



## TRINIDAD AND TOBAGO

## No. 3—1960

[L.S.]

I ASSENT,

E. B. BEETHAM

*Governor*

28th March, 1960.

AN ORDINANCE to amend the San Fernando Corporation Ordinance, Ch. 39. No. 7.

Enactment. ENACTED by the Governor of Trinidad and Tobago with the advice and consent of the Legislative Council thereof.

Commencement.

[7th April, 1960]

Short title.

1. This Ordinance may be cited as the San Fernando Corporation (Amendment) Ordinance, 1960, and shall be read as one with the San Fernando Corporation Ordinance, hereinafter referred to as the Principal Ordinance.

Ch. 39. No. 7.  
Laws 1951-53,  
Vol. I p. 458.  
Ord. 34—1954.  
Ord. 42—1955.

2. Section 2 of the Principal Ordinance is hereby amended by— Section 2 of Principal Ordinance amended.

(a) inserting immediately after the definition "borough" the following:—

"Borough Treasurer and Accountant" means the person for the time being holding the office of Borough Treasurer and Accountant under the Corporation and includes any person acting as Borough Treasurer and Accountant;

(b) substituting for the definition "Town Clerk", the following:—

"Town Clerk" means the person for the time being holding the office of Town Clerk under the Corporation and includes any person acting as Town Clerk;

(c) deleting the definition "Town Engineer" and substituting therefor in its proper alphabetical order the following definition:—

"Borough Engineer" means the person for the time being holding the office of Borough Engineer under the Corporation, and any other person for the time being performing the duties of the Borough Engineer with the authority of the Corporation;

(d) deleting the definition "officer".

3. Section 12 of the Principal Ordinance is hereby amended by substituting the following for paragraph (g) of subsection (2):— Section 12 of Principal Ordinance amended.

"(g) if he has within five years before the day of the election or since his election been surcharged to an amount exceeding two thousand five hundred dollars by the Director of Audit."

4. Sections 34 to 42 inclusive of the Principal Ordinance are hereby repealed and replaced by the following:— Sections 34 to 42 of Principal Ordinance repealed.

#### "OFFICERS OF THE CORPORATION

Appointment of officers.

34. (1) The Council shall appoint fit and proper persons to be Town Clerk, Borough Treasurer and Accountant, Borough Engineer and Medical Officer of Health (which officers shall be known as Chief Officers of the Corporation) having such qualification at such salaries and upon such terms and conditions as the Governor in Council may approve.

(2) The Council may, subject to the approval of the Governor, add to the number of Chief Officers mentioned in subsection (1) of this section. Any such Chief Officer shall be appointed having such qualifications at such salaries and upon such terms and conditions as the Governor in Council may approve.

Tenure of Office.

(3) All Chief Officers shall hold office during good behaviour; and, subject to the approval of the Governor, may be removed from office by a resolution of the Council passed by not less than two-thirds of the members present at a meeting called for the purpose, for any such misconduct as would warrant removal from an office held during good behaviour.

Vacancy in Office.

(4) A vacancy in any of the offices held by a Chief Officer shall be filled within three months after its occurrence, failing which the fact shall forthwith be reported to the Governor by the Mayor.

Appointment of Chief Sanitary Inspector and other officers.

35. The Council shall also appoint a Chief Sanitary Inspector at such reasonable remuneration and upon such terms and conditions as it may deem fit, and other officers and servants as may be necessary for the efficient discharge of the duties imposed upon the Corporation by this or any other Ordinance; and all such officers and servants shall, subject to the provisions of this Ordinance affecting officers and servants of the Corporation, hold office during the pleasure of the Council: Provided however that there may be included in the terms on which any of such officers or servants shall be employed a provision that the appointment shall not be terminated by either party without giving to the other party such reasonable notice as may be agreed upon.

Acting appointments during vacancy.

36. (1) In case of any vacancy in the office of any Chief Officer or if for any reason whatever any Chief Officer is unable to act, the Council shall immediately appoint a fit and proper person, not being a member of the Council, to act in such office; and pending such appointment by the Council, the Mayor may appoint a fit and proper person, not being a member of the Council, to act in such office; and all things required or authorised by law to be done by or to the holder of such office shall be done by or to the person so appointed.

(2) The Council may require any officer of the Corporation to give such security as they may deem proper for the discharge of his duties.

Account-  
ability of  
officers.

37. (1) Every officer appointed by the Council shall, at such times during the continuance of his office, or within three months after his ceasing to hold it, and in such manner as the Council direct, deliver to the Council or as they may direct, a true account in writing of all property, money and other matters committed to his charge, and of his receipts and payments, with vouchers supporting the entries therein, together with a list of persons from or to whom money is due in connection with his office, showing the amount due from or to each.

(2) Every such officer shall pay all money due from him to the Borough Treasurer and Accountant.

(3) If any such officer—

(a) refuses or wilfully neglects to deliver any account or list which he ought to deliver, or any voucher relating thereto, or to make any payment which he ought to make, or

(b) refuses or wilfully neglects to deliver to the Council or as they may direct, any book or document which he ought so to deliver, or to give satisfaction respecting it to the Council, or as they may direct, within three days after a notice in writing signed by the Town Clerk or by two members of the Council and the Mayor and requiring him so to do has been served on him personally or left at his last known place of abode,

a Magistrate or Justice shall upon complaint made on behalf of the Corporation by any person authorised in writing by them issue a warrant under his hand to bring such officer before a Magistrate, and upon the officer appearing, or not being found, it shall be lawful for the Magistrate to hear and determine the matter in a summary manner.

(4) If it shall appear to the Magistrate that any sums of money are due by such officer to the Council, and the officer does not forthwith or within such time as the Magistrate shall allow, pay over the same to

the Corporation, the Magistrate shall cause such sums to be levied by distress and sale of the goods of the officer.

(5) If—

- (a) sufficient goods are not found to satisfy the moneys in subsection (4) of this section mentioned and the charges of the distress, or
- (b) it shall appear to the Magistrate that the officer has been guilty of any neglect or refusal in subsection (3) of this section specified,

the Magistrate shall commit the officer to prison there to remain without bail until he has paid to, or compounded with the Corporation for any money found to be due as aforesaid, or until he has purged himself of the neglect or refusal hereinbefore mentioned.

(6) No person committed to prison for want of sufficient distress only shall be detained therein for a longer period than three months.

(7) Nothing in this section shall affect any remedy by action against any such officer or his surety, except that the officer shall not be both sued by action and proceeded against summarily for the same cause.

Appoint-  
ments and  
conditions  
of service.

38. (1) Subject to the provisions of this Ordinance—

- (a) The Council shall fix an establishment for every department, which establishment shall be submitted in each year along with the estimates and the Governor in Council may make such amendments thereto as he may consider expedient.
- (b) Appointments to the clerical, technical and administrative staffs on the establishments as approved under paragraph (a) of this subsection shall only be made with the approval of the Mayor on the advice of a body, in this Ordinance referred to as the Municipal Commission, to be constituted for the purpose by regulations which the Corporation is hereby authorised to make:

Provided nevertheless that the making of such appointments shall be referred to the Corporation in every case in which—

- (i) the Mayor, for reasons which appear to him to be good and sufficient, does not see fit to accept the advice of the Municipal Commission, or
- (ii) five or more members of the Council express to the Mayor in writing their disagreement with the advice of the Municipal Commission.

Regulations made under this paragraph may provide for the appointment from time to time of persons other than members of the Council to be members of the Municipal Commission.

- (c) The Corporation may also make regulations providing for conditions of service with the Corporation of all clerical, technical and administrative staff. Such regulations may deal with entrance and promotion qualifications, appointments, discipline, suspension and dismissal of staff as well as the remuneration, increments, leave of absence for whatever cause and generally all matters relating to the terms and conditions upon which clerical, technical and administrative staffs are employed by the Corporation.
- (2) Subject to the provisions of this Ordinance—
- (a) A Chief Officer of the Corporation shall, within the establishment laid down by the Council for his department, be responsible for the appointment, suspension, or dismissal of the non-pensionable staff of the department: Provided that any employee feeling aggrieved by a decision of a Chief Officer to suspend or dismiss him may at any time within seven days after a decision to suspend or dismiss has been taken, appeal to the Council. The Council may seek the advice of the Municipal Commission in coming to their decision which shall be final.

(b) A Chief Officer shall, within the establishment laid down by the Council, control and direct the work of all employees in his department and may make, subject to any regulations made in accordance with the provisions of this section, any necessary changes in relation to the non-pensionable staff of the department whether by way of promotion or otherwise as he may deem necessary.

(3) Any person who, in connection with an application by any person for employment or promotion in the service of the Corporation or with any matter upon which it is the duty of the Municipal Commission to advise the Mayor or the Council under this section or any regulations made thereunder, wilfully gives to the Municipal Commission or to any member thereof or to any person appointed to assist the said Commission in the exercise of its functions or the discharge of its duties any information which is false by reason of the falsity of, or by reason of the omission of, a material particular, shall be liable, on summary conviction for every such offence, to a fine of forty-eight dollars.

The Town  
Clerk.

39. (1) The Town Clerk shall be the chief administrative officer of the Corporation and shall have the charge and custody of and be responsible for the charters, deeds, records and documents of the Borough, which shall be kept as the Council may direct.

(2) He shall attend all meetings of the Council and of the General Purposes and the Finance Committees thereof and draw up the minutes of such meetings and cause the same to be printed and bound and kept in annual volumes or otherwise as the Council may direct, and he shall also, whenever by general or special direction of the Mayor required so to do, attend meetings of any other Committee of the Council and draw up the minutes and reports thereof.

(3) He shall issue notices and prepare the agenda papers of all meetings of the Council and of the Committees thereof.

(4) He shall see that the business of the Corporation is carried out in accordance with the by-laws, regulations and resolutions of the Council; and he shall be responsible for the correspondence of the Council and shall conduct such negotiations on behalf of the Corporation as the Council may require.

(5) He shall be responsible for and supervise all sales carried out by the Corporation for the recovery of any rates or charges due to the Corporation.

(6) He shall see that the terms and conditions of appointment of the officers of the Corporation are carried out, that decisions of the Council relating to their work or conduct are conveyed to them, and that the duties of such officers are duly performed.

(7) He shall be responsible for the preparation and publication of the Burgess Roll and for the arrangement and conduct of the election of Councillors.

(8) He shall be responsible for the general administration and co-ordination of the work of the several departments of the Corporation and may advise the officers of the Corporation on ordinary questions arising upon their duties and obligations therein.

(9) He shall not later than the 31st day of March in each year submit to the Mayor for the information of the Council a full and accurate report on the entire administration of the Corporation for the period ended the 31st December in the preceding year, including a summary of the general state and condition of the Borough, together with such observations and recommendations as may be expedient or necessary.

(10) He shall be the Secretary to the Council in their capacity as the Local Authority for the Borough of San Fernando within the meaning of section 12 of the Public Health Ordinance.

Ch. 12. No. 4.

The Borough  
Treasurer.

40. (1) The Borough Treasurer and Accountant shall be the principal financial officer of the Corporation.

(2) He shall be primarily charged with all matters of finance and accounts of the Corporation and for such purpose shall in such books as may be necessary record and keep true and proper accounts of all money received and receivable and paid and payable on behalf of the Corporation, for the correctness of which he shall be responsible.

(3) He shall attend all meetings of the Finance Committee and such other meetings as he may be required to attend by the Council.

(4) He shall keep true accounts of all moneys received and receivable and paid and payable by the Mayor or the Corporation for any charitable purpose of which the Mayor or the Corporation may assume the charge.

(5) He shall be responsible for the raising of all loans, the issuing of bonds, the opening and closing of all accounts, the preparation of the annual accounts and balance sheet and such monthly or other statements as may be desirable, or as he may be directed to prepare by the Council.

(6) He shall, subject to the bye-laws and regulations of the Council and the approval of the Finance Committee, ensure that proper records are kept of all stores.

(7) He shall be responsible for establishing and maintaining a proper and adequate system of accounting in such a way that the assets and liabilities of the Corporation are properly recorded and that the cost of any particular service may be easily ascertained and also to ensure the effective financial control of the funds and affairs of the Corporation and for the balancing of all accounts and for the safe keeping of all records of his department.

(8) He shall from time to time carry out departmental inspections of all transactions of the Corporation and shall immediately bring to the notice of the Town Clerk for the information of the Council any error or discrepancy apparent in the books of the Corporation.

(9) He shall whenever required submit to the Finance Committee a trial balance sheet and such other financial reports and statements as may be necessary for their information; and shall, not later than the last day of February in every year, submit to the Finance Committee a report and balance sheet showing the complete and accurate financial position of the Corporation for the period ended the 31st December of the preceding year.

(10) He shall, not later than the last day of July in each year, prepare and submit to the Finance Committee, a full and proper estimate of the income receivable and the expenditure to be incurred during the financial year commencing on the 1st January next following.

(11) He shall at the request in writing of any member or members of the Council submit for inspection of such member or members any book of account or record of the Corporation.

Borough  
Engineer.

41. (1) The Borough Engineer shall be the principal engineer and survey officer of the Corporation.

(2) He shall be primarily charged with all survey, construction and engineering works of the Corporation and with ensuring that the public comply with the requirements of the bye-laws and regulations of the Corporation in respect of all construction, engineering and other works within the jurisdiction or under the authority of the Corporation; and, for such purposes shall make, prepare, require, call for and keep true and proper specifications, plans and sections, estimates, reports and other appropriate documents and records relating to all such works.

(3) He shall attend all meetings of the Water Works Committee and of the Buildings Committee and such other meetings as he may be required to attend by the Council.

(4) He shall, not later than the 31st day of January in every year, submit to the Town Clerk for the information of the Council, a full and accurate report on the various buildings, roads, reservoirs and other engineering installations and works of the Corporation and of the state and condition thereof and of the work of his department for the period ended

the 31st December in the preceding year together with such recommendations as he may consider expedient or necessary.

(5) He shall also not later than the 30th day of June in each year prepare and submit to the Borough Treasurer a full and proper estimate of the income receivable and the expenditure to be incurred by his department during the financial year commencing on the 1st January next following.

Medical  
Officer of  
Health.

42. (1) The Medical Officer of Health shall be the principal medical and health officer of the Corporation.

(2) He shall be primarily charged with the duties imposed upon the Corporation by the Public Health Ordinance and with all bye-laws and regulations as may relate to the general health and sanitation of the Borough with the enforcement thereof and shall make and keep such reports, records and vital and other statistics as may be necessary to keep the Council informed of the true state and condition thereof.

Ch. 12. No. 4.

(3) He shall attend all meetings of the Council in their capacity as the Local Authority within the meaning of section 12 of the Public Health Ordinance and such other meetings as he may be required by the Council to attend.

(4) He shall as soon as practicable after the 1st day of January in every year submit to the Town Clerk for the information of the Council, a full and accurate report on the general state of health and sanitation of the Borough, including the institutions under his supervision or control, and of the vital and other statistics appertaining thereto and of the work of his department for the period ended the 31st December in the preceding year together with such recommendations as he may consider expedient or necessary.

(5) He shall also not later than the 30th day of June in each year prepare and submit to the Borough Treasurer and Accountant, a full and proper estimate of the income receivable and the expenditure to be incurred by his department during the financial year commencing on the 1st January next following.

5. Sections 94 to 96 inclusive of the Principal Ordinance are hereby repealed and in place thereof the following sections shall have effect:—

Sections 94  
to 96 of  
Principal  
Ordinance  
repealed and  
replaced.

#### “HOUSE RATE

Interpre-  
tation.

Ch. 33. No. 3.

94. In this Part of this Ordinance—“machinery and plant” means machinery and plant of an industrial or commercial character or used for industrial or commercial purposes affixed to a rateable hereditament, but does not include machinery or plant owned by a person who is enjoying concessions as a pioneer manufacturer under the Aid to Pioneer Industries Ordinance and used for the purposes of a pioneer factory within the meaning of that Ordinance;

“rateable hereditament” means any dwelling house, warehouse, store, shop, countinghouse, manufactory, factory, workshop, electric sub-station, stable, shed, garage, racetrack, stadium, industrial or commercial storage tank, pier, underground cable, or any other building installation, structure, or property whatsoever within the limits of the borough not appurtenant to or occupied with any of the same, but shall not include:—

- (a) buildings occupied solely as churches, chapels, and places of public worship of any religious denomination;
- (b) school-houses, offices and play-grounds of any schools established under the Education Ordinance;
- (c) public hospitals and public asylums, and all almshouses and institutions for the relief of the poor, whether occupied for such purposes by public officers or by private persons;
- (d) quarters occupied rent free by the members of the staff of any of the institutions referred to in the preceding paragraph, and within the curtilage thereof;

“premises” means rateable hereditament as defined above.

Annual house  
rate to be  
levied.

95. There shall be raised, levied and collected by and paid to the Corporation for each year beginning the 1st of January, upon and in respect of every rateable hereditament an annual rate or tax not exceeding ten per centum of the annual rateable value of such

hereditament (hereinafter referred to as the "House Rate") as determined by the Corporation in accordance with the provisions of this Part of this Ordinance.

Annual  
rateable  
value.

96. The annual rateable value of any hereditament shall be the gross annual rental value of such rateable hereditament as ascertained in accordance with the provisions of section 97 of this Ordinance less such allowances for voids and loss of rent (and for these only) as the Corporation may in their discretion think fit to make."

Section 97  
of Principal  
Ordinance  
amended.

6. Section 97 of the Principal Ordinance is hereby repealed and replaced by the following:—

"Duty to fix  
gross annual  
rental value.

97. (1) The Corporation shall determine the gross annual rental value of every rateable hereditament within the limits of the borough.

Mode of  
fixing gross  
annual rental  
value.

(2) In determining the gross annual rental value of any rateable hereditament for the purposes of this Part of this Ordinance, the Corporation shall whether the rateable hereditament be actually used, or rented or not used or rented, consider in every case what amount of annual rent a tenant may be reasonably expected to pay for such rateable hereditament having regard to the purpose for which such rateable hereditament is actually maintained, used or occupied or rented, or if not actually used or occupied or rented, for which it is reasonably suitable; and, where in accordance with the provisions of subsection (3) of this section there is for the time being in force a resolution of the Corporation to that effect, the machinery and plant in or upon any such hereditament shall be taken into account in determining the gross annual rental value thereof.

(3) It shall be lawful for the Corporation from time to time to pass a resolution declaring that machinery and plant shall be taken into account in determining the gross annual rental value of rateable hereditaments, or rescinding any such resolution:

Provided that except in respect of the initial resolution passed under this subsection, no such resolution shall be passed except during the last year of a triennial period as determined in accordance with the provisions of section 99 of this Ordinance nor take effect otherwise than from the commencement of the triennial period next succeeding the date on which such resolution is passed.

(4) Where any rateable hereditament is leased or rented to a tenant who is under obligation to pay any rates or premiums of insurance against loss or damage by fire or otherwise in respect thereof, or who is under obligation to pay any land rent which his landlord is liable to pay to the owner of the site of such rateable hereditament then the gross annual rental value of such rateable hereditament shall be the amount of the valuation thereof ascertained in accordance with subsection (1) of this section with the addition of a sum equal to the rate computed on such valuation, and the amount of the premium payable in respect of such insurance and the land rent which the landlord is liable to pay to the owner of the site."

7. Section 100 of the Principal Ordinance is hereby amended by inserting immediately after subsection (4) the following subsection to be numbered (4A):—

Section 100  
of Principal  
Ordinance  
amended.

"(4A). Where by reason of any resolution for the time being in force under subsection (3) of section 97 of this Ordinance machinery and plant are taken into account, the Corporation shall cause to be entered in the House Rate Book, in addition to the valuation of the hereditament as a whole, a separate statement showing what portion of such valuation is in his opinion attributable to the fact that machinery and plant have been included in such valuation."

8. Section 118 of the Principal Ordinance is hereby amended—

Section 118  
of Principal  
Ordinance  
amended.

- (a) by renumbering the section as subsection (1) of section 118; and
- (b) by inserting as subsection (2) thereof, the following—

"Where the owner of a rateable hereditament has contracted to let the same to a tenant at a stated rent and the gross annual rental value of such hereditament is subsequently increased by reason that account is then taken of machinery and plant therein, then if—

- (a) the machinery and plant therein belong to the tenant, and
- (b) the contract was made without reference to the possibility that the machinery and plant might be taken into account for the

purposes of determining the gross annual rental value of such rateable hereditament, such owner shall be entitled to recover from the tenant as a civil debt the amount by which the rate payable by him has been increased by reason of the fact that such machinery and plant have been taken into account; and for the purposes of any adjustment authorised by this section regard shall be had to the statement of the valuation entered in the House Rate Book in respect of such machinery and plant, as provided for in subsection (4A) of section 100 of this Ordinance."

Section 123  
of Principal  
Ordinance  
repealed and  
replaced.

9. Section 123 of the Principal Ordinance is hereby repealed and replaced by the following:—

#### "AUDIT"

Form of  
Accounts,  
and Audit.

123. (1) The Corporation shall keep its accounts in such form as shall have regard to its annual estimates, and in such manner as the Governor may approve.

(2) The said accounts shall be subject to audit by the Director of Audit (hereinafter referred to as "the Auditor") in all respects as if the Corporation were a department of the public service of the Colony accountable to the Governor in respect of moneys received and expended in the business of such department.

(3) The Corporation shall pay from its income in each year in respect of such audit such amount as may from time to time be fixed by the Governor in Council.

(4) The Auditor shall send one duly certified abstract of the accounts to the Council, and another duly certified abstract to the Governor.

Power of  
surcharge, &c.

(5) It shall be the duty of the Auditor at every audit held by him—

(a) to disallow every item of account which is contrary to law;

(b) to surcharge the amount of any expenditure disallowed upon the person responsible for incurring or authorising the expenditure;

- (c) to surcharge any sum which has not been duly brought into account upon the person by whom that sum ought to have been brought into account;
- (d) to surcharge the amount of any loss or deficiency upon any person by whose negligence or misconduct the loss or deficiency has been incurred;
- (e) to certify the amount due from any person upon whom he has made a surcharge;
- (f) to certify at the conclusion of the audit his allowance of the accounts, subject to any disallowances or surcharges which he may have made;

Provided—

- (a) that no expenses paid by the Corporation shall be disallowed by the Auditor, if they have been sanctioned by the Governor in Council;
- (b) a surcharge shall not be made under this section upon an officer of the Corporation by reason only of his signing a cheque or order in respect of any illegal payment if he satisfies the Governor in Council that before signing the cheque or order he advised the Council in writing that in his opinion the payment was illegal;
- (c) a surcharge shall not be made under this section upon a member of the Council by reason only of his signing a cheque or order in respect of an illegal payment if he satisfies the Governor in Council that the payment was made in pursuance of an order of the Finance Committee of the Council and that before he signed the cheque or order the Council had not been advised by any officer of the Council that in the opinion of the officer the payment was illegal.

Any loss represented by a charge for interest or any loss of interest shall be deemed to be a loss within the meaning of this subsection if it arises from failure through wilful neglect or wilful default to make or

collect such rates as are necessary to cover the expenditure of the Corporation for any financial year (including any expenditure incurred in any previous year and not covered by rates previously levied), or to collect other revenues.

Appeals  
against  
decisions.

(6) (a) Any person who is aggrieved by a decision of the Auditor on any matter with respect to which he made an objection at the audit, and any person aggrieved by a disallowance or surcharge made by the Auditor, may appeal to the Supreme Court.

(b) The Supreme Court on such an appeal shall have power to confirm, vary or quash the decision of the Auditor, and to remit the case to the Auditor with such directions as it thinks fit for giving effect to its decision, and if the decision of the Auditor is quashed, or is varied so as to reduce the amount of the surcharge to two thousand five hundred dollars or less, the appellant shall not be subject to the disqualification by reason of the surcharge imposed by subsection (2)(g) of section 12 of this Ordinance.

Applications  
for relief.

(7) (a) In the case of a surcharge, the person surcharged may, whether or not he appeals under subsection (6) of this section, apply to the Governor in Council for a declaration that in relation to the subject matter of the surcharge he acted reasonably or in the belief that his action was authorised by law, and the Governor in Council, if satisfied that there is proper ground for doing so, may make a declaration to that effect.

(b) Where such a declaration is made the person surcharged, if by reason of the surcharge he is disqualified as a councillor, shall not be subject to that disqualification, and the Governor in Council may, if satisfied that the person surcharged ought fairly to be excused, relieve him either wholly or in part from personal liability in respect of the surcharge, and the decision of the Governor in Council under this section shall be final.

Payment  
of sums  
certified  
to be due.

(8) Every sum certified by the Auditor to be due from any person shall be paid by that person to the Borough Treasurer and Accountant within fourteen days after it has been so certified, or if an appeal or

application with respect to that sum has been made, within fourteen days after the appeal or application is dismissed or refused or abandoned or fails by reason of the non-prosecution thereof or is withdrawn.

Recovery  
of sums  
certified  
to be due.

(9) (a) Any sum which is certified by the Auditor to be due and has become payable shall, on complaint made or action taken by or under the direction of the Auditor, be recoverable as a civil debt.

(b) In any proceedings for the recovery of such a sum, a certificate signed by the Auditor shall be conclusive evidence of the fact certified, and a certificate signed by the City Treasurer or other officer whose duty it is to keep the accounts that the sum certified to be due has not been paid to him shall be conclusive evidence of non-payment unless it is proved that the sum certified to be due has been paid since the date of the certificate.

Unless the contrary is proved, a certificate purporting to be signed by the Auditor, or by the Town Clerk or other officer whose duty it is to keep the accounts shall be deemed to have been signed by such Auditor, Town Clerk or other officer, as the case may be.

(c) Proceedings before a court to recover sums certified by the Auditor to be due shall be commenced within nine months from the date of the disallowance or surcharge, or, in the event of an appeal or application being made to the Supreme Court within nine months from the date on which the appeal or application is dismissed or refused or abandoned or fails by reason of non-prosecution thereof or is withdrawn.

When appeal  
deemed to  
have been  
abandoned  
or failed.

(10) An appeal shall be deemed to have been abandoned or to have failed by reason of non-prosecution if it is not finally disposed of by the Supreme Court within one year after it has been filed therein, or within such extended time as the Court may allow on application made within the said period of one year.

10. The Principal Ordinance is hereby amended by adding the following sections, to be numbered 123A, 123B, 123C, 123D, and 123E, immediately after section 123 thereof :—

Principal  
Ordinance  
amended by  
adding new  
sections.

"Estimates.

123A. The Council shall, on or before the 31st day of October in each year, prepare and submit to the Governor in Council for approval a true estimate of

the income receivable and the expenditure to be incurred during the financial year commencing on the 1st day of January next following, and the Governor in Council may make such amendments thereto as may be deemed expedient, and no sums shall be expended in any year save as provided therein: Provided that the Council may from time to time submit a supplemental estimate of expenditure to the Governor in Council for approval as aforesaid:

Provided also that the Council may at any time during the year utilise any saving under one head or sub-head of recurrent expenditure in such estimates for the purpose of meeting any excess under another head or sub-head of such recurrent expenditure:

Provided further that in respect of any portion of such year as may have elapsed before the sanction of the estimates for such year, it shall be lawful for the Council provisionally to expend in each week in respect of any matter any sum not exceeding one fifty-second part of the estimate for similar work, services or salaries in the previous financial year, or, by leave of the Governor in Council, any such further sums as the Governor in Council may sanction.

#### BOROUGH FUND

One fund.

123B. All sums of money received by the Corporation, other than sums received by it as trustees under deed of trust or other instrument, shall be credited to and from part of one fund to be known as the Borough Fund and all expenditure of the Corporation except in its capacity as a trustee as aforesaid shall be defrayed out of such fund.

#### CONTRACTS

Council to prescribe by regulations method and procedure for obtaining supplies and carrying out functions of Corporation.

123C. (1) The Council shall make regulations subject to the approval of the Governor in Council prescribing the administrative machinery necessary and the procedure to be followed by the Corporation for obtaining such supplies of goods, materials and services by contract or otherwise for the carrying out of the functions of the Corporation.

(2) Without prejudice to the generality of the foregoing, the regulations may contain provisions for the creation, staffing and procedure of a Board for the control of contracts, tenders and ordering and purchase

of all supplies. Such a Board may contain members appointed by the Governor and members chosen from among the members of the Council or otherwise as the Governor may direct.

Disability  
of member  
of Council  
for voting  
on account  
of interest in  
contract, &c.

123D. (1) If a member of the Council has any pecuniary interest direct or indirect in any contract or proposed contract or any other matter whatsoever and is present at the meeting of the Council at which the contract or other matter is the subject of consideration, he shall at the meeting as soon as practicable after the commencement thereof, disclose the fact and shall not take part in the consideration of discussion, of, or vote on any question with respect to the contract or other matter :

Provided that this section shall not apply to an interest in a contract or other matter which a member may have as a ratepayer or inhabitant of the area, or as an ordinary consumer of electricity or water, or to an interest in any matter relating to the terms on which the right to participate in any service provided by the Corporation, including the supply of goods, is offered to the public.

(2) For the purposes of this section a person shall subject as hereafter in this subsection provided, be treated as having indirectly a pecuniary interest in a contract or other matter if—

- (a) he, or any nominee of his, is a member of a company or other body with which the contract is made or is proposed to be made, or which has a direct pecuniary interest in the other matter under consideration; or
- (b) he is a partner or is in the employment of a person with whom the contract is made or is proposed to be made or who has a direct pecuniary interest in the other matter under consideration :

Provided that—

- (i) a person shall not be treated as so interested by reason only of his being a member of or employed by any public body;
- (ii) where a member of the Council has indirectly a pecuniary interest in a contract or other matter and would not fall to be treated as having such an interest but for

the fact that he has a beneficial interest in shares of a company or other body, then if the total nominal value of those shares does not exceed \$960 or one-hundredth of the total nominal value of the issued share capital of the company or body, whichever is the less, so much of subsection (1) of this section as prohibits him from taking part in the consideration or discussion of and from voting on any question with respect to the contract or other matter shall not apply to him without prejudice, however, to the duty of disclosure imposed by the said subsection (1):

Provided also that where the share capital of the company or other body is of more than one class, paragraph (ii) hereof shall not apply if the total nominal value of all the shares of any one class in which he has a beneficial interest exceeds one hundredth part of the total issued share capital of that class of the company or other body.

(3) In the case of married persons living together, the interest of one spouse shall, if known to the other, be deemed for the purposes of this section to be also an interest of that other spouse.

(4) A general notice given in writing to the Town Clerk by a member of the Council to the effect that he or his spouse is a member, or is in the employment, of a specified company or other body or that he or his spouse is a partner, or is in the employment, of a specified person shall, unless and until the notice is withdrawn, be deemed to be a sufficient disclosure of his interest in any contract, proposed contract or other matter relating to that company or other body or to that person which may be the subject of consideration after the date of the notice.

(5) The Town Clerk shall record in a book to be kept for the purpose particulars of any disclosure made under subsection (1) of this section and of any notice given under subsection (4) thereof, and the book shall be open at all reasonable hours to the inspection of any member of the Council.

(6) If any person fails to comply with the provisions of subsection (1) of this section, he shall for every offence be liable on summary conviction to a fine not exceeding two hundred and fifty dollars, unless he proves that he did not know that a contract, proposed contract or other matter in which he had a pecuniary interest was the subject of consideration at the meeting.

(7) In any case in which the number of members of the Council disabled by the provisions of this section at any one time would be so great a proportion of the whole as to impede the transaction of any particular item of business, the Governor may, on the application of the Council or otherwise and subject to such conditions as he may think fit to impose, remove any disability imposed by this section as respects such business or, with the consent of the Council and after such inquiry as he may direct, himself transact the business on their behalf—and any business so transacted being of full force and effect and binding upon the corporation— and the Governor may also, on any such application or otherwise and subject to such conditions as he may think fit to impose, remove any disability in any other case in which it appears to him that it is in the interest of the inhabitants of the town that he should do so:

Provided that notwithstanding anything in this section contained every member of the Council may take part in the consideration or discussion of and vote on the question whether any such application shall be made or any such consent granted.

(8) Standing Orders may provide for excluding a member of the Council from a meeting of the Council while any contract, proposed contract or other matter in which he has such an interest as aforesaid is under consideration.

(9) In this section the expression “shares” includes stock and the expression “share capital” shall be construed accordingly.

123E. (1) If it comes to the knowledge of an officer employed by the Council that a contract in which he has a pecuniary interest, whether direct or indirect (not being a contract to which he himself is a party), has been or is proposed to be, entered into

Officers  
to declare  
interest in  
contracts.

by the Council or a Committee thereof, he shall, as soon as practicable give notice in writing to the Council of the fact that he is interested therein.

(2) An officer employed by the Corporation shall not, under colour of his office or employment, exact or accept any fee or reward whatsoever other than his proper remuneration.

(3) If any person fails to comply with the provisions of subsection (1) or contravenes any of the provisions of subsection (2) of this section, he shall for each offence be liable on summary conviction to a fine not exceeding two hundred and fifty dollars.

Section 124(1)  
of Principal  
Ordinance  
amended.

**11.** Subsection (1) of section 124 of the Principal Ordinance shall have effect as if—

(a) the semi-colon appearing after the word "Corporation" at the end of paragraph (f) were deleted and the following words added thereto:—

"but not including the paving or maintenance of natural ravines, main drains and water-courses";

(b) for the words "resolution of the Legislative Council" appearing at the end of paragraph (1) there were substituted the words "the Governor in Council";

Section 133  
of Principal  
Ordinance  
amended

**12.** Section 133 of the Principal Ordinance is hereby amended by the addition of the following:—

"Capital  
Works.

(3) All works carried out by the Corporation for any of their departments, such works being wholly or partly financed by loans from whatever source obtained, shall be executed according to such plans and estimates and subject to such provisions for the obtaining of the necessary funds as the Governor in Council may approve. The Governor in Council may alter, amend or modify such plans and estimates and such provisions for obtaining funds as may be deemed fit and proper before issuing approval.

Section 138  
of Principal  
Ordinance  
repealed and  
replaced.

**13.** Section 138 of the Principal Ordinance is hereby repealed and replaced by the following:—

"Power of sale.

138. (1) It shall be lawful for the Corporation with the consent of the Governor under the public seal of the Colony but not otherwise to sell and alienate any land vested in them and to demise any such land.

(2) Land vested in the Corporation which is to be let, leased, rented, demised or sold shall, except with the sanction of the Governor and according to a scheme approved by him be let, leased, rented, demised or sold for the best rent or at the best price that can reasonably be obtained.

(3) Any capital money received in respect of any such transaction shall be applied towards the discharge of the capital debt of the Corporation or otherwise for any purpose for which capital money may properly be applied."

14. Section 252 of the Principal Ordinance is hereby amended by substituting for the definition "rateable hereditament" the following—

Section 252  
of Principal  
Ordinance  
amended.

" "rateable hereditament"—

(a) in reference to property within the limits of the Borough, means any dwelling house, warehouse, store, shop, countinghouse, manufactory, factory, workshop, electric substation, stable, shed, garage, race-track, stadium, industrial or commercial storage tank, pier, underground cable, or any other building, installation, structure, or property whatsoever and the lands in, under or upon which any of the foregoing are built, erected, standing, kept or maintained together with any lands appurtenant to or occupied with any of the same respectively; and includes every vacant parcel of land not appurtenant to or occupied with any of the same, but shall not include buildings occupied solely as churches, chapels and places of public worship of any religious denominations;

(b) in reference to property within the district but outside the limits of the Borough, means any dwelling house, warehouse, store, shop, countinghouse, manufactory, factory, workshop, stable, shed, storage tank, and any other building whatsoever, but shall not include buildings occupied solely as churches, chapels and places of public worship of any religious denominations;"

15. Section 269 of the Principal Ordinance is hereby amended by—

Section 269  
of Principal  
Ordinance  
amended.

(a) deleting the words and stop "or for watering stock or for washing vehicles," occurring in the second and third line of subsection (2) thereof;

(b) adding the following subsection as subsection (3) thereof:—

“(3) The Council may, on the written application of any person, supply water to any premises outside the district and to shipping upon such terms and conditions as the Council think fit.”

Section 271  
of Principal  
Ordinance  
amended.

**16.** Section 271 of the Principal Ordinance is hereby renumbered as subsection (1) of section 271 and the following subsections shall be added as subsections (2) and (3) thereof:—

“(2) Whenever in their opinion the supply of water from the waterworks is or is likely to be insufficient for the ordinary requirements of the district, the Corporation may, by notice published at least twice a week for two consecutive weeks in two local daily newspapers circulating in the Borough require the occupiers of premises having garden taps, fountains, vehicles, baths exceeding 200 gallons in capacity, or swimming pools on such premises not to use or permit the use of water from the supply through such taps, or in such fountains, or for washing of any vehicle, or filling of such baths or swimming pools, for such period as may be specified in such notice, or until further order, or may require such occupier to limit the use of water from such taps or in such fountains or baths or swimming pools or for the purpose of washing vehicles to such time during the day as may be specified in such notice.

(3) Any occupier acting in contravention of the terms of any notice as aforesaid shall be liable on summary conviction to a fine of forty-eight dollars.”

Saving

**17.** Nothing in this Ordinance shall affect or be construed as affecting the validity of the House Rate Book in force immediately before the coming into operation of the Ordinance or of any valuation or other particular entered therein, and such valuations and other particulars shall with and subject to such additions and alterations as may be made by the Corporation pursuant to the powers conferred by this Ordinance or in consequence of any decision of a Court of competent jurisdiction, continue to have effect until new valuations or other particulars in substitution for the same respectively are entered therein by the Corporation under this Ordinance.

Passed in Council this fourth day of March, in the year of Our Lord one thousand nine hundred and sixty.

G. R. LATOUR  
*Acting Clerk of the Council*