1943	1276	631
12. Children, Protection of	1947	1580	768
13. Cleanliness of Thoroughfares, Maintenance of and Preventing of Litter	1935	493	143
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(b) Foodstuffs, Price Control of (Amendment)	1942	1226	1512
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3. Buildings, Rateable Value of	1939	871	171
4. (a) Business Tax	1944	1380	1446
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7. Dangerous Buildings, Demolition of	1939	936	864
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9. (a) Entertainments Fees	1937	743	1277
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10. (a) Foodstuffs, Price Control of	1942	1204	1043
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	(d) Water Supply (Amendment)	1947	1547	33

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