

TASMANIA.

THE TOWNS ACT 1934.

ANALYSIS.

1. Short title and incorporation with 6 Ed. VII. No. 31.
- PART I.—ESTABLISHMENT OF TOWNS.**
2. Power to proclaim towns.
3. Procedure.
4. Alteration of towns and change of name.
5. Council may erect boundary marks.
6. Existing towns to continue.
Revocation of proclamation of town.
- PART II.—IMPROVEMENT OF TOWNS.**
- Division I.—General Powers.*
7. General power to council to do all things necessary for effectuating the health and improvement of towns.
- Division II.—Streets and other Public Places.*
8. Streets may be opened.
9. Formation of streets to be under the control of the council.
Streets to be kept in repair.
10. Setting up posts to guard footways.
11. Future streets may be declared high-ways.
12. Streets may be repaired at expense of owners of adjoining lands on application of the majority.
Municipal council may allow time for repayment of expenses by owners.
13. Wilful injuries to streets.
Taking up pavements, &c., without permission.
14. Warden or surveyor to grant permission to take up pavements, &c.
- Division III.—Sewers.*
15. Power to make common sewers.
16. Council may make sewers through private property.
17. All sewers, &c., to be covered with traps.
18. Municipal council may compel owners to construct drains into common sewers.
Penalty on owner for neglect.
19. Supplemental provisions.
- Division IV.—Verandahs.*
20. Rules to be observed in respect of the erection of verandahs.
- Division V.—Alignment of Buildings and Streets.*
21. Houses may be set forward to improve street.
Projecting houses, &c., when taken down to be set back.
Compensation.
Frontages of buildings to be fifty feet apart at least.
Penalties for breach.
22. Future projection of houses may be removed.
23. Existing projections may be removed on making compensation.
24. Doors, &c., to open inwards.
Existing doors may be altered.
25. Coverings for cellar doors to be made by occupier.
- Division VI.—Storm Waters.*
26. Waterspouts to be affixed to houses, &c.
Water not to be allowed to drain over footways.
- Division VII.—Naming of Streets and Numbering of Houses.*
27. Houses to be numbered and streets named.
28. Numbers of houses to be renewed by owners or occupiers.
- Division VIII.—Precautions against Accident.*
29. Bars to be erected across streets while repairs or alterations are making, and lights placed at night.
30. Hoards to be set up during repairs.

31. Penalty for not lighting deposits of building materials or excavations. Penalty for continuing deposits of building materials or excavations at unreasonable time. Dangerous places to be repaired or enclosed.
32. Ruinous or dangerous buildings to be taken down or secured by owners, &c. If owners, &c., neglect to repair, council may cause the same to be done, charging owner with expenses. Council may sell the materials, restoring to the owner overplus arising from the sale.
33. Moneys expended by municipal council to be recovered in a summary way.

Division IX.—Street Lighting.

34. Lamps to be set up and lighted.
35. Penalty for wilfully breaking lamps. Satisfaction to be made for negligently breaking lamps.

Division X.—Particular Powers.

36. Council to compel owners of vacant land to erect fence. And in case of neglect, council to do so at owner's expense.

Division XI.—Water Supply.

37. Council may take water.
38. Council may lay down pipes. Council to do as little damage as may be. Council to make compensation for damage done by execution of works. Persons damaged to make claim for compensation. Compensation how to be ascertained. Regard to be had to any benefit which may accrue.
39. Persons not making claim required to be barred.
40. Compensation for diverting water to be ascertained by action in the Supreme Court. Such actions to be commenced within three months.
41. Compensation for damage done by failure of the works.
42. Power to break up streets, &c., and to open drains.
43. Supply of water to owners and occupiers.

Division XII.—Private Streets.

44. Definition of private street.
45. Construction of private streets.
46. Recovery of instalments.
47. Construction of carriage-way.
48. Subdivision of land.

Persons laying out streets without notice liable to expense of alterations.

49. Power to borrow. Sinking fund to be formed. Portion of instalments paid into council fund.
50. Council may define a special district. Notice of contribution fixed to be given to each owner. Payment of contribution. Council may contribute in certain cases. Provision for payment of interest, &c., in respect of moneys borrowed by councils for construction of private streets in towns.
51. Council may repair, &c., right-of-way.

Division XIII.—Miscellaneous.

52. Brick areas.
53. Power to make tree reserves in streets.
54. Rocks or stones not to be blasted without permission of surveyor.
55. Lamps, &c., the property of the municipality.
56. Remedies for charges.
57. Timber growing near any street may be cut down.
58. Quarries to be fenced in or otherwise secured.
59. Recovery of expenses.

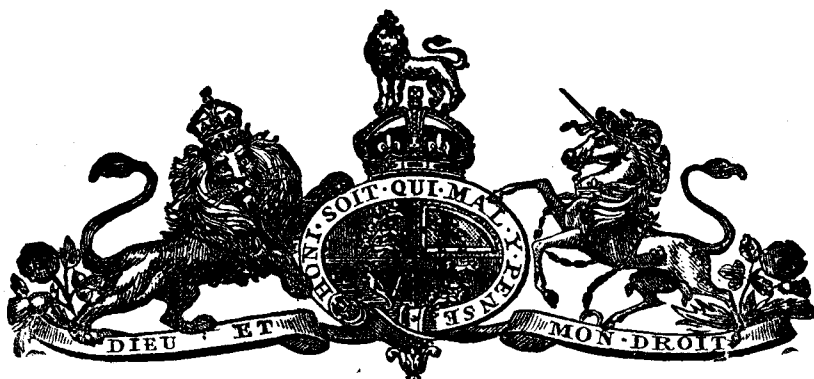
PART III.—COMMON LODGING-HOUSES.

60. Provisions to apply to cities and towns.
61. Common lodging-house.
62. Common lodging-houses to be approved and registered, and keepers licensed.
63. Appropriation of fees.
64. Accommodation in common lodging-houses.
65. Registers of common lodging-houses to be kept.
66. Refusal to register common lodging-houses.
67. Copy of register made evidence.
68. Supply of water to common lodging-houses.
69. Keepers of common lodging-houses to report beggars and vagrant lodgers.
70. Inspection of premises.
71. Offences by keepers of common lodging-houses.
72. Convictions for third offence to disqualify persons from keeping common lodging-houses.

PART IV.—REPEAL.

73. Repeal.

TASMANIA



1934.

ANNO VICESIMO QUINTO

GEORGII V. REGIS.

No. 47.

AN ACT to consolidate and amend the Law relating to the Establishment, Improvement, and Government of Towns; and to provide for the Regulation of Common Lodging Houses. [13 December, 1934.]

A.D.
1934.

BE it enacted by His Excellency the Governor of Tasmania, by and with the advice and consent of the Legislative Council and House of Assembly, in Parliament assembled, as follows:—

- 1—(1) This Act may be cited as the *Towns Act* 1934.
 (2) This Act shall be incorporated and read as one with the *Local Government Act* 1906.

Short title and
incorporation
with 6 Ed. VII.
No. 31.

Towns.

A.D. 1934.

PART I.

ESTABLISHMENT OF TOWNS.

Power to proclaim towns.

2 The Governor, upon a petition from the council of any municipality, may proclaim any portion of such municipality, to be specified in such proclamation, as and to be a town.

Procedure.

3—(1) Before forwarding such petition for presentation, the council shall set out with sufficient marks the extent and limits of the proposed town and the petition shall define such limits and set forth the name it is desired to give the proposed town.

(2) Upon receipt of such petition, the Minister shall cause such petition to be published in the Gazette and at least twice in a newspaper.

(3) If a requisition in writing signed by not less than fifteen electors entitled to vote at an election of councillors under the *Local Government Act* 1906 in respect of property in the area defined in the petition shall be presented to the warden of the municipality within seven days after the last of such publications as aforesaid, requiring him to call a public meeting of the electors, entitled as aforesaid, to consider the matter referred to in the petition, the warden shall convene a public meeting of such lastmentioned electors as hereinafter provided.

(4) Within five days after receipt of such requisition, the warden, by public notice, shall appoint a time and place at which a public meeting will be held to consider such requisition, and the time so appointed shall be not less than three nor more than seven days after the publication of such notice.

(5) The electors present at any such meeting as aforesaid may, by a majority of votes, pass a resolution either in support of the petition or disapproving of the same, and a copy of such resolution, signed by the warden or other the chairman presiding at the meeting, shall be forthwith forwarded by him to the Minister.

(6) At any meeting held under this Part, each elector present shall have the same number of votes as he has in respect of property in the defined area at an election of councillors for the municipality of which such area forms part.

(7) If the resolution passed at the meeting is in support of the petition or if the warden certifies in writing to the Minister that no such requisition was presented to him as prescribed, the Minister shall forward the petition to the Governor, and the Governor, by proclamation, shall declare the defined area to be a town by the name set forth in the petition.

Alteration of towns and change of name.

4—(1) The council at any time may present a petition praying that the limits of any town may be enlarged or reduced, as the case may be, or that the name assigned thereto may be changed

(2) On receipt of any such petition, the Minister shall advertise the same in manner prescribed by section three.

(3) If, at any time within twenty-one days after the last of the publications prescribed by subsection (2) hereof, a counterpetition is presented, signed by the electors who have, in the aggregate, a majority

Towns.

of the votes exerciseable under the *Local Government Act* 1906, in respect of property in any area proposed to be added to, or excluded from, such town, the boundaries of such town shall not be altered as proposed by the petition. A.D. 1934.

(4) In any case other than as provided in subsection (3) hereof, the Governor, on the expiration of the said period of twenty-one days, may, by proclamation, redefine the limits of such town, or may alter the name thereof, in accordance with the petition.

5—(1) The council, its servants and agents, for the purpose of setting out the limits of any existing town or any intended town as aforesaid, or of any extension or alteration of an existing town, may enter upon private property, and may erect sufficient marks thereon for the purposes aforesaid, and may repair or renew such marks when necessary. Council may erect boundary marks. 5 Ed. VII. No. No. 30, s. 10.

(2) No person shall wilfully remove, injure, or deface any such mark. Penalty : Five pounds.

6—(1) All towns heretofore constituted or proclaimed under any other Act shall continue to be towns unless abolished as provided by this Act. Existing towns to continue. 60 Vict. No. 31, s. 5.

(2) The Governor, by proclamation, may revoke the original proclamation of any town, and thereupon such town shall cease to be a town. Revocation of proclamation of town. 5 Ed. VII. No. 30, s. 11.

PART II.

IMPROVEMENT OF TOWNS.

Division I.—General Powers.

7 The paving, draining, cleansing, lighting, and all other matters contained in this Part relating to the good order of any town and the comfort of its inhabitants, shall be under the order, control, and management of the council; and the council shall have power and authority, and is hereby empowered, authorised, and required, to make such by-laws to take such measures, to execute such works, to make such contracts, and to do and perform, and to cause to be done and performed, all such acts, matters, and things as may be necessary for effectuating the several purposes of this Part. General power to council to do all things necessary for effectuating the health and improvement of towns. 5 Ed. VII. No. 30, s. 152.

Division II.—Streets and other Public Places.

8 When and as often as it may be necessary for any of the purposes in this Act contained, it shall be lawful for the council to cause to be dug up, opened, and excavated any street or public place within any town, and to stop the thoroughfare thereof. Streets may be opened. *Ib.*, s. 156.

9—(1) The construction, formation, repair, maintenance, and ordering of all streets, pavements, and other public places within any town shall be wholly under the management and direction of the council, and the same shall be performed and carried on under the superintendence of the surveyor appointed by the council. Formation of streets to be under the control of the council. *Ib.*, s. 155

Towns.

A.D. 1934.

Streets to be kept
in repair.
Ib., s. 157.

(2) It shall be lawful for the council, when and as often and in such manner as such council thinks proper and necessary—

- i. To order and cause the several streets and public places within any town to be altered, widened, diverted, turned, or extended, paved, flagged, or macadamised, or otherwise constructed, improved, repaired or amended, supported, and kept in good order and condition, with such materials as the council thinks proper: and
- ii. To cause the pavements, flagging, or other materials of such streets to be taken up and relaid or renewed, and the ground and soil thereof to be raised, lowered, or altered in such manner and with such materials as the council deems proper or directs: and
- iii. To cause proper and convenient sewers, gutters, drains, and watercourses to be made along or under such streets for carrying off water, mud, or other filth from the same, or from the houses, buildings, and premises abutting thereon; and to cause grates to be placed over any such sewer, gutter, drain, or watercourse, and to remove, renew, alter or vary the situation of any such grate now placed, or hereafter to be placed.

Setting up posts
to guard foot-
ways.

Ib., s. 158.

10 It shall be lawful for the council to erect and set up in any street within any town such posts, stones, or fences as the council may deem necessary for the purpose of preserving any footway clear from accident or annoyance by vehicles or animals; and also to cause the removal of all or any posts, stones, or fences in any such street which the council may deem to be obstructions to the free passage along the same.

Future streets
may be declared
highways.

Ib., s. 159.

11 If any street not being a public highway at the commencement of this Act shall then or thereafter be paved, flagged, or otherwise made good to the satisfaction of the council, then, on the application of a majority in value of the occupiers of the lands and buildings in such street, the council shall, by writing under the common seal, declare the same to be a public highway, and thereupon the said street shall become a public highway, and shall thereafter be repaired by the said council out of the rates; and such declaration shall be entered among the proceedings of the council, and notice of such declaration shall be published in the Gazette and in a newspaper.

Streets may be
repaired at ex-
pense of owners
of adjoining lands
on application of
the majority.

Ib., ss. 160-161.

12—(1) If any street, whether the same is or is not a public highway at the commencement of this Act, has not at any time been well and sufficiently made, formed, paved, or flagged, or otherwise made good, the council, on the application of two-thirds in number of the owners of the lands abutting on such street, may cause such street, or the parts thereof not so made, formed, paved, or flagged, or otherwise made good, to be made, formed, paved, and flagged, and otherwise made good, in such manner as the council thinks fit.

(2) The expenses incurred by the council in respect thereof shall be repaid to the council by the owners of the lands abutting on such

Towns.

street, by contributions from such owners proportionate to the annual value, as shown by the assessment roll, of their respective lands; and, in default of payment of his contribution by any owner of such lands on demand, the same may be levied by distress and sale of his goods and chattels, in the same manner as any rate may be recovered; and thereafter such street shall be repaired by the council out of the rates. A.D. 1984.

(3) If such street is not a public highway, the same shall thereupon be declared by the council to be a public highway in the manner hereinbefore provided.

(4) Where any such expenses payable to the council by any owner of any such lands amount to more than half the amount of the annual value of such lands, as shown by the assessment roll, the council, if it thinks fit, at the request of any such owner, may allow time for the repayment of such expenses, and receive the same by such instalments, and upon such terms as to interest or otherwise, as the council, under the circumstances of the case, considers reasonable; but all such sums remaining due, and the interest, if any, shall, notwithstanding the council has agreed to allow any time for the repayment of such sums as aforesaid, from time to time, at the expiration of the several times so allowed for repayment thereof be recoverable in like manner as such respective amounts would have been recoverable if no such time had been allowed for repayment thereof.

Municipal council may allow time for repayment of expenses by owners.

13—(1) No person shall—

- i. Wilfully or maliciously, or by negligence, break up, injure, destroy, or otherwise damage the flagging or pavement or the footway or carriageway of any street within any town :
- ii. Wilfully or negligently break, injure, destroy, choke up, or otherwise damage any sewer or drain, or any grating, or any post, stone, or fence for preserving any footway from interference or damage, or any building, wall, or other work of the council, or any materials used or provided by the council for any work :
- iii. Without the permission in writing of the warden or the surveyor, take or break up or lay down the soil of, or any pavement, curbstone, or other material in or upon, any such street :
- iv. Without such permission make any drain leading into any such street, or put or place or cause to be put or placed, any pipe, or make any drain, leading into any such sewer or drain or other work of the council : or
- v. Without such permission erect any hoard or scaffolding for building or otherwise in or upon, or make any excavation, vault, or cellar in or beneath, any such street.

Wilful injuries to streets.

Ib., s. 162.

Taking up pavements, &c., without permission.

Penalty : Ten pounds.

(2) Any person convicted under this section may be ordered by the convicting justices to pay, in addition to any penalty, the full amount of any damage occasioned by his offence.

Towns.

A.D. 1934.

Warden or surveyor to grant permission to take up pavements, &c.

Ib., s. 163.

14—(1) It shall be lawful for the warden or the surveyor to grant permission in writing to any person—

- i. To take or break up or lay down the soil of, or any pavement curbstone, or other material in or upon, any such street :
- ii. To make any drain leading into any street :
- iii. To put or place any pipe, or make any drain, leading into any sewer or drain or other work of the council : or
- iv. To erect any hoard or scaffolding for building or otherwise in or upon, or to make any excavation, vault, or cellar in or beneath, any street—

under such regulations and subject to such rights and restrictions, and for such consideration, pecuniary or otherwise, as to the council seems fit ; and all sums received for any such purposes as aforesaid shall be applied in aid of the municipal fund.

(2) No such permission shall give or confer, or be taken to give or confer, any right, title, or interest to or in the soil or freehold of any part of any such street, and every such permission shall be revocable by the council as and when it sees occasion.

Division III.—Sewers.

Power to make common sewers.
29 Vict. No. 10,
s. 239.

15 The council may cause such and so many public sewers and drains as the council may think fit and necessary to be made in any street in any town ; and also to adopt any common sewer or drain which now is or hereafter may be within any town ; and also to cause any such sewer or drain to be enlarged, repaired, cleansed, or altered, as the council may deem proper.

Council may make sewers through private property.

Ib., s. 240.

16 The council or the surveyor, with all necessary labourers and assistants and implements, when and so often as it may deem necessary, may enter upon and make, alter, or continue upon any private lands within any town all or any such sewers and drains as may be deemed necessary : Provided that fourteen days' notice in writing signed by the mayor of the intention so to enter upon any such lands shall be first given to the owner or occupier thereof.

All sewers, &c., to be covered with traps.

Ib., s. 241.

17 All such sewer and drains shall be provided with proper traps or other coverings or means of ventilation so as to prevent stench ; the public sewers and drains by the council, and those belonging to other persons by those persons.

Municipal council may compel owners to construct drains into common sewers.

Ib., s. 242.

18—(1) In all cases where any allotment of land within any town abutting on any street through which a common sewer runs is, at any time, found not to be drained by a sufficient drain communicating with such common sewer and emptying itself into the same to the satisfaction of the surveyor, the council, by notice in writing under the hand of the clerk, may require the owner of such allotment of land forthwith, or within such reasonable time as shall be appointed by the council, to construct and make, from such allotment of land into such common sewer, a covered drain of such materials, of such size, at such level, and

Towns.

with such fall, as shall, in the opinion of the surveyor, be adequate for the drainage of such land, and to carry and convey such drainage and the wash therefrom into the said sewer. A.D. 1934.

(2) Such owner shall thereupon make and construct such covered drain accordingly, and provide and fit a proper trap to be affixed to the mouth thereof; and, if the owner of such land neglects or refuses during thirty days after the said notice has been delivered to such owner, or left at his usual or last known place of abode, to begin to construct such drain, or thereafter fails to carry it on and complete it with all reasonable despatch, it shall be lawful for the council, and it is hereby empowered, to cause the same to be constructed and made, with such trap as aforesaid, and to recover the expenses to be incurred thereby from the owner. Penalty on owner for neglect.

19—(1) Where any sewer is constructed, the following provisions shall have effect :— Supplemental provisions.

- i. In any case where the sewer serves to carry sewage as well as rain or spring water flowing over any street, the board may contribute such part of the cost of the construction and maintenance thereof as to the council may seem reasonable :
- ii. Before calling upon any owner who may be the owner of any property from which sewage water flows, or, in the opinion of the council should flow, or whose property will receive any benefit from a sewer being constructed, to contribute to the cost of any sewer serving or to serve such property, the council shall prepare a scheme showing the estimated total cost of the sewer proposed to be constructed, or of the repairs required thereto, and the several proportions; in which such owner or owners and the council (if the council determines as aforesaid to contribute) will be liable to pay such cost : Provided that no owner of land which the council may consider unsuitable for the erection of buildings shall be required under this paragraph to contribute to the cost of any such sewer :
- iii. Notice shall be given by the council to the owner of every property mentioned in any such scheme, and, if any owner objects to the proportion of costs charged to him, he may, within fourteen days after service of such notice, proceed as herein is provided in case of appeals affecting the assessment roll, and two justices shall have power to determine the amount which any owner shall pay under any such scheme as aforesaid ; and all the provisions of the *Annual Values Assessment Act* 1911 relating to appeals against assessments shall apply to an appeal made by any such owner : 2 Geo. V. No. 68.
- iv. Subject to the determination of any such appeal, the amount which the council shall have set out in any such scheme shall become a charge upon the property of the owners named therein : Provided that the council may arrange with any owner to give time for the payment of any contribution with interest on deferred payments at the rate of five

60 Vict. No. 31,
s. 177.

Towns.

A.D. 1934.

pounds per centum per annum, and may take the same by instalments ;

- v. The amounts named in any such scheme, or of any of the said instalments, may be recovered in like manner as any general rate is recoverable.

(2) The provisions of this division shall apply to any common sewer constructed or maintained by the council which does not run through any street.

Division IV.—Verandahs.

Rules to be observed in respect of the erection of verandahs. *Ib.*, s. 166.

20—(1) Any person who desires to erect any verandah, portico, awning, shade, or other matter or thing over any footway or roadway in any street in any town shall forward a plan and particulars of the same to the council, and the council shall, within twenty-one days after the receipt of such plan and particulars, signify in writing under the hand of the clerk their approval, upon such terms and conditions as they may decide upon, or their disapproval thereof.

(2) Any verandah, portico, awning, shade, or other matter or thing in front of any building and projecting over any carriageway or footway, and which has been so erected without the consent of the council, or which has become dilapidated or decayed, shall be removed or altered as the council may require, within one month after notice in writing under the hand of the clerk so to remove or alter is served upon the owner or occupier ; and, in case the person so served fails to remove or alter as required, the council may order the surveyor to pull down such verandah, portico, awning, shade, or other matter or thing, and the surveyor on such order shall pull down and remove same, and recover in a summary way all expenses incurred in such pulling down and removal : Provided that in all such cases one month's notice shall be served by the surveyor on the owner or occupier before he pulls down and removes as aforesaid.

(3) Every verandah, portico, awning, shade, matter, or thing hereafter to be built or constructed over any carriageway or footway shall be done under the superintendence and to the satisfaction of the surveyor, and all now built or constructed, or hereafter to be built or constructed, shall be kept in such repair as shall be satisfactory to him.

Division V.—Alignment of Buildings and Streets.

Houses may be set forward to improve street. *Ib.*, ss. 170-171.

21—(1) The council may allow, upon such terms as it thinks fit, any building within any town to be set forward for improving the line of the street in which such building or any building adjacent thereto is situate.

Projecting houses, &c., when taken down to be set back.

(2) When in any town any house or building, or the fence thereof, any part of which projects beyond the regular line of the street, or beyond the front of the house or building or of the fence of the house or building, on either side thereof, has been taken down in order to be rebuilt, altered, or renewed, the council may require the same to be set backwards to or towards the line of the street, or to the line of the adjoining houses or buildings, or of the fences thereof, in such manner as the council directs for the improvement of such street.

Towns.

(3) The council shall make full compensation to the owner of any such house or building for any damage he may thereby sustain. A.D. 1934.

(4) No person shall hereafter erect any new building or re-erect any building so that any wall thereof shall be nearer than twenty-five feet to a line drawn down the centre of any street or private street, although the width of any such street or private street may be less than fifty feet. Any breach of this provision shall subject the builder or owner of the building to the penalties specified in sections one hundred and sixty-five and one hundred and sixty-six of the *Public Health Act 1903*, and the council is hereby empowered to exercise all the powers and authorities conferred by those sections.

Compensation.

Frontages of buildings to be fifty feet apart at least.

Penalties for breach.

Cf. 60 Vict. No. 31.

3 Ed. VII. No. 37.

Future projection of houses may be removed.

5 Ed. VII. No. 30, s. 172.

22—(1) The council may give notice to the occupier of any house or building in any town to remove or alter any porch, shed, projecting window, step, cellar, cellar door or window, sign, sign-post, sign-iron, show-board, window-shutter, wall, gate, or fence, or any other obstruction or projection erected or placed after the commencement of this Act against or in front of any house or building within such town, and which is an obstruction to the safe and convenient passage along any street.

(2) Such occupier shall, within fourteen days after the service of such notice upon him, remove such obstruction or alter the same in such manner as may be directed by the council.

Penalty : Ten pounds.

(3) In default of the occupier removing such obstruction or projection, the council may remove the same, and the expense of such removal shall be paid by the occupier so making default.

(4) Except in the case in which such obstructions or projections were made or put up by the occupier, such occupier shall be entitled to deduct the expense of removing the same from the rent payable by him to the owner of the house or building.

23—(1) If any such obstructions or projections were erected or placed against or in front of any house or building in any such street before the commencement of this Act, the council may cause the same to be removed or altered as the council thinks fit.

(2) Notice of such intended removal or alteration shall be given to the occupier of the house or building against or in front of which such obstruction or projection may be thirty days before such alteration or removal is begun; and, if such obstructions or projections have been lawfully made, the council shall make reasonable compensation to every person who suffers damage by such removal or alteration.

Existing projection may be removed on making compensation.

Ib., s. 173.

24—(1) All doors, gates, and bars put up after the commencement of this Act, and which open upon any street in any town, shall be hung or placed so as not to open outwards, except when the council otherwise allows; and, if, except as aforesaid, any such door, gate, or bar is hung or placed so as to open outwards on any street, the occupier of such house, building, yard, or land shall, within eight days after notice from the council to that effect, cause the same to be so altered as not to open outwards.

Doors, &c., to open inwards.

Ib., s. 174.

Penalty : Ten pounds.

Towns.

A.D. 1934.

(2) If such occupier neglects to make such alteration the council may make the same, and the expenses of such alteration shall be paid to the council by such occupier in addition to any penalty imposed upon him.

Existing doors
may be altered.
Ib., s. 175.

(3) If any such door, gate, or bar was, before the commencement of this Act, hung so as to open outwards upon any street, the council may alter the same so that no part thereof when open shall project over any public way.

Coverings for
cellar doors to be
made by occupier.
Ib., s. 176.

25 When any opening is made in any pavement or footpath within any town as an entrance into any vault or cellar, a door or covering shall, within a reasonable time, be made by the occupier of such vault or cellar, of iron or such other materials, and in such manner as the council directs, and such door or covering shall be kept in good repair by the occupier of such vault or cellar.

Penalty : Five pounds.

Division VI.—Storm Waters.

Waterspouts to be
affixed to houses,
&c.
Ib., s. 177.

26—(1) The occupier of every house or building in, adjoining, or near to any street in any town, shall, within seven days next after service of an order of the council for that purpose, put up and keep in good condition a shoot or trough extending the whole length of such house or building, and connected with a pipe or trunk to carry the water from the roof thereof in such manner that the water from such house or building, or any portico or projection therefrom, shall not fall upon the persons passing along the street, or drip or flow upon or over the footpath or street.

Daily penalty : Five pounds.

Water not to be
allowed to drain
over footways.
Ib., s. 178.

(2) No person being the occupier of any land, yard, house, or building shall permit or suffer any water or drainage therefrom to flow upon or over the footway in any street.

Daily penalty : Five pounds.

Division VII.—Naming of Streets and Numbering of Houses.

Houses to be
numbered and
streets named.
Ib., s. 179.

27—(1) The council may cause the houses and buildings within any town to be marked with numbers in such manner as the council thinks fit, and cause to be put up or painted on some conspicuous part of some house, building, fence, wall, or place at or near any end, corner, or entrance of any street the name by which such street is to be known.

(2) No person shall obstruct the marking of any such number, or the putting up or painting any such name, or destroy, pull down, or deface any such number or name, or put up or paint any number or name different from the number or name put up or painted by the council.

Penalty : Two pounds.

Numbers of
houses to be
renewed by
owners or
occupiers.
Ib., s. 180.

28—(1) The owner or occupier of every house or building within any town shall mark such house or building with such number and in such place as the council approves of, and shall renew such number as often as the same becomes obliterated or defaced.

Towns.

(2) No owner or occupier shall fail, within one week after notice for that purpose given by the council, to mark such house or building with such number and in such place as is approved of by the council, or to renew such number when so obliterated or defaced. A.D. 1934.

Penalty : Two pounds.

Division VIII.—Precautions Against Accident.

29—(1) The council, during the construction or repair of any of the streets of any town, and during the construction or repair of any sewers or drains or other works, shall take proper precaution for guarding against accident, by shoring-up and protecting the adjoining houses, and shall cause such bars or chains to be fixed across or in any of the streets, to prevent the passage of vehicles and animals while such works are carried on, as to the council may seem proper. Bars to be erected across streets while repairs or alterations are making, and lights placed at night. *Ib.*, s. 181.

(2) The council, for the prevention of accidents, shall cause any sewer or drain or other works, during the construction or repair thereof by the council, to be properly guarded and, during the night, to be adequately lighted.

(3) No person shall take down, alter, or remove any of the said bars and chains, or extinguish any light, without the authority or consent of the council.

Penalty : Five pounds.

30 Every person intending to build or take down any building within any town, or to alter or repair the outward part of any such building, or to cause any of the said things to be done, where any street will be obstructed or rendered inconvenient by means of such work, shall before beginning the same— Hoards to be set up during repairs. *Ib.*, s. 182.

- i. Cause sufficient hoards or fences to be put up, in order to separate the building where such works are being carried on from the street, with a convenient platform and hand-rail, if there is room enough, to serve as a footway for passengers, outside of such hoard or fence :
- ii. Continue such hoard or fence, with such platform and hand-rail, standing and in good condition, to the satisfaction of the council, as long as the public safety or convenience requires :
- iii. In all cases in which it is necessary, in order to prevent accidents, cause the same to be adequately lighted during the night: and
- iv. Remove, within a reasonable time, any such hoard, fence, platform, or handrail when directed by the council.

Penalty : Five pounds ; and a further daily penalty of two pounds.

31—(1) When any building materials, rubbish, or other things are laid, or any hole made, in any street of any town, whether the same is done by order of the council or not, the person causing such materials Penalty for not lighting deposits of building materials or excavations.

Ib., ss. 183 4.

Towns.

A.D. 1934.

or other things to be so laid, or such hole to be made, shall, at his own expense—

- i. Cause a sufficient light or lights to be fixed in a proper place upon or near the same, and continue such light every night from sunset to sunrise while such materials or hole remain:
- ii. Cause such materials or other things or such hole to be sufficiently fenced and enclosed until such materials or other things are removed, or the hole filled up or otherwise made secure: and
- iii. Ensure that no such material or thing, or such hole, shall remain for an unnecessary or unreasonable time.

Penalty: Five pounds; and a further daily penalty of two pounds.

Penalty for continuing deposits of building materials or excavations an unreasonable time.

Dangerous places to be repaired or enclosed.

(2) In any proceedings under this section, proof that the time has not exceeded the necessary time or is not unreasonable shall be upon the person so causing such materials or other things to be laid, or causing such hole to be made.

(3) If any building or hole or any other place near any street, in any town, be, for want of sufficient repair, protection, or enclosure, dangerous to the passengers along such street, the council may cause the same to be repaired, protected, or enclosed, in order to prevent danger therefrom; and the expenses of such repair, protection, or enclosure shall be repaid to the council by the owner of the premises so repaired, protected, or enclosed.

Ruinous or dangerous buildings to be taken down or secured by owners, &c.

Ib., s. 185.

32—(1) If any building or wall, or any thing affixed thereon, within any town is deemed by the surveyor to be in a ruinous state, and dangerous to passengers or to the occupiers of the neighbouring lands, he shall immediately—

- i. Cause a proper hoard or fence to be put up for the protection of passengers: and
- ii. Cause notice in writing to be given to the owner of such building or wall, if he is known and resident in the State, and to the occupier thereof, if any, requiring such owner or occupier forthwith to take down, repair, or secure such building, wall, or other thing as the case requires.

If owners, &c., neglect to repair, council may cause the same to be done, charging owner with expenses.

(2) If such owner or occupier does not begin to comply with such notice within the space of three days after any such notice has been so given, and complete such taking down or repairs or securing, as speedily as the nature of the case will admit, a police magistrate or any two justices, on the complaint of the surveyor, may order the owner, or in his default the occupier, if any, of such building, wall, or other thing, to take down, rebuild, repair, or otherwise secure to the satisfaction of the surveyor, the same, or such part thereof as appears to him to be in a dangerous state, within a time to be fixed by such magistrate or justices.

(3) In case such order is not complied with within the time so limited, or if no owner or occupier can be found on whom to serve such order, the council shall, with all convenient speed, cause all or so

Towns.

much of such building, wall, or other thing as is in a ruinous condition, and dangerous as aforesaid, to be taken down, rebuilt, repaired, or otherwise secured in such manner as is requisite; and all the expenses of so doing and of putting up any hoard or fence shall be paid by the owner of such building, wall, or other thing. A.D. 1934.

(4) If any such house or building, or any part of the same, is pulled down under the provisions of this section, the council may sell the materials thereof, or so much of the same as may be pulled down, and apply the proceeds of such sale in payment of the expenses incurred in respect of such house or building; and the council shall restore any overplus arising from such sale to the owner of such house or building on demand; but this subsection shall not debar the council from exercising any other powers for compelling the payment of the whole or any part of the said expenses. Council may sell the materials, restoring to the owner overplus arising from the sale.

33 The expenses to be incurred by the council in executing and completing any work authorised by this Division to be done on any private land, or in causing the same to be done, shall, if the amount is disputed, be determined in a summary way in the mode prescribed by the *Justices Procedure Act 1919*. Moneys expended by municipal council to be recovered in a summary way. *Ib.*, s. 186.

Division IX.—Street Lighting.

34 The Council is hereby empowered—

- i. To provide so many lamps, lamp-irons, and lamp-posts as may be judged necessary for lighting any town within its jurisdiction: and
- ii. To cause the same to be put or fixed upon or against the wall, rail, or palisade of any building, or upon or against any wall or place, or to be put up or erected in such other manner in any street within such town as the council thinks proper: and
- iii. To cause the same to be taken down, altered, or renewed when and as often as the council thinks fit: and
- iv. To cause the said lamps to be kept lighted with gas, oil, electricity, or otherwise for such hours, and during such times and seasons, as the council deems necessary and proper.

Lamps to be set up and lighted. *Ib.*, s. 187.

35—(1) No person shall wilfully take away, break, throw down, or otherwise destroy or damage any lamp which is erected by or by order of the council, or by any person at his own expense, for the purpose of lighting any street within any town, or any post, iron, cover, or other furniture of any such lamp, or wilfully extinguish the light of any such lamp. Penalty for wilfully breaking lamps. *Ib.*, s. 188.

Penalty: Five pounds.

(2) It shall be lawful for any person who sees any such offence committed to apprehend, and also for any person to assist in appre-

Towns.

A.D. 1934.

Satisfaction to be made for negligently breaking lamps.

hending, the offender without any warrant, and to deliver him into the custody of a police officer, in order that such offender may be secured and taken before a justice.

(3) No person shall carelessly or negligently break, throw down, destroy, or damage any such lamp, or any post, iron, cover, or other furniture of any such lamp.

Penalty: One pound.

(4) Any person convicted of an offence against subsection (1) hereof may be ordered by the convicting justices to pay to the council full satisfaction for the damage done by him in addition to any penalty imposed on him.

(5) No person shall be convicted of an offence under subsection (3) hereof if upon demand by an officer of the council he pays to such officer or to the council the cost of repairing, replacing, or making good the damage done by him.

Division X.—Particular Powers.

60 Vict. No. 31,
ss. 136-146.

36—(1) In any municipality the council in relation to any town therein shall have power to—

i. Establish markets, and, in relation thereto, to—

(a) Provide market-places and construct market-houses and other conveniences for the purpose of holding markets:

(b) Provide houses and places for weighing carts and other vehicles:

(c) Make convenient approaches to such markets:

(d) Provide all such matters and things as may be necessary for the convenient use of such markets:

(e) demand, receive, and take such rents, stallages and tolls as may be prescribed by the council for the use of any building, stall or standing, weighing machine, or other facility provided by the council in such market:

(f) After the market is opened for public use, prohibit, by by-law, the sale or exposure for sale by any person, other than a licensed hawker, in any place within the town, except in his own dwelling-place, shop, place of business, or any private property, or except in the market, or in yards or premises licensed by the council under a market by-law, any articles or any cattle or other live-stock in respect of which tolls are authorised to be taken in the market, under a penalty for every such offence not exceeding forty shillings:

(g) Prescribe that no licensed hawker shall be exempt from paying the dues and tolls to be paid by

Towns.

virtue of this section by all persons selling, offering, or exposing for sale any articles in the market : A.D. 1934.

- (h) Demise or let, for any term not exceeding twelve months, all or any of the stallages, rents, and tolls from time to time payable in respect of any market provided by the council, and also to demise or let, for any term not exceeding twelve months, any stall or standing in any such market :
- (i) Prohibit by by-law any person from demanding or taking a greater toll than that authorised under this section to be taken under a penalty for every such offence not exceeding forty shillings :
- (j) Prescribing the manner in which rents, stallages, tolls, and dues in respect of any such market may be recovered and that any dispute concerning any such stallage, rent, toll, or dues may be determined in a summary way by a justice, who may make such order therein and award such costs to either party as to him may seem proper—

but, from and after the opening of any market, the council or its lessee shall cause to be painted on boards, or to be printed and attached to boards, in large and legible characters, lists of the several rents, stallages, tolls, and dues from time to time payable under this section, and shall cause to be conspicuously set up and continued in the market a board as aforesaid containing every list relating thereto ; and no rent, stallage, toll, or due shall be payable which is not specified on some board set up therein : Provided always that, if any such list is destroyed, injured, or obliterated, the rents, stallages, tolls, and dues shall continue to be payable during the period reasonably required for the restoration of such list, in the same manner as if such list had continued in the state required by this paragraph :

11, Establish abattoirs and, in relation thereto, to—

Ib., s. 170.

- (a) Construct, erect, and provide such buildings, fences, yards, machinery, appliances, and accessories as the council may think necessary ;
- (b) Prescribe by by-law an area within the municipality the boundaries of which shall be specified in such by-law within which it shall not be lawful for any person to slaughter for sale any sheep, cattle, or pigs or to sell the carcass of any such animal or any part thereof except as provided by such by-law—

but particulars of the area proposed to be defined as aforesaid, setting forth the boundaries thereof, shall be published in the Gazette and once in each of three successive weeks in a newspaper before such by-law is made :

Towns.

- A.D. 1934.
- Ib.*, s. 169.
- Ib.*, ss. 164-5.
- Ib.*, s. 171.
- Ib.*, s. 175.
- Ib.*, s. 176.
- Ib.*, s. 173.
- III. Contract for any period not exceeding seven years at any one time with the owners of any gasworks, or with any other person for the supply of gas or oil or electricity or other material for the purpose of lighting any streets or public places within a town, or construct or purchase any gasworks or other such means of lighting, and provide such lamps, lamp-posts, and other works as the council thinks necessary for lighting the streets or public places within the town, or any part or parts thereof; but the limitation of time hereinbefore contained shall not apply to any contract made with the Hydro-Electric Commission :
- IV. Provide and maintain such works, machinery, appliances, and assistance as the council may think necessary for the prevention of fire or the extinguishing of fires, and, for that purpose, to agree with any persons or associations for the provision of the necessary labour and assistance; and for rewards to or remuneration of persons assisting therein :
- V. Purchase, erect, rent, or otherwise provide, suitable and convenient land and buildings, in a situation and in accordance with plans to be approved by the Governor, to be used for public baths and wash-houses; and to fit up, maintain, and, at any time, enlarge, renew, or repair the same for the use of the public in such manner and subject to such conditions as may be prescribed :
- VI. Plant trees in any street and erect tree guards to protect the same so long as the thoroughfares are not thereby unduly obstructed :
- VII. Appropriate such portion of its funds as the council may see fit, at any time and on such terms and conditions as appear expedient, for erecting, establishing, and maintaining or otherwise aiding, any hospital or asylum for the treatment of sick or disabled persons :
- VIII. Purchase, rent, or otherwise provide lands, grounds, buildings, or other places, either within the town or at a reasonable distance therefrom, to be used as pleasure grounds, council chambers, places of meeting for the residents, libraries, museums, gymnasiums, gardens, or places of public resort or recreation; and level, drain, plant, and otherwise lay out and repair and improve any such public lands, grounds, or buildings for the more convenient use and enjoyment thereof, and afford the use and enjoyment thereof to the inhabitants, subject to such by-laws as the council may make in that behalf; and apply such sum as it sees fit out of the rates in and towards the formation and maintenance of public libraries within the town, and make such by-laws regarding the use thereof, including the power to charge for use of any books lent out of such libraries, or for any other privilege in connection therewith :

Towns.

- ix. Use upon any street or place within the town locomotives for the purpose of making and rolling the streets of the said town : A.D. 1934. —
- x. Compel the owners of any lands abutting on any formed and metalled or gravelled street having a metalled, gravelled, or asphalted footpath adjoining such lands, where no fence or no sufficient fence already exists, to erect and maintain, at their own expense, a substantial five-feet paling fence, or, where the council approves, a post and four-rail fence, along the front boundary-line or lines of the same lands and, if, after fourteen days' notice in writing, signed by the warden or clerk, requiring them so to do, such owners neglect or refuse to commence erecting any such fence, and, when commenced, if they neglect or refuse to complete the same, or, when completed, afterwards to repair, or, when necessary, to re-erect the same within such time as the council shall, for any such purpose, appoint, then, and in any such case, it shall be lawful for the council, and it is hereby authorised, to erect and put up all such fences, and at any time to amend, repair, and re-erect the same, as occasion shall require, at the cost and expense of the owner by whom the same ought to have been done ; and all cost and expense incurred by the council in erecting or repairing or re-erecting any such fence as aforesaid shall be recoverable as expenses : and Council to compel owners of vacant land to erect fence. *Ib.*, s. 181. And, in case of neglect, council to do so at owner's expense.
- xi. Require, by writing under the hand of the warden or clerk, the owners of any properties on either side of any street to make or repair any crossing-place over the footway and gutter leading to and from such properties into the said street, in such manner as to the council may appear necessary ; and, unless the said owners shall, within thirty days after the service of such requisition, show cause to the satisfaction of the council why such crossing should not be so constructed or repaired, or within such time shall construct or repair the same according to the provisions hereof, the council may execute such work or repairs and determine and charge such owners with their proportionate parts of the expenses thereby incurred ; and, if, after the expiration of twenty-one days from the delivery of an account of the proportionate expense to which any such owner may have become liable, the same shall not be paid, it shall be recoverable as expenses. *Ib.*, s. 183.

(2) The council shall not exercise any of the powers conferred by divisions (a) to (d) of paragraph I. and paragraphs II., V., VI., and VIII., respectively, of subsection (1) hereof without first passing a special resolution for that purpose.

Division XI.—Water-supply.

37 The council at any time, with the consent of the Governor and subject to the provisions of any law for the time being in force Council may take water. *Ib.*, s. 148.

Towns.

A.D. 1934.

determining the rights of the Crown and of riparian proprietors in the waters and bed of any lake, river, stream, or creek, may take and divert from any lake or from any river, stream, or creek flowing through or in the vicinity of the town a sufficient quantity of water for supplying the whole or any portion of the inhabitants of the town with water for domestic purposes, and for supplying with water any public baths or wash-houses, or any fountains or pumps within the town, and for the purpose of providing a supply of water for the extinguishment of fires in the town, or for motive power, or for supplying ships.

Council may lay down pipes.

Ib., ss. 149-153.

38—(1) It shall be lawful for the council to construct, maintain, lay down, alter, and discontinue such reservoirs, embankments, cisterns, aqueducts, pipes, conduits, culverts, and other works, appliances, and buildings as may be necessary to provide a supply of water within the town for any of the purposes aforesaid; and it shall be lawful for the council, for the purpose of constructing or maintaining or altering or discontinuing any such waterworks or appliances or buildings as aforesaid, to enter upon any land, and to take levels of the same and to set out such part of such land, as the council thinks necessary, and to dig, cut, trench, and break up the soil of such land, and to remove all earth, stones, trees, and other things dug or obtained out of the same, and to use such materials in the construction or maintenance of any of the works authorised by this Part.

Council to do as little damage as may be.

(2) In the exercise of the powers conferred by this Act, the council shall do as little damage as can be, and, in all cases where it can be done, shall provide other watering-places, drains, and channels for the use of adjoining lands, in place of any such as are taken away or interrupted by the council.

Council to make compensation for damage done by execution of works.

(3) The council shall make compensation, in manner hereinafter provided, to all parties lawfully interested in the water of any stream taken or used under the authority of this Act, or in any land other than land purchased by the council, in or upon which any waterworks may be constructed, or which may be injuriously affected by the construction and maintenance of the waterworks under this Act, other than any now existing waterworks, or otherwise by the execution by the council of the powers hereby conferred, for all damage sustained by reason of the exercise as to such stream or land of the powers vested in the council by this Act.

Persons damaged to make claim for compensation.

(4) Any person claiming such compensation shall prefer his claim by notice in writing addressed to the council, in which notice shall be specified the place of abode of the claimant, the particular act occasioning the damage for which compensation is claimed, the nature and amount of such damage, and the nature of the title or interest of such claimant in or to the water or land in respect of which the claim is preferred; and, if any such person and the council do not agree as to the amount of such compensation, the same, and the application thereof, shall, except in the cases hereinafter mentioned, be determined by arbitration in the manner provided by the *Lands Clauses Act 1857* in cases of disputed compensation.

Compensation how to be ascertained.
21 Vict. No. 11.

Towns.

(5) In determining such claims, regard shall be had to any benefit which may be done or accrue to the claimant by or as the result of the provisions in this Act contained.

A.D. 1934.

Regard to be had to any benefit which may accrue.

Persons not making claim required to be barred.

Ib., s. 154.

39 If the council, by notice in writing, requires any person to make claim for compensation for any damage occasioned by the exercise previously to the service of such notice of any of the powers conferred on the council by this Part, such person shall not be entitled to compensation for any damage sustained by reason of the exercise of any such powers previously to the service of such notice, unless he prefers his claim, in manner aforesaid, within six months after service of such notice.

40—(1) Where any claim for compensation involves damage alleged to have been sustained by reason of the taking or diversion of any water, and the right of the claimant in or to such water is disputed by the council, if the council within fourteen days after the service of the notice of the claim gives notice to the claimant that his right in or to such water is disputed, then such claim shall be determined, not by arbitration, but by an action in the Supreme Court, to be brought by the claimant against the council for damages, or upon an issue agreed to between the claimant and the council.

Compensation for diverting water to be ascertained by action in the Supreme Court.

Ib., ss. 155-6.

(2) Every such action shall be commenced within three months after the service on the claimant of such notice as aforesaid that his right is disputed, and not afterwards.

Such actions to be commenced within three months.

41 The council shall pay and make good to the owners and occupiers of all lands and buildings, and to every person whomsoever, all loss, costs and charges, sums of money, damages, and expenses whatsoever, and for all injury, of what nature or kind soever, as well immediate as consequential, which such owners or occupiers, or other persons, may suffer, incur, pay, expend, or be put to by reason or in consequence of the failure or giving way of any of the waterworks of the council under this Act through the negligence or default of the council or its agents.

Compensation for damage done by failure of the works.

Ib., s. 157.

42 The council may open and break up the soil and pavement of any streets within any town, and may open and break up any sewers, drains, or tunnels within or under such streets, and lay down and place pipes, service pipes, and other works and engines, and repair, alter, or remove the same; and, for the purposes aforesaid, remove and use all earth and materials in and under such streets, and do all other acts which the council at any time deems necessary for supplying water to the inhabitants within such town, doing as little damage as can be in the execution of the powers hereby granted.

Power to break up streets, &c., and to open drains.

Ib., s. 158.

43—(1) The council shall, at the request of the owner or occupier of any property within the town, the outer boundary of which is within fifty feet of any main or other water-pipe laid down by the council, furnish to such owner or occupier a sufficient supply of water for domestic purposes, including a supply for any private water-closet

Supply of water to owners and occupiers.

Ib., ss. 159-161.

Towns.

A.D. 1934.

and fixed bath in any dwelling-house on such property ; but all pipes and other apparatus required for conveying such water from the outer boundary of such property to the place or places thereon where such water shall be used shall be provided, laid down, and maintained by and at the cost of such owner or occupier.

(2) The communication pipe between the main or other pipe of the council and the outer boundary of any property shall be provided, laid down, and maintained by and at the expense of the council, and shall be the property of the council.

(3) The description of pipes and other apparatus, by means of which water is laid on, distributed, or supplied within the outer boundary of any property, shall be such as the council determines, either generally or in classes of cases or in any particular case, and the council shall not be bound to supply water in any case in which the required description of pipes or other apparatus is not provided, and may cut off the pipes, or turn off the water, from any property supplied with water, until the required description of pipes or other apparatus is provided, or until any defect therein is remedied.

Divison XII.—Private Streets.

Definition of
private street.
Ib., s. 4.

Construction of
private streets.
Ib., ss. 184-186.

44 In this division private street means a highway laid out on private property but intended for the use of the public generally.

45—(1) The council, after first passing a special resolution, may cause any private street within any town, or any portion thereof, to be constructed in such manner as the council may determine ; and the whole of the expense incurred by the council in the construction of any such private street shall be repaid in the manner hereinafter mentioned by the owner or owners of the land or lands fronting or abutting on any such private street or any portion thereof so constructed as aforesaid ; and any such private street shall thereafter be maintained and kept in good repair by the council.

(2) When and so often as the council shall cause any private street or any portion thereof to be constructed as aforesaid, the warden shall certify to the Auditor-General that such street or any portion thereof has been constructed to the satisfaction of the council, and thereupon the Auditor-General shall certify under his hand the amount of money spent by the council upon the construction of such street, and the amount so certified by the Auditor-General shall for all purposes be deemed to be the amount of money spent by the council upon the construction of such private street, and shall be final and conclusive.

(3) The amount certified as provided by subsection (2) hereof, in respect of any private street, or such part thereof as the council may determine, shall be payable to the council by the owners of the lands fronting or abutting on such private street in proportion to the frontages of their respective lands on such street.

Towns.

(4) The amount of such proportion which shall be payable by each such owner (hereinafter called the owner's contribution) shall be notified in writing by the council to the owner by whom the same is payable, and, except as hereinafter provided, shall be payable by such owner forthwith. A.D. 1934.

(5) At the request in writing of any such owner, lodged with the council within one month after such notification as aforesaid or within such further time, if any, as the council in any case may allow, the council shall accept payment of the owner's contribution by twenty equal annual instalments, commencing at such time, not later than one month after such request is made, as the council in each case may require.

(6) All moneys payable to the council as aforesaid shall bear interest from the date on which the same become payable respectively at such rate, not exceeding seven pounds per centum per annum upon the amount of the owner's contribution for the time being remaining unpaid, as the council may determine.

(7) Such interest shall be payable by such owners at the time or times, as the case may be, when payment of their respective contributions, or of the several instalments thereof, is to be made.

(8) Any such owner may pay in advance the whole of his said contribution, or of any instalment thereof, with interest at the rate payable thereon to the date of such payment, and thereupon the interest payable by him shall abate accordingly, and any sum so received shall be paid into the Private Streets Sinking Fund.

(9) The provisions of this section shall apply in respect of all private streets constructed prior to the twenty-third day of December, one thousand nine hundred and thirty, by the Council of the Municipality of Glenorchy, under or by virtue of the *Glenorchy Private Streets Loans Act 1928*, and the moneys payable in respect thereof by every owner concerned shall be payable as provided by subsection (5) hereof without any request by such owner to the Council.

46—(1) Where in any case the owner of any land abutting on any private street constructed by the council as hereinbefore provided is not resident in Tasmania or is unknown or cannot be found, the owner's contribution shall be payable by instalments as aforesaid commencing from such time as the council may determine in each case, and the occupier of such land, or the occupiers if more than one, shall be liable and compellable to pay such instalments, and every such occupier is hereby empowered to deduct from the rent payable by him to such owner for the use and occupation of such land the amount of any instalment so paid by or recovered from such occupier in respect of such land; and, if such land is unoccupied, the trustee or agent or receiver having the receipt of the rent or annual value of such land shall be liable and compellable to pay any such instalments to the extent of the rent or annual value of such land received by him during the year preceding the day on which such instalments are payable. Recovery of instalments. *Ib.*, ss. 187-189.

Towns.

A.D. 1934.

(2) If the owner of any land refuses or neglects to pay the amount of any instalment within one month after the same has been demanded, the same shall be recoverable as expenses.

Construction of
carriage-way.
Ib., ss. 195-197.

47—(1) Every person who shall construct a private street which shall exceed one hundred feet in length shall construct such street for use as a carriage-road in accordance with the requirements of the by-laws of the council, and the entire construction thereof shall be approved and accepted by the council before the street is taken over and adopted as a public highway.

(2) Every person who shall lay out a private street which shall be intended for use as a carriage-road shall lay out such street so that the width thereof shall be sixty feet at the least, but, if the by-laws of the council permit the laying out of streets not less than fifty feet wide, the same shall be not less than the width so permitted.

(3) Every person who shall lay out a private street which shall be intended for use otherwise than as a carriage-road, and shall not exceed in length one hundred feet, shall so lay out such street that the width thereof shall be thirty feet at least.

Subdivision of
land.
Ib., s. 194.

48—(1) It shall not be lawful after the passing of this Act for any person to lay out or dispose of, or cause to be laid out or disposed of, any land for building purposes on which it is proposed to open any private street without first submitting a plan showing the proposed disposition of such land, and setting forth the width and direction of such private street, and a sketch showing the proposed drainage of such land, to the council, and obtaining its approval thereto: Provided that, if no disapproval be expressed by the council within six weeks after such plan and sketch as aforesaid shall have been submitted to the council, the intended disposition may be proceeded with.

5 Ed. VII. No.
30, s. 167.

(2) Every person who intends to make or lay out any new street in any town shall give notice thereof to the municipal council, in order that the level of such street may be fixed by the council.

(3) The level of every new street shall be fixed under the direction of the council, and the level so fixed shall be kept thereafter by every person erecting any house or other building in such street.

(4) If the council does not fix the level within six weeks from the time of the delivery of such notice as aforesaid, the person giving such notice may proceed to lay out the street at any level as if such level had been fixed by the council, and in such case every change of the level which the council afterwards deems requisite, and the works consequent thereon, shall be made by the council, and the expense thereof, and any damage which any person sustains in consequence of such alteration, shall be defrayed by the council.

Persons laying
out streets with-
out notice liable
to expense of
alterations.

(5) Every person who makes or lays out any such new street without causing such notice as aforesaid to be given to the council shall be liable to defray all the expenses consequent upon any change of the level of the said street deemed requisite by the council; and every person who, in building any house or other building in any such street, does not

Towns.

keep the level fixed by the council, shall be liable to defray all the expenses consequent upon any change of the level of that part of the street on which such house or building abuts which the said council deems requisite. A.D. 1934.

(6) No person shall contravene any of the provisions of this Act relating to the laying out and construction of private streets, or the laying out and disposal of land for building purposes. *Ib.*, s. 199.

Penalty : Ten pounds, and a daily penalty of five pounds.

49—(1) It shall be lawful for the council, with the sanction of the Governor testified by notice in the Gazette, to borrow, upon the security of its revenues, any sum or sums of money not exceeding one thousand pounds for the purposes of constructing such private streets as aforesaid, and such notice as aforesaid shall specify the period or periods for which the money is to be borrowed and the rate of interest to be paid thereon, and the form of security to be given by the council. Power to borrow. 60 Vict. No. 31, ss. 190-191.

(2) If, after having borrowed any sum or sums of money as aforesaid, or any part thereof, the council pays off the same, it shall be lawful for the council to borrow again the amount so paid off, and so from time to time.

(3) The council shall cause the amount of all moneys paid as hereinbefore provided by the owners of all lands abutting on such private streets as aforesaid by them, after deducting therefrom the amount of interest included therein, to be paid into and form part of a sinking fund, to be called the Private Streets Sinking Fund, and the moneys so paid into such sinking fund shall be available only for the purposes of repaying any moneys borrowed by the council for the construction of such private streets as aforesaid. Sinking fund to be formed.

(4) The council shall cause the amount of interest included in such moneys as is mentioned in subsection (3) hereof to be paid into and form part of the funds of the council. Portion of instalments paid into council fund.

50—(1) Upon the written application of any owner about to lay out or construct a new street, the council may consider whether such street will benefit the owners of adjoining or adjacent properties, and may, upon the request of such owner, by notice published in the Gazette, define a special district, which shall be liable to contribute to the cost of constructing such new street to comply with the provisions of this Act. Council may define a special district. *Ib.*, ss. 200-202.

(2) The amount of the contribution to be made by each owner of property within such special district shall be fixed by the council and published with a list of the properties affected in the form of a roll, either with the notice defining the district or in some subsequent issue of the Gazette. Notice of contribution fixed to be given to each owner.

(3) Notice shall also be given to each owner thereby affected as in the case of a new assessment of annual value, and the same right and process of appeal shall apply as in the case of such an assessment.

(4) After such publication and notice as aforesaid, and subject to the determination of any appeal against the contribution so levied on any Payment of contribution.

Towns.

A.D. 1934. owner, the same contribution shall be a charge upon the land of the same owner, and shall be payable at the times and in manner fixed by the council, and be recoverable in every respect as the instalments payable by owners of lands fronting on such street are hereinbefore made recoverable, with similar interest if payments shall be deferred or taken in instalments.

(5) The amount of all such contributions when received by the council shall, after deducting any commission or other expenses incurred in collecting the same, be paid to the owner laying out and constructing such new street as aforesaid.

Council may contribute in certain cases.

(6) It shall be lawful for the council, whenever it considers a proposed new street will contribute to the accommodation of and be a convenience to the inhabitants of the town sufficiently to justify the making of a contribution out of the rates towards the cost of its construction, to pass a special resolution for making a contribution accordingly; but no such contribution shall exceed one-third of the said cost.

Provision for payment of interest, &c., in respect of moneys borrowed by councils for construction of private streets in towns.

18 Geo. V. No. 28.

Council may repair, &c., right-of-way.

60 Vict. No. 31, s. 178.

(7) Whenever the council makes a contribution towards the cost of the construction of any private street, it may, after passing a special resolution for that purpose, appropriate and apply out of the road rates levied by it in the municipality a yearly sum not exceeding three pounds per centum of the whole of the moneys (if any) borrowed by the council for such construction, in and towards the payment of and provision for the interest and sinking fund contributions payable and to be provided in respect of such borrowed moneys.

51—(1) Whenever—

- I. A proprietor, in laying out or granting a right-of-way, requests the council in writing to take control thereof: or
- II. The owners interested in a right-of-way request the council in writing to make, amend, or repair the same—

the council may proceed to make, amend, or repair the same, and may recover the expense of doing so from the owners in such proportions as the council may deem just, regard being had to the use which each owner makes of the easement; and all such proportionate parts shall be recoverable from the owners concerned as expenses.

(2) The council shall not, by exercising the powers conferred by this section, acquire any right in the soil of any right-of-way, or be answerable for any accident arising by the use of any right-of-way.

Division XIII.—Miscellaneous.

Brick areas
Ib., ss. 167-168.

52—(1) It shall be lawful for the Governor, upon the receipt of a petition signed by a majority of the owners of any portion or section of land within a town, or at the request of the council, by proclamation to declare such portion or section to be a brick area for the purposes of this Act.

Towns.

(2) It shall not be lawful to construct in any part of a brick area the external walls of any building, or any part of the framework of such walls, of any material other than brick, stone, iron, or other incombustible material, or to roof or cover any building with wooden shingles or other inflammable material, or to repair or add to the walls or roof of any existing wooden or other buildings, otherwise than by substituting incombustible materials as aforesaid. A.D. 1934.

(3) If any building shall, contrary to the provisions of subsection (2) hereof be erected or commenced to be erected in such portion or section of a brick area, it shall be lawful for the council to give notice to the builder or owner thereof to remove the same; and, in default of such removal, such building or commencement of building shall be deemed to be a nuisance, and it shall be the duty of the council, and it is hereby empowered and required, to summon the owner or builder of such building before any two justices, who may issue a warrant to compel such owner or builder to appear before them, and thereupon such owner or builder shall be required to enter into a recognisance in such sum as the justices shall appoint for abating and removing the same within a specified time; and, if such owner or builder shall fail to enter into such recognisance, the justices shall commit him to gaol, there to remain without bail until he shall have entered into such recognisance as aforesaid, or until such nuisance shall have been abated, by order of such justices, who may make such order forthwith and cause the removal of such nuisance at the cost of the owners thereof.

(4) Upon a like petition or request as aforesaid the Governor may revoke any such proclamation and thereupon the area thereby affected shall cease to be a brick area.

53 The Governor, at the request of any council, by proclamation, may direct that any portion of a street in any town controlled by such council shall be a tree reserve, so that the portion of such street remaining available for traffic upon both sides of such reserve, including foot-paths, shall in no place be thereby reduced less than forty-six feet, and so that no such reserve be a greater length than ten chains; and the council shall have charge of such reserve, and may fence and plant the same with trees, and tend and cultivate the same. Power to make tree reserves in streets.
Ib., s. 174.

54—(1) Any person who desires to blast any rock or stone within the limits of any town shall give notice in writing twenty-four hours before commencing such blasting to the surveyor, who shall, if he sees fit, appoint in writing a time when the same may take place, and give such other directions in writing as he may deem necessary for the public safety. Rocks or stones not to be blasted without permission of surveyor.
5 Ed. VII. No. 30, s. 192.

(2) No person shall blast, or cause to be blasted, any rock or stone within the limits aforesaid without giving such notice or contrary to the directions in writing given to him by the surveyor.

Penalty: Ten pounds.

Towns.

A.D. 1934.

Lamps, &c., the
property of the
municipality.
Ib., s. 193.

55 All lamps, lamp-posts, and other works provided by the council for lighting any town ; and all drains, sewers, cesspools, and other works for draining and cleansing any town ; and all pavement, stone, metal, or other material for paving any town ; and all tools and implements of what nature and kind soever ; books, stationery, office furniture, houses, offices, land, and rights appertaining to land, purchased or acquired or used by the council under and for the purposes of this Act, shall be deemed to be vested in and shall be the property of the municipality.

Remedies for
charges.

60 Vict. No. 31,
s. 198.

56 Whenever any order shall have been made by the council under the hand of the warden for the payment by any person of any sum of money due or payable by such person to the council in respect of any expenditure, costs, charges, or expenses incurred under the authority of this Act, and a copy of such order shall have been served in Tasmania, at such person's place of abode, or, if there shall be no such place of abode known to the council, shall have been affixed or left upon the house or land (if any) referred to in such order, and such order shall not have been satisfied within the time thereby limited the amount named therein shall be recoverable as expenses.

Timber growing
near any street
may be cut down.
Ib., s. 216.

57 Every council is hereby empowered to cut down and remove all indigenous timber growing or standing within seventy-five feet of the centre of any street of which the council has the care, control, and management, making good all damage or injury to the fences, hedges, ditches, walls, or any other thing upon the land of the person on which such timber may be growing or standing ; but the council shall not be empowered to cut down any timber reserved, planted, or to be planted for the purposes of ornament or protection.

Quarries to be
fenced in or other-
wise secured.
Ib., s. 217.

58 Every council shall cause to be filled up, or in other respect rendered secure, all pits or quarries that may have been opened or used by them for any of the purposes of this Act, and shall, so soon as any work is completed, cause all fences taken down in the prosecution of the same to be well and sufficiently restored.

Recovery of
expenses.

59 All contributions and expenses payable under this Act to a council may be recovered in accordance with the provisions of the *Local Government Act* 1906, and the provisions of section two hundred and thirty-six of that Act shall apply thereto.

 PART III.

COMMON LODGING-HOUSES.

Provisions to
apply to cities
and towns,

60 The provisions of this Part shall extend and apply as well to the Cities of Hobart and Launceston as to towns.

Towns.

61 Common lodging-house shall include a house or part of a house, not being licensed under the *Licensing Act 1932*, where persons of the poorer classes are received for gain, and in which they use one or more rooms in common with the rest of the inmates, who are not members of one family, whether for eating or sleeping.

A.D. 1934.

Common lodging-house.

5 Ed. VII. No. 30, s. 92.

62—(1) No person shall keep a common lodging-house or receive a lodger therein—

Common lodging-houses to be approved and registered, and keepers licensed.

Ib., s. 93.

- i. Until the same has been inspected and approved by the council or by some person appointed for that purpose by the council, and has been registered as hereinafter provided :
- ii. Unless he is the holder of an annual licence in the prescribed form to be issued by the mayor or warden, as the case may be, to keep a common lodging-house under this Act, which licence shall continue in force until the thirty-first day of December then next and no longer, and for which licence a fee of five shillings shall be paid : nor
- iii. Unless his name as the keeper thereof is entered in the register kept under this Act ; and for every such entry a fee of five shillings shall be paid by such keeper to such council.

(2) If any person so licensed and registered dies, his widow, or any adult member of his family, or his executor or administrator, may keep the house as a common lodging-house for not more than four weeks after his death, without being licensed or registered as the keeper thereof.

63 All fees received for licences for common lodging-houses, and for registration of common lodging-houses, shall be applied in aid of the municipal fund of the city or municipality, as the case may be.

Appropriation of fees.

Ib., s. 94.

64—(1) Any person desiring to become the holder of a licence to keep a common lodging-house under the provisions of this Act shall produce to the council a certificate signed by some competent person to the satisfaction of the council, showing the number of cubic feet of air space contained in each room of the house proposed to be registered, and the council may have such certificate verified in such manner as it may think fit.

Accommodation in common lodging-houses.

Ib., s. 95.

(2) The council shall estimate the number of lodgers, inmates, or other persons that may be accommodated in each room in such house, and in making such estimate provision shall be made that not less than three hundred cubic feet of air space shall be allowed for each lodger, inmate, or other person.

(3) Every licence to keep a common lodging-house issued under the provisions of this Act shall have endorsed thereon or annexed thereto a statement in accordance with such estimate, specifying the number of lodgers, inmates, and other persons that may be accommodated at any one time in each room of such house, and such statement shall be deemed to form part of the licence.

Towns.

A.D. 1934.

(4) The holder of a licence to keep a common lodging-house shall post up and keep posted up, in some conspicuous place in each room of such house, a copy, in a legible condition, of the statement endorsed on or annexed to his licence showing the number of lodgers, inmates, and other persons that may be accommodated in each room of such house.

(5) If at any time more persons are found in any room in any common lodging-house than may be lawfully accommodated therein under the licence, the holder of the licence of such house shall be deemed guilty of an offence against this Part.

Registers of common lodging-houses to be kept.

Ib., s. 96.

65 The council shall keep a register in which shall be entered the names and residences of the keepers of all common lodging-houses within the jurisdiction of the council, and the situation of every such house, and the number of lodgers authorised according to this Act to be received therein.

Refusal to register common lodging-houses.

Ib., s. 97.

66 The council may refuse to license as the keeper of a common lodging-house any person who does not produce to such council a certificate of character in such form as the council directs, signed by at least three resident householders of the town within which the lodging-house is situate, or the suburbs thereof, respectively occupying premises of the annual value as shown by the assessment roll of not less than forty pounds.

Copy of register made evidence.

Ib., s. 98.

67 A copy of an entry made in a register kept under this Act certified by the person having the charge of the register to be a true copy, shall be received in all courts and on all occasions whatever as evidence, and be sufficient proof of all things therein registered, without production of the register, or of any document, act, or thing on which the entry is founded ; and every person applying at a reasonable time shall, on payment of one shilling, be furnished by the person having such charge with a certified copy of any such entry.

Supply of water to common lodging-houses.

Ib., s. 99.

68 Where it appears to the council that a common lodging-house is without a proper supply of water for the use of the lodgers, and that such supply can be furnished thereto at a reasonable rate, the council may, by notice in writing require the owner or keeper of the common lodging-house, within a time specified therein, to obtain such supply, and to do all works necessary for that purpose ; and, if the notice be not complied with accordingly, the council may remove the common lodging-house from the register until it be complied with.

Keepers of common lodging-houses to report beggars and vagrant lodgers.

Ib., s. 100.

69 The keeper of a common lodging-house in which beggars or vagrants are received to lodge, or the person having the care or management thereof, shall, if required by any order of the council or of any police officer of or above the rank of sergeant, served on such keeper or person, report to the council or to such person as the council directs, or to such police officer, every person who resorted to such house during the preceding day or night.

Towns.

70 The keeper of a common lodging-house, and every other person having or acting in the care or management thereof, shall at all times give free access to such house and any part thereof to all officers of police of or above the rank of sergeant, as well as to all persons authorised in writing in that behalf by the mayor or warden, as the case may be, or any justice.

A.D. 1934.

Inspection of premises.
Ib., s. 101.

71 No person, being the keeper of a common lodging-house or having or acting in the care or management thereof, either by commission or omission, shall offend against any of the provisions of this Part.

Offences by keepers of common lodging-houses.

Ib., s. 102.

Penalty : Ten pounds ; and a further daily penalty of two pounds.

72 Where the keeper of a common lodging-house, or a person having or acting in the care or management of a common lodging-house, is convicted of a third offence against this Part, the justices before whom the conviction for such third offence takes place, if they think fit, may adjudge that he shall not at any time within five years of the conviction, or within such shorter period after the conviction as the justices think fit, keep or have, or act in the care or management of, a common lodging-house, without the previous permission in writing of the council, which permission the council may withhold or may grant on such terms and conditions as it thinks proper.

Convictions for third offence to disqualify persons from keeping common lodging-houses.

Ib., s. 103.

PART IV.

REPEAL.

73 The enactments set out in the schedule are hereby repealed. Repeal.

SCHEDULE.

Regnal Year and Number.	Title of Act.
60 Vict. No. 31	<i>The Town Boards Act 1896</i>
1 Ed. VII. No. 16	<i>The Town Boards Amendment Act 1901</i>
1 Ed. VII. No. 39	<i>The Town Boards Amendment Act (No. 2) 1901</i>
18 Geo. V. No. 28	<i>The Town Boards Act 1927</i>
21 Geo. V. No. 41	<i>The Town Boards Act 1930</i>

