



VICTORIAN INSTITUTE of RATE ADMINISTRATORS

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PRESIDENT'S REPORT

By now I imagine that many of you will have seen copies of this Institute's submission on the Draft Proposals for the New Local Government Bill. (If you haven't then you obviously weren't in attendance at either our Benalla General Meeting or at the meeting in Swan Hill to launch our new North-Western Division — more about that later in this newsletter).

Of all the submissions received by the Department — totalling well in excess of 100 — ours was by far the most detailed, at 57 pages in length and this is despite the fact that it dealt chiefly with only two Parts of the Proposals i.e. those on electoral procedures and rating.

It is pleasing to note that several municipalities have distributed copies of this submission to all councillors and senior officers and that a few municipalities have even sent us copies of their own submissions for comment.

Drafting of the Bill itself was completed in the week ending on Friday, April 24, and on that evening the Minister hosted a dinner for about a dozen members of the Working Party at which both Murray Hockey and I were in attendance. We were assured that our Institute would be more than pleased with the number of our recommendations which have made it into the Bill

(a copy of the rating provisions of which is published elsewhere in this newsletter).

Amongst the greatest changes which our recommendations have brought into the Bill is the dropping of the proposal for mandatory C.I.V. based rating, as this is now optional in the Bill.

At the time of release of this newsletter no doubt many of you will have seen full copies of the Bill as it is expected that copies will be available to the public from the Government Printer from Monday, May 4 and you will be able to form your own opinions on its content.

As the Bill must now lay over until the Spring Session of Parliament, the Department will shortly convene a process of consultation with Councils around the State. It is believed that 20-25 regional meetings will be held at which two representatives will be invited from each of eight or so neighbouring municipalities.

Although we are not entirely happy with some provisions of the Bill — several areas of concern have already been noted by the Executive — we are nevertheless pleased with our success overall with respect to the first part of that submission and my thanks again goes to those members and municipi-

palties who contacted the Executive Committee with their concerns.

All that remains to be achieved now is success with the second half of the submission which related to the provision of a qualification course for Rate Administrators.

On this front some fairly startling new developments have recently come to light. Two months ago, the Executive Committee learned of a proposal to withdraw access to external studies (i.e. the correspondence course) from all students in the Local Government course at the R.M.I.T.

Whilst space within this magazine does not allow a full explanation of the reasoning behind this decision, it must be acknowledged that such a move would have a drastic effect on enrolments in the course and a disastrous effect on those people in rural municipalities who would find it impossible to travel down to Melbourne several times per week to undertake part-time studies.

Since becoming aware of this fact, representatives of the Local Government Department, the Municipal Clerks Board and the I.M.M. have commenced discussions with the R.M.I.T. in an attempt to head off this move.

Although it is too early yet to determine the success or otherwise of these preliminary discussions, it is known that the Victorian Division Council of the I.M.M. will be discussing the concept of broadening the scope of the Local Government course along the lines originally suggested by us some 20 years ago, as a matter of high priority at a meeting to be held later this month. More will be reported to members on this topic at our next General Meeting to be held at the City of Altona on Friday, June 12, 1987.

As the subject of the qualification course and the rating provisions of the new Bill will be discussed at some depth at this meeting, it is hoped that all members will do everything in their power to attend this meeting.

VICTORIAN INSTITUTE OF RATE ADMINISTRATORS

CODE OF ETHICS

1. All members are expected to promote, advance and protect the status, interests, integrity and efficiency of the Profession of Rate Administrators and Deputy Rate Administrators.
2. A member's responsibility to the community shall at all times come before his responsibility to sectional or private interests or to other members or to his profession.
3. A member, if called upon to give evidence or to speak on matters of fact shall at all times speak what he believes to be the truth, irrespective of its effect on his own interests, the interest of other members or other sectional interests.
4. Unless he is convinced that his duty to the community compels him to do so, a member shall not express opinions which reflect on the ability or integrity of other members.

PART 8—RATES AND CHARGES

Division 1—

Declaration of Rates and Charges

What land is rateable?

162. (1) Except as provided in this section, all land is rateable.

(2) The following land is not rateable land:

(a) Land which is used exclusively for public or municipal purposes;

(b) Land which is unoccupied and is the property of the Crown or is vested in a Minister, a Council, a public statutory body or trustees appointed under an Act to hold that land in trust for public or municipal purposes;

(c) Any part of land, if that part—

(i) is vested in or owned by the Crown, a Minister, a Council, a public statutory body or trustees appointed under an Act to hold that land in trust for public or municipal purposes; and

(ii) is used exclusively for public or municipal purposes;

(d) Any part of land, if that part is used exclusively for religious or charitable purposes;

(e) Land which is used exclusively for religious or charitable purposes, including any land vested in or held in trust for any religious body and used exclusively—

(i) as a residence of a practising Minister of religion; or

(ii) for the education and training of persons to be Ministers of religion; or

(iii) for both the purposes in subparagraphs (i) and (ii);

(f) Land which—

(i) is held or to be held as a claim under a miner's right for mining purposes; or

(ii) is included or to be included in a lease from the Crown for mining purposes—

and all buildings covering machin-

ery on a mine and used exclusively for the purposes of the mine;

(g) Land held in trust and used exclusively—

(i) as a club for or a memorial to persons who served in the First or Second World War or in any other war, hostilities or special assignment referred to in the *Patriotic Funds Act 1958*; or

(ii) as a sub-branch of the Returned Services League of Australia; or

(iii) by the Air Force Association (Victoria Division); or

(iv) by the Australian League of Ex-Servicemen and Women (Victorian Branch).

(3) For the purposes of sub-sections (2) (a), (2) (b) and (2) (c), land is not used exclusively for public or municipal purposes if—

(a) it is used for banking or insurance; or

(b) a house or flat on the land—

(i) is used as a residence; and

(ii) is exclusively occupied by persons including a person who must live there to carry out certain duties of employment; or

(c) it is used by the Metropolitan Fire Brigades Board.

(4) For the purposes of sub-sections (2) (d) and (2) (e), land is not used exclusively for charitable purposes if it is in any of the following categories:

(a) Part of it is separately occupied and used for a purpose which is not exclusively charitable;

(b) A house or flat on the land—

(i) is used as a residence; and

(ii) is exclusively occupied by persons including a person who must live there to carry out certain duties of employment;

(c) It is used for the retail sale of goods;

(d) It is used to carry on a business for profit unless that use is necessary for or incidental to a charitable purpose.

What rates and charges may a Council impose?

163. A Council may impose the following rates and charges on rateable land:

- (a) General rates;
- (b) Service rates;
- (c) Service charges under section 171;
- (d) Special rates;
- (e) Special charges;
- (f) If a Council is permitted to do so under section 165 (2), municipal charges.

Liability to pay rates and charges.

164. (1) The owner of land is liable to pay the rates and charges on that land.

(2) If the owner cannot be found or identified or the owner and occupier so agree, the occupier of the land is liable to pay the rates and charges.

(3) If there is a person who is the private occupier or lessee of the land and the land is land under section 162 (2) (a) or 162 (2) (b) or is owned by a Council, that person is liable to pay the rates and charges.

(4) A rate or charge which is levied in relation to land and is unpaid and any costs awarded to a Council by a court or in any proceedings in relation to such a rate or charge, are a first charge on the land.

Which systems of valuing land may a Council use?

165. (1) For the purpose of this Part, a Council may use—

- (a) the capital improved value system, or
- (b) the valuation system or systems which the Council is using immediately before the date of coming into operation of this section.

(2) The following provisions apply to a Council which uses the capital improved value system:

- (a) The Council cannot change to any other system;
- (b) The Council may raise its general rates by the application of differential rates;
- (c) The Council may impose a municipal charge under section 167;

(d) The Council cannot declare a minimum rate under section 168.

(3) A person has a right to make a submission under section 231 on a decision to use the capital improved value system.

Declaring rates and charges.

166. (1) A Council must at least once in each year by 30 November declare the following for that year:

(a) The amount which the Council intends to raise by general rates, municipal charges, service rates and service charges;

(b) Whether the general rates will be raised by the application of—

(i) a uniform rate; or

(ii) differential rates (if the Council is permitted under section 165 (2) to apply differential rates), including any urban farm rate or farm rate; or

(iii) a combination of (i) and (ii); or

(iv) any of (i), (ii) or (iii) with a minimum rate being payable, if the Council is permitted under section 165 (2) to declare a minimum rate);

(c) Any service rates and service charges.

(2) The Council must declare the general rate in respect of a period of time between 3 months and a year.

(3) A Council may levy general rates, municipal charges, service rates and service charges by sending one or more notices in relation to the rates or charges to the person who is liable to pay them.

(4) The notice must contain—

(a) the prescribed information; and

(b) a statement about whether the rates or charges may be paid annually, twice yearly or four times yearly.

(5) If a Council has declared more than one general rate, municipal charge, service rate or service charge for the year, it may levy any of those rates or charges as a combined rate or charge.

(6) A Council must, as far as is practicable, levy all general rates, municipal charges, service rates and service

charges which are declared in a year in the same year.

Municipal charge. (CIV.)

167. (1) A Council which is permitted to do so under section 165 (2) may make a municipal charge for the purposes of covering some of the administrative costs of the Council.

(2) The municipal charge may be made on the basis of any criteria specified by the Council in the charge.

Minimum rate.

168. (1) If—

- (a) a Council (other than a Council which uses the capital improved value system of valuing land) declares a minimum amount of general rates which is payable; and
- (b) the general rates payable for any rateable land are less than the minimum amount of general rates declared for that land—

the amount of general rates payable for that land is that minimum amount, unless the land is exempt from the whole or part of the minimum rate under sub-section (3).

(2) The total receipts from the minimum rate must be not more than 25% of the total revenue intended to be raised by the general rates of the Council at the time of declaring the minimum rate.

(3) The Council may specify—

- (a) either generally or individually any rateable land which is to be exempt from the whole or part of the minimum rate; and
- (b) the general rate payable on land which is exempt, being—
 - (i) in the case of a total exemption, the rate which would have been payable if there was no minimum rate; or
 - (ii) in the case of a partial exemption, the minimum rate less the amount of the exemption or the rate which would have been payable if there was no minimum rate, whichever is greater.

Uniform rate.

169. If a Council declares that general

rates will be raised by the application of a uniform rate—

- (a) the Council must specify a percentage as the uniform rate; and
- (b) the general rate for any rateable land must be determined by multiplying the capital improved value of the land or such other value as is determined under the valuation system used by the Council by that percentage.

Differential rate.

170. (1) If a Council which is permitted to do so under section 165 (2) declares that any general rates will be raised by the application of a differential rate—

- (a) the Council must specify the different percentages and the conditions upon which each percentage is to apply; and
- (b) the general rates for any rateable land must be determined by multiplying the capital improved value of the land by the percentage which, according to the conditions, applies to that land.

(2) A differential rate which is higher or lower for some land in the municipal district than for other land may be made on the basis of any criteria specified by the Council in the rate.

(3) Any criteria specified under sub-section (2) may include any land considered by the Council to be urban farm land or farm land.

(4) The highest differential rate in a municipal district must not exceed by more than 100% the average of the general rates in the municipal district.

Service rate and service charge.

171. (1) A Council may make a service rate or an annual service charge or any combination of such a rate and charge for any of the following services:

- (a) The provision of a water supply;
 - (b) The collection and disposal of refuse;
 - (c) The provision of sewerage services;
 - (d) Any other prescribed service.
- (2) A service rate or service charge may be made on the basis of any

criteria specified by the Council in the rate or charge.

Special rate and special charge.

172. (1) A Council may make a special rate, a special charge or a combination of both only for the purposes of—

- (a) defraying any expenses; or
- (b) repaying (with interest) any advance made to or debt incurred or loan raised by the Council—

in relation to the performance of a function or the exercise of a power of the Council, if the Council considers that the performance of the function or the exercise of the power is or will be of special benefit to the persons required to pay the special rate or special charge.

(2) A special rate or special charge may be made on the basis of any criteria specified by the Council in the rate or charge.

(3) The Council must specify—

- (a) the wards, groups, uses or areas for which the special rate or special charge is declared; and
- (b) the land in relation to which the special rate or special charge is levied; and
- (c) the fund (which may include a trading fund) into which the proceeds of the special rate or special charge are to be paid; and
- (d) the manner in which the special rate or special charge will be assessed and levied; and
- (e) details of the period for which the special rate or special charge remains in force.

(4) A Council may levy a special rate or special charge by sending a notice to the person who is liable to pay it.

(5) The notice must contain—

- (a) the prescribed information; and
- (b) a statement about when the special rate or special charge is payable; and
- (c) details of the period for which the special rate or special charge remains in force.

(6) A Council may use the money from a special rate or special charge for any or all of the following:

- (a) The works and projects for the purpose of which the rate or charge was made and the purchase of land and materials required for them (including land acquired before the Council declared the rate or charge);
- (b) Repayment of money borrowed for anything mentioned in paragraph (a) and of interest on that money;
- (c) Formation of a sinking fund formed to repay that money and interest;
- (d) Maintenance of and repair of damage to the works and projects;
- (e) The management, advertising or security of the works and projects;
- (f) Any expenses related—
 - (i) to anything mentioned in paragraphs (a) to (e) or
 - (ii) to the making of the rate or charge.

Discontinuance of the works and projects for a special rate or special charge.

173. After complying with the procedure for the levying of a special rate or special charge a Council may—

- (a) discontinue the whole or part of the works and projects for the purpose of which it is charging the special rate or special charge; or
- (b) resolve not to proceed with the purchase of any land for those works or projects.

Receipt of excess money.

174. If a Council receives more money than it requires from the special rate or special charge, it must make a proportionate refund to the current owners of the relevant land.

Variation of special rate or special charge.

replace provide streets schemes etc.

175. A special rate or special charge—

- (a) remains in force for the period specified in the declaration of it without any further declaration in any subsequent year; and
- (b) may be varied in relation to—
 - (i) the amount to be paid; and
 - (ii) the persons on whom it is levied (except as is specifically provided under section 186 or 188); and
 - (iii) the land to which it applies.

Division 2—

Payment of Rates and Charges

Payment of rates and charges.

176. (1) A rate or charge (other than a special rate or special charge) is due and must be paid —

(a) if the Council requires it to be paid annually—by the date specified in the notice requiring payment, being a date not less than 28 days after the date of issue of the notice; or

(b) if the Council requires it to be paid twice yearly or four times yearly —by the dates specified in the notice requiring payment, each date being not less than 14 days after the date of issue of the notice.

(2) If a Council requires a rate or charge (other than a special rate or special charge) to be paid annually, the person liable to pay it may choose instead to pay four times yearly, and must make each payment by the date specified by the Council.

(3) A person who is liable to pay a special rate or special charge may apply to the Council for permission to pay by a lump sum as determined by agreement between the Council and the person.

(4) If a person who is liable to pay a special rate or special charge does not pay all of it by the due date, the Council may by a notice sent to the person require the payment of interest at the rate and in the manner prescribed on the amount which remains due from the day following the due date.

Incentives for prompt payment.

177. (1) At the meeting at which a Council declares any rates or charges, the Council may declare that incentives are to be given by it for the payment of those rates and charges before the due date and must include in the declaration details of the circumstances in which an incentive will be given.

(2) A notice requiring payment of a rate or charge must specify any incentives.

Rebates and concessions.

178. (1) A Council may grant a rebate or concession in relation to any rate or charge—

(a) to ensure the proper development of the municipal district; or

(b) to preserve buildings or places in the municipal district which are of historical interest; or

(c) to restore or maintain buildings or places of historical, architectural or scientific importance in the municipal district; or

(d) to ensure the proper development of part of the municipal district.

(2) If a person granted a rebate or concession has not complied with the terms on which the rebate or concession was granted, the Council may by a notice sent to the person—

(a) require the payment of the whole or part of the rate or charge by a specified date; and

(b) require the payment of interest for the late payment of the rate or charge, as if the rebate or concession had not been granted.

Deferred payment.

179. (1) A Council may defer in whole or in part the payment by a person of any rate or charge which is due and payable for a specified period and subject to any conditions determined by the Council if it considers that an application by that person shows that the payment would cause hardship to the person.

(2) On deferral of the payment the person who is liable to make the payment is not liable until the Council sends the person a notice under subsection (3).

(3) A Council may by a notice sent to a person—

(a) require that person to pay the whole or part of any deferred rate or charge by a specified date if—

(i) it considers that the person's circumstances have so changed that the payment would no longer cause hardship to the person; or

(ii) the person no longer owns or occupies the land in relation to

* Interest section as well.

* Declare rate 2 or 4 times yearly.
* Indulgent

which the rate or charge was levied; and

- (b) requires the payment of interest for the late payment of the rate or charge, as if the deferral had not occurred.

Waiver.

180. (1) A—

- (a) person who—

(i) is suffering financial hardship; or

(ii) would suffer financial hardship if that person paid the full amount of a rate or charge for which he or she is liable; or

- (b) person who or body which runs a home for persons suffering financial hardship or for elderly persons—
may apply to a Council for the waiver of the whole or part of any rate or charge or of any interest imposed for late payment.

(2) The Council may require the applicant—

(a) to give further particulars; or

(b) to verify particulars—

in relation to the application.

(3) The Council may waive the whole or part of any rate or charge or interest.

Land becoming or ceasing to be rateable land.

181. (1) If land becomes rateable after 1 October in any financial year, the rate or charge which is payable on that land for the financial year is the amount which is proportionate to the part of that financial year remaining after the land becomes liable to be rated or charged.

(2) If land ceases to be rateable land during a financial year for which a rate or charge has been levied on it, a Council must—

- (a) if any payment of the rate or charge has been made, refund to the current owner of the land an amount proportionate to the part of that financial year remaining after the land ceases to be rateable land; or
(b) if none of the rate or charge has been paid, require the person who is required to pay the rate or charge to only pay an amount pro-

portionate to the part of that financial year before the land ceases to be rateable land.

Land which becomes rateable land or public land.

182. The following provisions apply to land under section 162 (2) (e) or 162 (2) (g) when it becomes rateable land or becomes land under section 162 (2) (a) or 162 (2) (b) and if the Council of the municipal district in which the land is situated so directs:

- (a) The person who is the purchaser or owner of that land immediately after it becomes rateable land or becomes land under section 162 (2) (a) or 162 (2) (b) must pay to the relevant Council the sum of money specified in paragraph (b);

(b) The sum must be the difference between—

(i) the rates and charges which were paid or payable for the land for the past 5 years; and

(ii) the rates and charges which would have been payable for the land for the past 5 years if it was then rateable.

Person acquiring rateable land.

183. 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 rates or charges on the land which are due and payable—

at the time that person becomes the owner of the land.

Rate records.

184. A Council must keep a record called the rate records and must enter in it—

(a) the prescribed information; and

(b) any other particulars it considers should be entered of land in its municipal district and the ownership of that land.

Council may require occupier to pay rent.

185. (1) If any rate or charge is due and unpaid in relation to land, the

Council may send a notice to the person who is liable to pay the rate or charge.

(2) The notice must state—

(a) that after 7 days from the date the notice is sent, the occupier of the land may be required by notice sent to that person to pay the rent then due or further rent as it falls due by that person for the land; and

(b) that the rent must be paid until the amount of the rate or charge has been paid.

(3) The Council must serve the notice under sub-section (2) (a) in accordance with sub-section (2).

(4) A payment of rent by a person under this section is a discharge of the debt of that rent.

(5) If a person fails to pay any or all of the rent due under this section, the Council may recover the unpaid amount as a debt to it by that person.

Occupier who pays rates or charges.

186. (1) An occupier of any rateable land who makes any payment of a rate or charge on the land which is made under section 188 is entitled to deduct the amount from the occupier's rent.

(2) Sub-section (1) does not apply if the occupier has agreed to pay any rate or charge on that land.

Invalidity of any rate or charge.

187. (1) The invalidity of the whole or any part of a rate or charge does not prevent a Council from recovering it.

(2) A general rate or service rate is not invalid only by reason of it being declared after 30 November.

Rate or charge unpaid for 3 months.

188. (1) If a rate or charge is unpaid for 3 months after it is due, the Council may demand in the prescribed manner from the person liable to pay it, that the rate or charge or a part of it be paid.

(2) If the rate or charge remains unpaid for a month after the demand, the Council may recover it in a Magistrate's Court or by suing for debt.

(3) If any rate or charge is recovered from an owner of rateable land and an agreement with the owner of the land states that the occupier of the land must pay any rate or charge, the owner may recover the rate or charge from the occupier in the same manner in which the owner may recover rent owing to that owner.

(4) An occupier who pays any rate or charge under this section need not pay more than the amount of rent owed by the occupier at the time of the demand or the payment.

(5) Sub-section (4) does not apply—

(a) if the occupier has agreed to pay any rate or charge; or

(b) if, after the Council requests that the occupier disclose the rent and the name and address of the person to whom it is payable, the occupier does not do so.

(6) For the purposes of this section, the occupier has the burden of proof of showing that—

(a) the occupier had not agreed to pay any rate or charge; and

(b) the amount of any rate or charge to be paid on any land by that occupier is more than the rent owed by the occupier for the land.

Council may sell land.

189. (1) A Council may sell any rateable land or cause to be transferred to itself any rateable land for an amount equivalent to or greater than its value as determined under sub-section (3) (b), if any rates or charges which are due to the Council in relation to the land have been unpaid for at least 3 years and have not been deferred for the period for which they are unpaid.

(2) A Council must not sell or transfer the land unless within the 3 year period, the Council has at least once attempted to recover under section 188 money due to it.

(3) Before selling the land or causing it to be transferred, the Council must—

(a) ensure that public notice of its intention to do so is given for at least 4 weeks prior to the date of the proposed sale or transfer; and

(b) obtain from a registered valuer an independent valuation of the land which is made not more than 6 months prior to the date of the proposed sale or transfer.

(4) If any person appears to have an estate or interest in the land from the register-book or any memorial of registration in the office of the Registrar-General, the following provisions apply to the sale or transfer of that land:

(a) Before selling the land or causing it to be transferred, the Council must serve on that person a notice requiring payment of the rates and charges referred to in sub-section (1);

(b) If the land is under the *Transfer of Land Act 1958*, when the Registrar of Titles registers a transfer of the land in exercise of the power of sale under this section, the Registrar must cancel any mortgages or charges registered as encumbrances on the land;

(c) Despite sub-section (5), the Council must apply the proceeds of the sale of the land or the amount for which the Council accepts a transfer of the land as follows:

(i) First, in payment of all expenses incurred in connection with the sale or transfer;

(ii) Secondly, the payment of the rates and charges due on the land;

(iii) Thirdly, the discharge of any mortgages and charges, whether registered or not, of which the Council has notice over which the charge of the Council has priority, according to the priority of those mortgages and charges.

(d) The sale or transfer of the land is free from all estates and interests over which the Council's charge has priority.

(5) If the proceeds of the sale of the land are greater than the amount of the rates and charges due to the Council on the land, the Council must, subject to sub-section (7), pay the surplus amount into the municipal fund.

(6) If the amount for which the Council proposes a transfer of the land is

greater than the amount of the rates and charges due to the Council on the land, the Council must (subject to sub-section (7)) only pay for the transfer the difference between the amount due and the amount to be paid for the transfer.

(7) The Council must deduct from—

- (a) the proceeds of sale of the land; or
- (b) the amount to be paid by the Council under the transfer of the land to itself—

all expenses incurred in connection with the sale or transfer.

Division 3—

Submissions and Appeals

Submission on decisions under this Part.

190. A person may make a submission under section 231 relating to—

(a) the declaration of a differential basis of rating or the exclusion of certain land by a Council from a category of a differential basis of rating or the cancellation of differential rating; or

(b) a special rate or special charge in relation to—

(i) a Council's declaration of the rate or charge; or

(ii) the application of the rate or charge to certain land; or

(iii) the amount of the rate or charge; or

(iv) the basis of calculation of the rate or charge; or

(v) the special benefit which the Council considers will result from the rate or charge.

Appeal to Land Valuation Appeals Board.

191. (1) This section applies if a person has made a submission under section 231 containing any objection relating to a matter in section 190 (a).

(2) If a person—

(a) has objected unsuccessfully; or

(b) is adversely affected by a Council's decision on any objection—

the person may appeal to a Land Valuation Appeals Board under Part III. of the *Valuation of Land Act 1960*.

Appeal to County Court.

192. (1) A person who is aggrieved by a rate or charge under this or any other act or by anything included or excluded from such a rate or charge (other than a matter to which an objection or appeal may be made under Part III. of the *Valuation of Land Act 1960*) may—

(a) in February or March after receiving notice of the rate or charge; or
(b) if the notice is received between 1 February and 30 September, within 2 months after receiving the notice—
give to the relevant Council a notice in the prescribed form of that person's intention to appeal to the County Court.

(2) The person may only appeal on one or more of the following grounds of appeal:

- (a) In the case of a rate, that the land in respect of which the rate was levied was not rateable land;
- (b) In the case of a rate, that the Council—
 - (i) did not prepare any necessary estimate; or
 - (ii) did not give notice of intention to make the rate—
in accordance with this Act;
- (c) That the rate or charge assessment was calculated incorrectly;
- (d) That the person levied with the rate or charge was not liable to be rated.
- (3) The County Court may make rules with respect to—
 - (a) the procedure for applying to the Court; and
 - (b) proceedings for hearing the application; and
 - (c) orders, including orders as to costs.
- (4) If the County Court quashes a rate or charge made in a particular year

on the ground in sub-section (2) (b), the Council may make and levy a new rate or charge for that year even if the year has ended.

Appeal to Planning division of the Administrative Appeals Tribunal.

139. (1) A person who is aggrieved by a Council's imposition of a special rate or special charge on that person may appeal to the Planning division of the Administrative Appeals Tribunal.

(2) The person must appeal—

(a) within 2 months after the date of issue of a notice to the person of the special rate or special charge; and

(b) on the ground that—

- (i) the works and projects or the period of maintenance for the purposes of which the special rate or special charge was imposed are not or will not provide a special benefit to that person; or
- (ii) the basis of distribution of the rate amongst those persons who are liable to pay it is unreasonable.

(3) The Planning division of the Administrative Appeals Tribunal—

(a) must hear and determine the appeal; and

(b) may—

- (i) vary the special rate or special charge made by the Council in relation to its application to the appellant; or
- (ii) quash the special rate or special charge; or
- (iii) dismiss the appeal or make an order confirming the special rate or special charge.

(4) If the Planning division of the Administrative Appeals Tribunal quashes a special rate or special charge made in a particular year, the Council may make and levy a new special rate or special charge for that year even if the year has ended.

INSTITUTE VENTURES NORTH

On Monday 30th July, 1987 three members of your Institute were invited by the North West Division of the I.M.M. to attend their regional meeting at the Civic Centre, Swan Hill, initially to provide a forum for the formation of the North West Division of the V.I.R.A.

However, as things unfolded the meeting took the form of an all morning workshop where this Institute presented papers on such issues as:

- Draft proposals for the new Local Government Bill;
- V.I.R.A. submission to the Working Party;
- Fire Service levy update;
- Status report on the state/local government funding relationships Working Party;
- Preparation of voters roll (problems envisaged in 1987);
- Pensioner rebates;
- Alternative methods of paying rates (banks and post offices);
- Provision of information;
- Rate incentive schemes.

Following the presentation of papers, your representatives acted as a panel fielding questions from those present covering all facets of rate administration.

The meeting was attended by some 50-60 Town Clerks, Shire Secretaries, Deputies and Rate Administrators from the North West of Victoria who all actively participated in the question and answer segment which was so successful that it ultimately flowed over into mid afternoon.

This I believe is where the true value of our Institute lies, i.e. uniting persons engaged in the profession of rate administration, improving and elevating our technical knowledge and defusing information amongst our members.

As a result of the success of the panel segment the I.M.M.'s other workshop sessions on the Agenda had to be rearranged. Chairman, Kerryn Shade (President North West Division of the

I.M.M., Town Clerk, Warracknabeal) decided to excuse those persons not involved in the accounting workshop in order that they could continue discussions in the adjoining Council Chamber.

It was pleasing to note that some seventeen persons adjourned and an informal meeting was held to discuss the formation of the North West Division of the V.I.R.A.

Our sincere thanks go to:

Michael Hickey, City of Mildura
John Hurry, City of Swan Hill
Bruce Mitchell, Shire of Kerang
Robin Webb, Shire of Dunmunkle
Bernie Naylor, Shire of Warracknabeal
Narelle Heard, Shire of Arapiles
Bruce Elder, Shire of Wimmera
Robert Wynne, City of Horsham
Rodney Ashfield,
Shire of Warracknabeal
Colin Braybrook, Shire of Swan Hill
Julie Anson Shire of Arapiles

for their attendance and participation in the ensuing general discussion section of the meeting.

In summary, the trip to Swan Hill proved another success for this Institute and approaches were made to your representatives from the North West Division of the I.M.M. for all their members to join and receive our newsletter!

We must sincerely thank Kerryn Shade and the executive of the North West Division of the I.M.M., Garry Mennie, Town Clerk, City of Swan Hill and John Hurry, Rate Collector, City of Swan Hill both for the hospitality shown to the V.I.R.A. and for their foresight in arranging such a meeting.

BILL CANE.

* * *

PLAIN SAILING?

Now that "rate rush" is over its all plain sailing, isn't it? Only the 3rd rate instalment, voters' rolls, new Local Government Bill, final notices and summons' to worry about.

DEBT RECOVERY AND ARBITRATION

New provisions applying to Magistrates' Court

By the time this article is printed, Part VIII(A) of the Courts (Further Amendments) Act 1986 will have come into operation.

As background, it should be noted that the amendments follow other implementation by the Victorian Government of the recommendations of the 1984 report of the Civil Justices Committee. This article is to give an overview of the effects of the new "Arbitration" provisions as they affect Rate and other debt recovery.

The amendments commence: "S.72A. A Magistrates' Court must not . . . determine a complaint . . . (for) less than \$3,000.00 unless the complaint has been referred to arbitration . . .". Following this generalisation are various provisions circumscribing the absolute prohibition. Essentially Arbitration will not, at present, be available if:

- (a) the complaint is not disputed
- (b) the complaint relates to a continuing court order
- (c) the complaint relates to complex questions of law and/or fact
- (d) the complaint relates to fraud
- (e) the parties agree the complaint ought to be heard by a Court
- (f) it is unreasonable to all concerned to have an arbitration
- (g) regulations prescribe classes of complaints not to be arbitrated.

As yet, how the courts will apply (c) and (f) is unclear, but will most probably apply in the areas of Local Government to interpretation of matters like S.251 of the Local Government Act, or applicability of Health Act demands or where a dispute exists between more than two parties as to the ultimate responsibility for the complainant's claim. Regulations have not yet been gazetted to cover exception (g).

The Court will not arbitrate in the above, either if it considers it inappropriate, or if satisfied by a party

that it ought not arbitrate. The limit of "\$3,000.00" may be altered by regulation.

The arbitration will be an informal "hearing", and each party will be given opportunity to present their case orally or in writing, although the Magistrate/Arbitrator will not be bound by the rules of evidence. A party may appear by a legal representative or agent.

The award of the Arbitration must be in writing *and* will have the same effect as if it were a judgement of the Court.

Lastly, and of particular interest, is the amendment to the awarding of costs to litigants. S.72D provides that the Magistrate/Arbitrator may award costs excepting where an award of less than \$500.00 is made.

If the award is for less than \$500.00, then the Magistrate/Arbitrator will only allow costs in special circumstances, excepting for disbursements which generally should be recoverable. The amendments are intended to relieve the Courts of unnecessary minor disputes. It is expected that where debtors have not made an attempt to settle the claim or negotiate time payment, they will be subject to the normal procedures and incur the costs which attach to the issue of a summons.

Undefended Default Summonses will still carry a demand for costs, and unless challenged will allow the complainant to recover them.

* * *

DATES FOR YOUR DIARY

- 12th June, 1987 — General Meeting (Altona).
- 19th June, 1987 — South/East Regional Meeting, Flinders (Lunch at Rosebud Hotel, 12.00 noon, meeting starts 1.30 p.m.). For further information contact Ian Holland (Frankston).
- 7th August, 1987 — Annual General Meeting (Caulfield).

LANCE COLLINS — LIFE FELLOW

At the General Meeting of the Institute held on 13th March 1987 at Benalla, the members unanimously resolved on the motion by Stephen Collins (President) Seconded by Murray Hockey (Past President) that Lance Collins (Rate Collector, City of Croydon) be elected a Life Fellow of the Institute.

Article four of the Institute's Articles of Association states — "Any person who in the opinion of the Committee has rendered such services to the Institute or possesses such knowledge and experience of and connected with the profession of Rate Administration as entitle him to that distinction and who agrees to become a member by a majority vote of those present at a general meeting of the Institute be elected a "Life Fellow".

It was the opinion of the Committee that Lance Collins was entitled to the distinction of being elected as the Institute's first Life Fellow.

Lance's Local Government career commenced at Orbost in 1955 and continued through to 1987. During that period he served with the Municipalities of Sale, Shepparton, Wangaratta and Croydon, the latter three in the position of Rate Collector.

Lance's involvement with this Institute commenced when the Institute was being formed in 1975. Prior to that he had held executive positions in the Rate Collectors Institute of Victoria serving two terms of office as Secretary and

three terms as President during the period 1969-1975.

Following the formation of the Institute, Lance was elected as its inaugural President and he served a number of terms in that position.

The Memorandum and Articles of Association which were adopted by the Institute when it became an incorporated body under the Company's Act in 1977 were compiled by Lance Collins in conjunction with the Institute's Solicitors.

Lance served the Institute as its representative on government working parties and was one of its four delegates at the Local Government Ministers' Conference on differential rating in Adelaide in November, 1977.

While serving on the Executive Committee Lance headed various Sub-Committees and was the newsletter co-ordinator and editor from 1982 to 1984.

It can be said without fear of contradiction that the formation and development of this Institute was due largely to the efforts of Lance Collins.

Lance has recently retired from the Local Government scene and in his "retirement" has taken up the position of Office Manager with the Arthritis Foundation of Victoria.

We wish Lance every success, good health and happiness in the future.

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Rod Hughes

FACES GOING PLACES

New Appointments

TONY HARDING: *Rate Collector*, Shire of Rodney — formerly: *Administrative Officer*, Shire of Rodney.

ROY JOHNSTONE: *Assistant Rate Collector*, City of Dandenong — formerly *Paymaster*, City of Springvale.

DON PRATT: *Rate Collector*, Shire of Bulla — formerly: *Assistant Rate Collector*, Shire of Bulla.

STEPHEN MATTHEW: *Assistant Rate Collector*, Shire of Bulla — formerly *Administrative Officer*, City of Northcote.

GEOFF COOK: *Manager Revenue Collection*, City of Northcote — formerly *Manager Electricity Supply*, City of Heidelberg.

PAUL MOLLOY: *Assistant Rate Collector*, City of Box Hill — formerly: *R.M.I.T. Sandwich Year Student*.

DEANE HAYES: *Rate Collector*, City of Hawthorn — formerly: *Administrative Officer*, City of Waverley.

ANTHONY NEWTON: *Shire Sec./Rate Collector*, Shire of Ballan — formerly: at *Shire of Hampden*.

MARIO PATTI: *Rates Supervisor*, City of Northcote — formerly: *Administrative Officer*, Melbourne City Council.

TREVOR RICHES: *Rate Collector*, Shire of Narracan — formerly *Rate Collector*, Shire of Pakenham.

ANDREW SULLIVAN: *Rate Collector*, City of Springvale — formerly: *Assistant Rate Collector*, City of Springvale.

KEN BINAISSE: *Senior Administrative Officer*, City of Berwick — formerly: *Rate Collector*, City of Springvale.

JOHN LORKIN: *Temporary Rate Collector*, City of Fitzroy — formerly: *Rate Collector*, City of Nunawading.

MARTIN KING: *Rate Collector*, City of Croydon — formerly: *Assistant Rate Collector*, City of Preston.

ROBERT BOND: *Assistant Rate Collector*, City of Preston — formerly: *Administrative Officer*, M.M.B.W.

JILL PAPPALARDO: *Assistant Rate Collector*, City of Camberwell — formerly *Cashier*, Shire of Flinders.

IAN SMITHWICK: *Assistant Rate Collector*, Rural City of Wodonga — formerly

(but not recently) *Assistant Rate Collector*, Melbourne City Council.

ANTHONY McCABE: *Shire Secretary/Rate Collector*, Shire of Lexton — formerly: *Locum Shire Secretary*, Shire of Winchelsea.

RUSSELL HODGES: *Rate Collector*, City of Brighton — formerly: *Assistant Rate Collector*, Shire of Flinders.

PETER REDMAN: *Assistant Rate Collector*, Shire of Flinders — formerly: *Private Streets Officer*, Shire of Flinders.

TIM BROWN: *Deputy Shire Secretary*, Shire of Melton — formerly: *Assistant Shire Secretary*, Shire of Melton.

IN BRIEF

Did you hear about the recently retired Rate Collector who 'phoned an ex-colleague on the 9th April for a chit-chat and was puzzled as to why he got the "short shift"?

At home that evening, the "penny dropped".

Doesn't take long to forget, does it, when you get out of the swing of things.

* * *

The Memorandum & Articles of Association provide for nominations for election to the Committee to be lodged with the Secretary by 15th June, 1987. A nomination form will be included with the notice for the next General Meeting to be held at Altona on 12th June, 1987. There are vacancies to be filled — contact Secretary or President for further information.

* * *

Ties and Lapel Badges — members will be pleased to know that Institute ties, blue or brown (\$10.00 each) and lapel badges (\$2.00 each) are now available for purchase.

Please do not inhibit the Institute's cash flow (they have been paid for) — buy a couple today — contact Geoff Fleming (City of Oakleigh), Bill Cane (City of Knox) or Murray Hockey (City of Sandringham).

* * *

Members' Subscriptions in arrears — what are you doing about ratepayers who have not paid their rates?

POTENTIAL MEMBERS

The following persons have indicated an interest in joining our Institute:

KEN MUTIMER, *Rate Collector*, City of Newtown.

JULIE ANSON, *Shire of Arapiles*.

MARK BRADY, *Admin. Officer*, City of Frankston.

GEOFFREY COOK, *Mgr. Revenue Coll.*, City of Northcote.

BEVERLEY COTTELL, *Asst. Rate Collector*, City of Fitzroy.

CHRISTOPHER DEARE, *Rate Collector*, City of South Barwon.

CHRISTOPHER DOUPE, *Rate Collector*, Shire of Diamond Valley.

IAN EFFRETT, *Rate Collector*, Borough of Sebastopol.

BRUCE ELDER, *Shire of Wimmera*.

CATHY FITZPATRICK, *Finance Manager*, City of Castlemaine.

DEANNE FREE, *Cashier*, City of Swan Hill.

JUSTIN GALVIN, *Admin. Officer*, City of Frankston.

TONY HARDING, *Rate Collector*, Shire of Rodney.

DEANE HAYES, *Rate Collector*, City of Hawthorn.

NARELLE HEARD, *Shire of Arapiles*.

ROY JOHNSTONE, *Asst. Rate Collector*, City of Dandenong.

MARGARET JOLLY, *Deputy Rate Officer*, Shire of Corio.

CINDY LEECH, *Revenue Officer*, Shire of Avoca.

JENNY LEVY, *Shire of Benalla*.

ANGELINO MARJELLA, *Revenue Collector*, Town of Portland.

STEPHEN MATTHEW, *Asst. Rate Collector*, Shire of Bulla.

BRUCE MITCHELL, *Shire of Kerang*.

PAUL MOLLOY, *Asst. Rate Collector*, City of Box Hill.

SCOTT MORONE, *Admin. Officer*, City of Frankston.

BERNIE NAYLOR, *Shire of Warracknabeal*.

ANTHONY NEWTON, *Shire Secretary*, Shire of Ballan.

BRIAN OLDEN, *Rate Collector*, Shire of Woorayl.

JILL PAPPALARDO, *Asst. Rate Collector*, City of Camberwell.

MARIO PATTI, *Rates Supervisor*, City of Northcote.

BRIAN PHILLIPS, *Asst. Rate Collector*, Shire of Woorayl.

PETER REDMAN, *Asst. Rate Collector*, Shire of Flinders.

LORRAINE RYRIE, *Rate Collector*, Shire of Kyneton.

JOHN STEWART, *Rate Collector*, Shire of Barrabool.

ANDREW SULLIVAN, *Rate Collector*, City of Springvale.

IAN VAUDREY, *Admin. Officer*, City of Frankston.

ROBIN WEBB, *Shire of Dunmunkle*.

ROBERT WYNNE, *City of Horsham*.