



VICTORIAN INSTITUTE of RATE ADMINISTRATORS

PRESIDENT

SECRETARY

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INCORPORATED 1977

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VIRA NEWS

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PRESIDENT'S REPORT

The past couple of months since our February edition of V.I.R.A. News, we have seen a number of events take place.

ANNUAL COUNTRY GENERAL MEETING AND CONFERENCE

The Annual Country General Meeting and Conference held at Mulwala Services Club from the 18th to the 21st of February, was extremely successful. Feedback from those who attended was that it was one of the best Country Meetings that V.I.R.A. has held and there is already great interest in attending next years Conference.

NEW STATE REGION - WIMMERA MALLEE

Shane Hinchliffe (Shire of Kowree) arranged a meeting to be held at the Shire of Wycheproof with the objective to establish the Wimmera-Mallee Region of V.I.R.A. to support the North-West of the State.

I am pleased to report that Shane was duly elected as Regional Convenor/Secretary.

REGION SUPPORT STRATEGY

The Executive have met with Regional Convenors to discuss ways in which the V.I.R.A. Executive can support the Regions that would be of greatest benefit to the development and growth of the strengths of each Region.

This item is high on the Executives Agenda and the support strategy once developed will be implemented towards the end of 1993.

MARKETING OF V.I.R.A.

The Executive have become very aware of the needs of its Members and Non-Member Councils to provide up to the minute information, on what's happening in our Industry and more specifically, in the Rates Administration environment. A major marketing project will be undertaken to further lift the profile of the Institute and its Members and in doing so firmly reinforce the expertise and professionalism of the Institute and its Members.

STATE DEFICIT LEVY

By now we are well into the requirements for remittances and the frustrations of obtaining/reporting the required information. We are now confronted with the State Deficit Levy Amendments Bill which certainly add to the heavy workload of the Levy particularly in view of the fact that most of the Amendments are retrospective to the 24th November, 1992.

At V.I.R.A.'s General Meeting held at the City of Croydon on the 14th May, 1993 two representatives from the State Revenue Office were present to assist Members in undertaking the proposed Amendments and also provide the opportunity for them to understand our operational difficulties in administering the State Deficit Levy Act and proposed Amendments.

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PRESIDENT'S REPORT Con't

I would also like to thank both Warren Meeckons (Manager of State Revenue - Special Projects) and his Assistant, Lindsay Morrison for their participation and we look forward to continuing with the co-operative relationship that has been established between V.I.R.A. and the State Revenue Office.

Finally, the third instalment period is upon us and is closely followed by the Voters Roll production process and election cycle.

I wish all members great success in tackling those processes and indeed in all that you do!

I would also like to thank Mrs. Claire Doyle for learning the meaning of the words - "Darling, would you type this for me"? Sure, When do you need it? "Oh, about the middle of last week!"

MARTIN KING
PRESIDENT - V.I.R.A.

FACES GOING PLACES

Craig Norris, formerly Martin King's Assistant at Croyden has been appointed Rate Collector at the City of Camberwell. Congratulations Craig!

MY FIST RATE RECOVERY AUCTION

BY CHRISTINE BURGAN, REVENUE MANAGER, SHIRE OF PHILLIP ISLAND

OK, so the arrears were getting up a bit. I'd put the inevitable off for too long. My pleading correspondence to arrange repayment plans, then summonses and warrants were all being ignored. It was time to bite the bullet and stop playing Mr. (MS.) Nice Guy.

I had no problems with including eleven vacant blocks of land in my first Rate Recovery Auction, BUT there was also a house. And not just any old house. It was an occupied house. And the occupiers were well known in the area for being involved in drug dealings, prostitution, stolen goods, you name it. OH NO!!

The next VIRA meeting was down here on sunny Phillip Island so I decided that my learned peers would be able to help me out with their vast wealth of knowledge and professional advice and it wouldn't be as bad as all that. Well, my learned peers laughed at me; the loudest from that well known flabby member for the "Division of Response" who appeared more interested in the fact that my predicament would make good copy for the next newsletter.

So anyway, pursuant to the Act, the notices were served. It was also decided (although now not in the 1989 Local Government Act) that copies of the notices served would also be erected on a board at the properties.

So I conned the By-Laws Officer to do the dirty deed. (I wasn't going down alone). He must've thought the same thing because he took reinforcements (the dog catcher) with him as a backup. He came back alive and then we waited. And waited. And waited. Three weeks to go. Nothing! The auctioneer is rubbing his hands together with a few interested buyers wishing to inspect the house, and pressuring me to organise vacant possession. That was his responsibility, says I eagerley.

I was starting to look over my shoulder whilst riding my push-bike home at night, looking out for black cars with tinted windows. I was losing sleep at night.

One week to go. Where are they? The staff thought the whole thing hilarious. I had become the brunt of practical jokes with staff ringing me up, pretending to be THEM. Anyway, to cut a long story short, two days before Auction the (real) owners fronted up with a wad of cash and settled the arrears. An arrangement was agreed upon whereby a regular payment must be made every Friday to clear the balance or I would hand over the house for sale by the Sheriff. I gladly withdrew the property from auction and breathed a sigh of relief. They'd paid up and I was still alive.

FOOTNOTE; Payments have been arriving every Friday till last week, no payment. Here we go again!!

A SHORT HISTORY OF MUNICIPAL RATING IN RETROSPECT

BY C. J. COOPER, VALUER, CITY OF KEW

A PAPER READ TO THE RATE COLLECTORS' INSTITUTE ON THE 25TH JULY, 1941

PART TWO

Local Government in 100 years has halved the death rate, and reduced infantile mortality by three-quarters. One hundred years ago people expected to have the small-pox as now they expect their dogs to have distemper. Then nearly every person was either recovering from or sickening for enteric fever; now that disease causes less than 6 deaths per million of population, and such diseases as tuberculosis have been reduced to proportions which a century ago would have been regarded as Utopian.

We all know of the enormous increase in the comfort and well being of the people, and also that the creation and conduct of commerce and industry could not have been developed and advanced to their present state without the amenities provided by Local Government.

Now let us look for a while at the conditions of rating in England prior to the introduction of Local Government and the reasons for the introduction of this legislation in 1836. Prior to 1836 a system of rating had been in force for 285 years, the commencing point of this system being the Poor Relief Act of 1601, introduced in the reign of Queen Elizabeth, and which, with minor additions from time to time, appears to have been sufficient to meet the meagre requirements of the English people for almost 2.5 centuries. During this period the population, not very large in any locality - even in the towns - required and received nothing of what we now know as municipal service. Highways were maintained in a more or less trafficable state of repair probably by the Crown, who would, I presume, build bridges over streams and maintain a certain degree of communication with the aid of the Dukes and overlords of the various counties, with labor provided by their serfs and bondsmen. Health and sanitation services, housing, water supply, reserves, street lighting, etc., were non-existent, and the standard of living (if one managed to retain life, with plagues and poverty rampant) must have been but little better than that of the Hottentot of South Africa in his kraal and village. The Poor Relief Act of 1601 - referred to as the Statute of Elizabeth - was the first organised attempt at rating, for it imposed the liability to be rated on "every inhabitant, parson, vicar and others, of every occupier of lands, houses, coal mines or saleable underwoods"; provided that the Church Wardens of every Parish, should be overseers of the poor, and by whom the rate was to be made, and gave a right of appeal to Quarter Sessions against the rate.

This scheme made each parish responsible for the maintenance of its own poor. The Poor Law Official, the overseer, was selected by the Vestry, and funds were raised by a rate levied upon the householders of the parish. The overseer was empowered to tax each inhabitant in such competent sum as he deemed fit. The rate was not a charge on land but was a personal charge on the householders in accordance with the value of their visible estate in the Parish in which they dwelt. Little information is available as to what the visible estate actually comprised, but cases cited in 1633 and 1792 indicate that a person's real and personal property was rateable, including stock in trade, also ships of the parish to which they belonged. Household furniture was exempt, also cash, whether at interest or not, and also pay of officers in the Navy or Merchant ships, and salaries of Officers of the Customs and Merchant Clerks.

It would appear that the overseers were at times lax in the performance of their duties, for an Act in 1748, prescribed as a remedy for the making of poor rates on 'frivolous pretences and for private ends' by causing the overseers to give public notice in the Church of every rate allowed by the justices the next Sunday after the rate had been allowed, and no rate was valid unless such notice had been given; and also imposed a penalty on churchwardens and overseers who refused to allow inspection of copies of the rate.

THIRD AND FINAL PART TO BE INCLUDED IN THE NEXT EDITION OF VIRA NEWS

WELCOME TO NEW MEMBERS

NAME	AUTHORITY	DATE
Paul Heynemann	City of Malvern	8th February, 1993
Roy Johnstone	Shire of Sherbrooke	24th February, 1993
Todd Spencer	Shire of Sherbrooke	24th February, 1993
Russell Greenough	Shire of Sherbrooke	24th February, 1993
Kevin Robarts	City of Colac	15th March, 1993
Lindy Bennett	City of Malvern	18th March, 1993
John Hunt	Shire of Swan Hill	14th February, 1993
Anthony Heffer	Shire of Swan Hill	14th February, 1993
Christopher Wood	Shire of Birchip	10th May, 1993
Rhonda Monaghan	Shire of Walpeup	26th March, 1993
Barry Phillips	Shire of Leongatha	4th March, 1993

PENSION CLAIMS - Reminder

Any pension rebates granted for the State Deficit Levy should simply (?) be adjusted from your payments made to the State Revenue Office. They should NOT be included with your normal rebate claims and sent to the Office of Local Government.

Miss Penny Doumis from the Office of Local Government (who was far too busy processing pension claims to write this article) has advised that so far two councils have done this.

MUNICIPAL RATES FOR CONSULAR POSTS (EMBASSIES)

The question was recently raised by a Consulate as to what was the beneficial amount of the rates and what part was non beneficial.

A letter to the Department of Foreign Affairs in Canberra has revealed that under the Vienna Convention, there are agreements between countries to divide rates into:- Benefit and Non Benefit.

An excerpt of the letter and Vienna Convention on Consular Relations has been listed below:-

"Generally speaking the beneficial portion of the rates comprises the following services:

Engineering; road and drainage works; recreation and sports facilities; parks and gardens; street tree pruning; rubbish collection; street cleaning; fire levies; beach patrols and park ranger services. Water, sewerage and drainage costs are also included, whether levied as part of an authorities overall rate or levied by a separate rating authority such as Melbourne Water.

The non beneficial portion usually comprised some or all of the following: Health care; public libraries; kindergartens; aged homes and general administrative costs.

It should be noted that rates are a tax on the owner and not the occupier of the property. No concessions are therefore allowable in respect to properties rented through a landlord by consular posts or their officers. The Consulates within the Municipality are not obliged to pay the non beneficial portion of the rates if they have ownership of the relevant official properties. Once a calculation of this portion has been made, and invoice for the services should be forwarded to: The Department of Foreign

Affairs and Trade
Victorian State Office
P O Box 333
Melbourne, Vic. 3005

continued overleaf

Ken Burton from the City of Hamilton has brought a new interpretation on Section 175 to the attention of the Institute.

A local solicitor has advised Ken of the way some of the legal profession have chosen to interpret and administer the provisions of S. 175 of the Local Government Act 1989. S. 175 is a new requirement to be carried out during the processing of a conveyance of ownership of property. Section 175 provides:-

"A person who becomes the owner of rateable land must pay-

(a) any rate or charge on the land which is current; and

(b) any arrears of rate or charge (including any interest on those rates or charges) on the land which are due and payable; at the time that person becomes the owner of the land."

Two possible meanings put forward by Glen Skewes of D. Madden and Co.; Solicitors, are:-

(1) Arrears and current must be paid at the time the purchaser becomes the owner.

(2) Rates which at the time the purchaser becomes the owner that are current or in arrears must be paid by the purchaser.

In other words, (2) is saying, at the time the purchaser becomes the owner, responsibility for the rates etc. is transferred between the two parties and payment options extended to the vendor may be continued by the purchaser. Given that there is now (conveniently) no set criteria for eligibility to elect to pay by instalments, the new owner has all options of payment methods open to him no matter what date settlement takes place.

Settlement is say 30th April, the purchaser can pay in full at that time or pay the first and second instalments, with appropriate interest and the balance of rates at the due dates - don't forget to adjust the interest amount!

I have revisited the Institute's submission to the Local Government Act Working Party on this Section and consulted Murray Hocking and Steve Collins who were the Institute's representatives on the Working Party and have been assured by them that it was their clear understanding at that time, that the rates etc were to be PAID at settlement.

SECTION 175 - LOCAL GOVERNMENT ACT

Gerry Pekin

On the other hand however, Helen Proctor of the MAV is of the opinion that the intention was only to make the purchaser RESPONSIBLE for outstanding debts following settlement. The Ministerial Working Party which was convened to review the Owner Liability provisions of the 1989 Act addressed the responsibility for the payment of rates and charges and not once was S. 175 put forward as an issue for discussion. S. 175 refers to the payment of rates and charges at settlement and was therefore not an issue for the Working Party.

The Working Party concentrated on the earlier Sections of Part 8.S.156 ("Liability to Pay Rates and Charges") was one of the key sections addressed by the Working Party. Since S. 156 already deals with who is liable to pay, there is no need to repeat this requirement in the later S. 175. Further to and consistent with S. 175 is S. 275 of the Water Act 1989, The wording used in both Acts is almost identical. The Owner Liability Working Party membership consisted of Administrators from both Local Government and the Water Industry. Nobody considered it necessary to consider the implications of these Sections.

The real intention of S. 175 is clear to me. Victoria is to fall in line with the practice of other states in Australia in collecting outstanding monies at the time of settlement. This ensures the purchaser takes possession of a debt free property and Council will not get off on the wrong foot with its new ratepayer over a misunderstanding such as the method of payment (quarterly or annual) the purchaser is entitled to during the remainder of that rating year. It is inherent in the Transfer of Land Act that the purchaser should, and is entitled to take possession of the property "in fee simple" (ie without any strings attached) and "free of all encumbrances." (ie without debts such as mortgages, land taxes, Council and Water rates) I urge all Rate Administrators to ensure receipt of outstanding rates and charges immediately following settlement. Make sure you quote S.175 of the Local Government Act and or S. 275 of the Water Act on your Land Informations Certificates and follow the Notice of Disposition up with an account requesting immediate payment, again quoting the relevant Sections.

MUNICIPAL RATES FOR CONSULAR POSTS (EMBASSIES)

Continued from previous page

VIENNA CONVENTION ON CONSULAR RELATIONS

and Optional Protocol to the Vienna Convention on Consular Relations concerning the compulsory Settlement of Disputes.

(Vienna 24 April, 1963)

Article 32

Exemption from taxation of Consular Premises

1. Consular premises and the residence of the career head of consular post of which the sending State or any person acting on its behalf is the owner or lessee shall be exempt from all national, regional or municipal dues and taxes whatsoever, other than such as represent payment for specific services rendered.
2. The exemption from taxation referred to in paragraph 1 of this article shall not apply to such dues and taxes if, under the law of the receiving State, they are payable by the person who contracted with the sending State or with the person acting on its behalf.

Article 49

Exemption from taxation

1. Consular officers and consular employees and members of their families forming part of their households shall be exempt from all dues and taxes, personal or real, national or municipal, except:
 - (a) indirect taxes of a kind which are normally incorporated in the price of goods or services;
 - (b) dues or taxes on private immovable property situated in the territory of the receiving State, subject to the provisions of Article 32;
 - (c) estate, succession or inheritance duties, and duties on transfers, levied by the receiving State, subject to the provisions of paragraph (b) of article 51;
 - (d) dues and taxes on private income, including capital gains, having its source in the receiving State and capital taxes relating to investments made in commercial or financial undertakings in the receiving State;
 - (e) charges levied for specific services rendered;
 - (f) registration, court or record fees, mortgage dues and stamp duties, subject to the provisions of Article 32.
2. Members of the service staff shall be exempt from dues and taxes on the wages which they receive for their services.
3. Members of the consular post who employ persons whose wages or salaries are not exempt from income tax in the receiving State shall observe the obligations which the laws and regulations of that State impose upon employers concerning the levying of income tax.

I hope this will be of assistance to those members who have consulates within their municipality.

Robert Smart

CONGRATULATIONS

Congratulations to Paul Telfer and his wife on the arrival of their first child, a baby girl at the end of April. Paul is one of our Regional Convenors. Well done!

REGIONAL NEWS

BALLARAT REGION BY RUSSELL HODGES

The Ballarat Region held its Annual General Meeting on Wednesday 5th May at the Shire of Bungaree.

Rod Leith and Lea Dixon from the Shire of Ballarat stood down after two years as Region President and Secretary respectively.

Ian Effret from the Borough of Sebastopol was elected Region President and Mandy Williams from the Shire of Grenville was elected Secretary.

During the meeting Rod and Lea were thanked for their efforts over the last two years which resulted in some interesting, well attended and relevant meetings.

General Business included discussion on the 'infamous' State Deficit Levy waiver provisions. Members left the meeting as confused as ever, thanks to conflicting views on the levy from Martin King and Brian Hall.

The next meeting will be a joint meeting with the North Central Region on Wednesday 11th August at 9.30 p.m. at the City of Maryborough.

REMINDER!!!!

The dead line for the next edition of V.I.R.A. News is the 30th July, 1993. We would really like a report from all regions to be in the next issue. Also any member who would like to contribute an article or two or a quote for the day or ANYTHING!!

DO IT!!

Contact Clare or Julie for any further information.

ACKNOWLEDGEMENT

The maps showing the rating systems operating within the state of Victoria which were included in the last issue of V.I.R.A. News were supplied by John Enright from the Office of Local Government.

RESPONSE

— IMAGING SERVICES —

Systems and solutions for Local Government

Election Roll Processing/Printing System: Includes: Display rolls; Scanning Rolls Scanning service & processing; Extraction of over 70's exceptions; and Failure to vote notices. Features of the system: Prompt service; Easy to read rolls, complete audit tracking and a new PC voted/not voted package giving you complete control of the failure to vote process.

MICR AND GENERAL LASER PRINTING: Desk top MICR systems (full training, support & equipment supplies); Laser printing imaged A3/A4 both single and/or double sided.

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