

# HOBART CORPORATION.

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- 327. Property vested in Corporation.

## SCHEDULE.



T A S M A N I A.



1893.

ANNO QUINQUAGESIMO-SEPTIMO

VICTORIÆ REGINÆ.

No. 11. Amended by Vict. No.

Amended by Vict. No.

-59 v. n. 46

62 " " 14 + 33

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63 " " 10

63 " " 36

3 law VII n. 32

AN ACT to consolidate and amend the Law relating to the Incorporation of the Citizens of the City of *Hobart*. [14 November, 1893.] A.D. 1893.

WHEREAS it is desirable to consolidate and amend the Law relating to the Incorporation of the Citizens of the City of *Hobart* : PREAMBLE.

Be it therefore 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 This Act may be cited for all purposes as “The *Hobart* Corporation Act, 1893.” Short title.

2 This Act shall come into operation and take effect on and after the First day of *December*, 1893. Operation of Act.

3 On and after the day on which this Act comes into operation, the Acts of the Parliament of *Tasmania* set forth in the Schedule (1.) shall be and are hereby repealed : Provided that such repeal shall not affect— Repeal of existing Acts. Schedule (1.).

i. Anything duly done under any Act hereby repealed before the date on which this Act comes into operation :

ii. Any liability accruing under any such repealed Act before the date on which this Act comes into operation.

And, excepting so far as there is anything in this Act inconsistent therewith, this Act shall apply to all matters and things done under Application of Act to matters and things done.

*Hobart Corporation.*

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any repealed Act, and of any force or effect at the date on which this Act comes into operation by virtue of any Act hereby repealed, as if made or done hereunder.

And whenever in any Act the Acts hereby repealed, or any of them, are mentioned, such mention shall hereafter be held and construed to mean and refer to this Act.

Interpretation.

**4** In the interpretation and construction of the provisions of this Act the following words and terms shall have the respective meanings hereby assigned to them, unless inconsistent with or repugnant to the context; that is to say—

“Property.”

“Property” shall mean and include lands or buildings, and lands, buildings, hoardings, and tramways:

“Owner.”

“Owner” used with reference to any property shall mean the person for the time being in the actual receipt of or entitled to receive, or who, if such property were let to a tenant, would be entitled to receive, the rents and profits thereof, whether as beneficial owner, trustee, executor, mortgagee in possession, or otherwise, and shall include any person in the possession of any land under any lease or other instrument conferring possession of such land for any term not less than Ten years, without reserving any rent or reserving any annual rent or other periodical payment less than the annual rent that could reasonably be demanded for the use and occupation of such land; but shall not mean or include any mesne tenant:

“Occupier.”

“Occupier” shall include the owner of any unoccupied piece of land not having any building upon it, or not having upon it any building or buildings the capital value whereof exceeds a sum equal to One-fifth of the capital value of such piece of land:

“Person.”

“Person,” as included in the foregoing interpretation of the words “owner” and “occupier,” shall include Corporations:

“The Corporation.”

“The Corporation” shall mean the Corporation and Body Politic constituted by this Act under the name of “The Mayor, Aldermen, and Citizens of the City of *Hobart* :

“The Council.”

“The Council” shall mean the Municipal Council of the City of *Hobart* established by this Act:

“Private street.”

“Private street” shall mean any thoroughfare, lane, or passage not less than Twenty feet in width on any private property which was not opened, acknowledged, and used as a public thoroughfare before the year One thousand eight hundred and sixty-five, and any street hereafter laid out in accordance with the provisions of this Act relating to Private streets:

“Construction.”

“Construction” shall mean grading, forming, and metalling the carriage way, making and kerbing the footways, making the crossings for wheel traffic, and constructing the water channels:

“Capital value.”

“Capital value” shall mean the capital value of the land in question as the same is assessed in the Assessment Book compiled under the provisions of “The Assessment Act, 1887,” and in force at the time.

Division of Act into Parts.

**5** This Act shall be divided into Twenty Parts, as follows:—

Part I.—Preliminary.

Part II.—Incorporation of Citizens.

*Hobart Corporation.*

- Part III.—Aldermen. A.D. 1893.  
 Part IV.—The Mayor.  
 Part V.—Auditors.  
 Part VI.—Extraordinary Vacancies in office of Mayor, Alderman, and Auditor.  
 Part VII.—Qualification of Mayor, Aldermen, and Auditors.  
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 Part XVIII.—Notices and Demands.  
 Part XIX.—Legal Proceedings.  
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**PART I.****PRELIMINARY.**

**6** All Officers appointed under and employed in the execution of any Act hereby repealed shall continue to exercise their offices until they are respectively superseded or legally removed therefrom under the authority of this Act. Officers heretofore appointed to continue to exercise offices.

**7** The Assessment Roll of the City of *Hobart*, duly made under the provisions of any Act hereby repealed and in force on the day preceding the date on which this Act comes into operation, shall continue to be the Assessment Roll of the City of *Hobart* for all purposes until a new Assessment Roll is prepared in the manner hereinafter provided. Assessment Roll continued.

**8** All By-laws at any time heretofore passed by the Municipal Council of the City of *Hobart* in accordance with the provisions of any Act hereby repealed, and all regulations framed, and all acts, matters, and things done and performed by the said Council under the authority of any Act hereby repealed, and which are of any force and effect on the day preceding the date on which this Act comes into operation, shall be deemed to have been passed, framed, done, and performed under and by virtue of this Act; and all such By-laws and regulations, so far as they are not inconsistent with this Act, shall continue, until superseded by a By-law or regulation made under the authority of this Act, to be of the same force and effect as if they had been passed and framed under the authority of this Act. Existing By-laws, &c., continued.

**9** All property, rights, and interests whatsoever vested in the Citizens of the City of *Hobart* as incorporated under any Act hereby repealed shall, upon the commencement of this Act, become transferred to and vested in the Citizens of the City of *Hobart* as incorporated under this Act; and all moneys due and owing to or by the Citizens Rights, &c. of present Council vested in the Corporation.

*Hobart Corporation.*

A.D. 1893.

of the said City as incorporated under any Act hereby repealed shall be payable and recoverable to, by, or from the Citizens of the said City as incorporated by this Act; and all contracts, agreements, mortgages, bonds, covenants, and securities made or entered into with and in favour of or by or for the Citizens of the said City as incorporated under any Act hereby repealed, or any person on behalf of the said Citizens so incorporated as last aforesaid, shall take effect and may be proceeded on and enforced by, against, and with reference to the Citizens of the said City as incorporated by this Act as fully in all respects as they might have been enforced by or against and with reference to the Citizens of the City of *Hobart* if this Act had not been passed; and all Rates imposed by the present Municipal Council of the said City under the authority of any Act hereby repealed, and not paid when this Act takes effect, shall be recoverable from the persons respectively liable to pay the same as if such Rates had been imposed under the authority of this Act.

Suits, &c. already commenced may be continued.

**10** Every action, suit, prosecution, or other proceeding whatsoever commenced by or against the Citizens of the City of *Hobart* as incorporated under any Act hereby repealed may, without change of parties, suggestion, or other alteration of any pleading or record or otherwise, be continued, and shall take effect in favour of or against the Citizens of the said City as incorporated by this Act; and all decrees, judgments, and orders duly made or obtained in favour of or against the Citizens of the said City as incorporated under any Act hereby repealed, may be enforced by the Citizens of the said City as incorporated by this Act, and all fines and penalties lawfully imposed and incurred under and by virtue of any Act hereby repealed may be levied and recovered from the persons respectively liable to pay the same in like manner as such decrees, orders, judgments, fines, and penalties could have been enforced, levied, and recovered if this Act had not been passed.

Corporate body established by this Act substituted for present body.

**11** Wherever in any Act the Municipal Council, or the Mayor or the Mayor and Aldermen or any Municipal Officer of the City of *Hobart*, or the Municipal Fund of the said City is mentioned, the Municipal Council, Mayor, Mayor and Aldermen, and the Municipal Fund hereinafter mentioned, or corresponding Municipal Officer, as the case may be, under this Act shall be deemed to be intended.

**PART II.**

## INCORPORATION OF CITIZENS.

Citizens of the City of *Hobart* incorporated.

Power to hold land, &c.

Common Seal.

**12** The Citizens of the City of *Hobart* for the time being are hereby constituted a Corporation and Body Politic, by the name of "*The Mayor, Aldermen, and Citizens of the City of Hobart*;" and by that name shall have perpetual succession, and be capable in law to sue and be sued in all Courts; and to take, purchase, and hold land and personal estate; and to grant, sell, alienate, assign, demise, assure, and convey the same for any estate, term, or interest; and to do and suffer all acts as a Corporation and Body Politic under the provisions of this Act; and shall have a Common Seal; and in all cases of legal proceedings service of notice thereof upon either the Mayor or the Town

*Hobart Corporation.*

Clerk for the time being shall be taken as good and sufficient service upon the Corporation: Provided, that it shall not be lawful for the said Corporation to sell and dispose of or to convey any real estate without the consent in writing of the Governor previously obtained.

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Consent of  
Governor requi-  
site to sale of real  
estate.

*Citizens.*

**13** Every person of the full age of Twenty-one years, whether male or female, who is named in the Assessment Roll for the time being in force for the City of *Hobart* as the occupier of any land or building of the annual value of Eight Pounds or upwards, shall be a Citizen of the said City: Provided, that no person being an alien shall be a Citizen unless he or she has received Letters of Denization or a Certificate of Naturalization.

Persons qualified  
to be citizens.

**14** Where any land or building within the said City is jointly occupied by more persons than one, and the annual value of such land or building is of an amount which, when divided by the number of such joint occupants, gives for each occupant a sum not less than the sum which, if he occupied separately and was otherwise qualified, would entitle such person to be a Citizen, each of such joint occupants shall be a Citizen, and, subject to the provisions of this Act, shall be entitled to vote in respect of the land or building so jointly occupied at all elections of Aldermen and Auditors under this Act; and if the value of such land or building is not of such an amount as to be so divisible as aforesaid, then only such one of such joint occupants as is for that purpose deputed in writing by the other or others of such joint occupants shall be a Citizen, and entitled to vote as such at all such elections as aforesaid in respect of the said land or building so jointly occupied; and where any building within the City is occupied in apartments or portions by more persons than one, each of such occupants, if the annual value of the apartment or portion of such building occupied by him or her is of an amount which would entitle such occupant to be a Citizen if such apartment or portion were a separate building, shall, subject to the proviso hereinafter contained, be a Citizen, and entitled to vote in respect of such apartment or portion of such building so occupied by him or her at all elections of Aldermen and Auditors under this Act: Provided always, that nothing in this Section contained shall entitle both a husband and wife who are joint occupants of any building or any portion of any building to vote at any election of Aldermen or Auditors under this Act.

Provides for joint  
occupancy of  
property.

*Municipal Council.*

**15** There shall be Nine Aldermen of the said City, one of whom shall be Mayor of the said City; and the Mayor and Aldermen together shall be and be called "The Municipal Council of the City of *Hobart*;" and all powers and authorities conferred upon or vested in the Corporation by this Act shall be exercisable by the Corporation through the Council.

Aldermen.  
Mayor.  
Municipal  
Council.

**16** The present Mayor and Aldermen of the said City shall, without a fresh Election, be the first Municipal Council of the said City under this Act, and shall retire from office in the same rotation in which they would have retired if this Act had not been passed.

Present Muni-  
cipal Council to  
be the first under  
this Act.

*Hobart Corporation.*

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*Custody of Common Seal and Records.*Custody of the  
Seal and Cor-  
porate Records.

**17** The Common Seal, and all Deeds, Muniments, and Records of the said Corporation, or relating to the property thereof, shall be kept in such place as the Municipal Council from time to time directs ; and the Town Clerk shall have the charge and custody thereof, and be responsible for the same.

*City Boundaries.*Boundaries of the  
City.

**18** The boundaries of the said City shall be those described in the Schedule(2.), and shall so remain until altered by Legislative authority.

Boundary marks.

**19** It shall be lawful for the Municipal Council of the said City to cause to be set up, and to maintain, at the expense of the Corporation, permanent and conspicuous boundary marks of iron, wood, stone, or other durable material, in exact conformity, or as near thereto as circumstances will admit, with the metes and bounds of the said City, and in the most public and convenient places along or near the line of such metes and bounds.

Penalty for  
destroying, &c.  
boundary marks.

**20** Any person who wilfully or maliciously destroys, pulls down, obliterates, defaces, injures, or conceals any such boundary mark as aforesaid, shall for any such offence forfeit and pay, in addition to the value of such boundary mark, a penalty not exceeding Five Pounds.

**PART III.****ALDERMEN.**Three Aldermen  
to go out of office  
every year.

**21** On the Second *Friday* in *December* in the year 1893, and on the like day in every succeeding year, the three Aldermen who have been the longest time in office without re-election shall go out of office by rotation, and on the preceding day an Election shall be held to supply their places ; and the persons elected shall assume office upon their predecessors going out of office.

Persons entitled  
to vote at  
Elections of  
Aldermen.

**22** Every Citizen whose name is on the Assessment Roll in force for the said City on the Twentieth day before the day of holding any Election of Aldermen under this Act as the occupier of any property therein mentioned, and who has paid all Municipal Rates payable by him or her up to the day of Election, shall be entitled to vote at such Election ; and no other persons shall be entitled to vote at such Election.

Persons qualified  
to vote at extra-  
ordinary elections.

**23** Notwithstanding anything hereinbefore contained, every Citizen who has paid all Municipal Rates payable by him or her up to the immediately preceding Thirtieth day of *June* or Thirty-first day of *December*, as the case may be, shall be entitled to vote at any extraordinary election of an Alderman for the said City.

Number of votes  
to which each  
Citizen is entitled.

**24** Every Citizen whose name is on the Assessment Roll as the occupier of any land or building therein mentioned shall have a number of votes proportionate to the annual value of such land or building according to the following scale, viz. :—

Amended 3rd Dec 1893

Revised 3rd Dec 1893

Hobart Corporation.

Annual value of land or building given in the Assessment Roll.	Number of Votes.	A.D. 1893.
£8 and under £40 .....	1	
£40 and under £80.....	2	
£80 and under £120 .....	3	
£120 and under £160.....	4	
£160 and under £200.....	5	
£200 and under £240.....	6	
£240 and upwards .....	7	

**25** Every Citizen entitled to such vote or votes as aforesaid is hereby empowered to give the number of votes to which he or she is so entitled to any number of persons not exceeding the number of Aldermen to be elected.

Every Citizen empowered to give the full number of votes to which he is entitled.

**26** On and after the seventh day, and until the hour of twelve o'clock at noon of the third day next before any Election of Aldermen, any two male Citizens qualified to vote at such Election may, by writing under their hands, in the form in the Schedule (3.), stating the particulars therein mentioned, nominate to the Mayor for election any number of other male Citizens, qualified to be elected as Aldermen, not exceeding the number to be elected; and there shall be written at the foot of such nomination a statement in the form in the Schedule (3.) under the hand or hands of the Citizen or Citizens so nominated declaring that the Citizen or Citizens so nominated are qualified to be nominated for election and to be elected as an Alderman or Aldermen, and the consent of such Citizen or Citizens to become a candidate at such election; and no other Citizen than such as are nominated and consent as aforesaid shall be eligible to be elected at such Election: Provided that, in the event of any Citizen being absent from *Tasmania* at the time of his nomination for election as an Alderman, it shall be lawful for the Mayor to receive the nomination of such Citizen without such written consent as aforesaid: Provided also, that the form in the Schedule (3.) may be either printed or in writing, or partly written and partly printed.

Nomination of persons for election as Aldermen.

**27** On the two days next before the Election, and on the day of Election, there shall be published in a newspaper circulating in the City, and in some conspicuous place in the Town Hall or other building used as such by the Council, a notification under the hand of the Mayor of the names and residences of all Citizens so nominated, specifying the names and residences of their nominators respectively: Provided that it shall not be necessary to publish as aforesaid the names and residences of more than Five Nominators.

Notification of nominations to be published.

**28** If at any Election of Aldermen no greater number of persons are nominated for election than the number of Aldermen then to be elected, the Mayor shall, upon the day of Election, without any poll being had, publish a notice under his hand declaring the persons so nominated to have been elected as Aldermen; and the persons so declared to have been elected shall be Aldermen of the City.

Mode of proceeding if no more persons nominated than Aldermen to be elected.

**29** Every person so nominated as aforesaid may appoint any number of persons, not exceeding three, to be Scrutineers on his behalf at such Election, who shall be entitled to be present in the room in which the ballot-papers are received as hereinafter provided; and every such

Scrutineers.

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—

Scrutineer shall, before acting, make and subscribe in the presence of the Mayor or any Justice of the Peace a Declaration in the form in the Schedule (4.); and any Scrutineer doing any act in contravention of such Declaration shall be guilty of a Misdemeanor.

Elections of Aldermen to be held before the Mayor.

**30** Every Election of Aldermen shall be held before the Mayor and such Aldermen, or other persons, not being candidates, as he may appoint to assist as presiding Officers; and the voting at such Election shall commence at Nine o'clock in the forenoon and shall finally close at Five o'clock in the afternoon of the same day, unless adjourned by reason of riot or interruption as hereinafter provided.

Polling Lists.

**31** The Mayor, before and in time for every such Election, shall cause to be prepared a List, to be called the Polling List, containing in alphabetical order the names of all Citizens who are occupiers of property in the City, and who are named on the Assessment Roll in force on the Twentieth day before the day of holding the Election; and such List shall show the value of the property in respect of which each Citizen is entitled to vote, the street in which such property is situate, and the number of votes to which the Citizen occupying such property is entitled in respect thereof; and the Mayor shall cause a sufficient number of copies of such List to be printed for use at such Election; and every Citizen requiring a copy of such List shall be supplied with the same upon payment of a reasonable price for each copy.

Mayor to provide booths, writing materials, copies of Polling List, and ballot-boxes at polling-place, and appoint Polling Clerks.

**32** For the purpose of conducting every Election of Aldermen under this Act the Mayor shall appoint a polling-place, and shall cause such polling-place to be so divided and arranged as to the Mayor may seem best adapted for carrying out the provisions of this Act, but so that there shall be as many inner rooms or compartments as may be necessary, opening only into the room in which the ballot-boxes are kept, and sufficiently supplied with writing materials, in which the persons voting shall be enabled to fill up their ballot-papers as hereinafter provided in perfect secrecy, and with perfect security from interruption; and the Mayor shall cause to be furnished for the use of the polling-place a sufficient number of copies of the Polling List, and shall under his hand certify such copies to be correct; and shall also provide a sufficient number of ballot-boxes with secure locks and with apertures through which the ballot-papers are to be put into such ballot-boxes, and shall appoint such Polling Clerk or Clerks as may be necessary: and public notice of the situation of the polling-place shall be given by the Mayor two days before the day of Election.

Mayor to provide Ballot-papers.

**33** The Mayor, before and in time for every such Election, shall provide printed Ballot-papers containing the Christian and surname of every person nominated for election, printed in alphabetical order and numbered in figures in regular succession, according to the form in the Schedule (5.) and every such Ballot-paper shall be marked with the number of votes to which the Citizen to whom it is issued is entitled as the occupier of the property in respect of which such Ballot-paper is issued to such Citizen, and shall be signed or stamped on the back thereof by the Mayor with his name in full or by his initials as he may think proper; and no Ballot-paper used at any such Election shall contain any other matter or thing than those hereinbefore mentioned.



*Hobart Corporation.*

**34** The Mayor shall provide such number of Ballot-papers in the form aforesaid, and marked as aforesaid, as there are Citizens named on the Assessment Roll in force on the Twentieth day before the day of holding the Election entitled to such number of votes and no more.

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Ballot-papers to be marked with each particular number of votes.

**35** The Mayor shall also provide as many papers containing the printed Declaration set forth in the Schedule (6.) as there are Citizens named on the Assessment Roll on the Twentieth day before the day of holding the Election.

Printed Declarations to be provided.

**36** There shall be only one key to each lock of the ballot-boxes, which the Mayor shall always keep in his possession ; and the ballot-boxes shall be locked previously to the Election by the Mayor, and shall not be unlocked during the Election, nor until after the Election as hereinafter provided.

Ballot-boxes to be locked prior to Election.

**37** Every such Election shall be conducted in manner following :— Each Citizen shall be entitled to enter unattended into the room appointed for the ballot at such Election, and in which the ballot-box is kept, and shall there in the presence of the Mayor or some presiding Officer sign the Declaration aforesaid ; and the Mayor or presiding Officer shall then select a ballot-paper marked with the number of votes to which the Citizen claiming to vote is entitled, and thereupon check or mark off upon a certified copy of the Polling List such Citizen's name as having voted, and then deliver such ballot-paper to such Citizen, who shall immediately take such ballot-paper into an inner room or compartment provided for such purpose as aforesaid, and there without delay strike through the name or names of the person or persons for whom he does not intend to vote, but so that if there be only one Alderman to be elected he only leaves one name not struck out, and if there be more than one Alderman to be elected he does not leave the names of more persons not struck out than there are Aldermen to be elected ; otherwise such ballot-paper shall be invalid ; and when such Citizen has struck through the name or names of the person or persons for whom he does not intend to vote, he shall fold up such ballot-paper, and immediately take the same into the room in which the ballot-box is placed, and place such ballot-paper in the ballot-box ; and immediately after such Citizen has so placed his ballot-paper in the ballot-box he shall leave the room, and shall not re-enter it during the same Election ; and no two persons shall remain in an inner room or compartment at the same time, nor shall a Citizen take any such ballot-paper out of the room in which the ballot-box is placed elsewhere than into the said inner room or compartment, and then only for the purpose of striking through the name or names of the person or persons for whom he does not intend to vote. And any person wilfully contravening any of the provisions of this Section contained shall be deemed guilty of a Misdemeanor.

Mode of Election of Aldermen.

Persons contravening any provisions contained herein guilty of a Misdemeanor.

**38** No person claiming to vote at any such Election shall be excluded from voting thereat except by reason of such person refusing to make as aforesaid the Declaration aforesaid.

Any person making the Declaration to be entitled to vote.

**39** In the case of any Citizen who is blind or cannot write, the Declaration shall be read over to him, and his verbal assent thereto being obtained, the Mayor, or some presiding Officer or Poll Clerk, shall write such Citizen's name in the Citizen's signing-place, and

Provides for blind men and marksmen voting at Elections of Aldermen.

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attest the same under his hand, and such signature and attestation shall bind such Citizen to such Declaration and to all the consequences thereof if false ; and the Mayor or some presiding Officer shall also in the case of a blind Citizen openly in the ballot-room strike through upon such ballot-paper the names of all persons so nominated except such as the Citizen shall declare his intention of voting for.

Declaration only  
required of per-  
sons voting.

False Declaration  
perjury.

**40** No inquiry, except such as relates to any one or more of the statements contained in the Declaration, shall be permitted from any person applying to vote who duly makes as aforesaid the Declaration hereby required ; and every person wilfully making such Declaration falsely shall be guilty of an offence against this Act, and shall for each and every such offence be liable to a penalty not exceeding Twenty Pounds ; and every person shall be deemed and held to have made the said Declaration wilfully upon proof that the said Declaration was untrue in fact, unless he proves the contrary.

Adjournment of  
Elections in case  
proceedings are  
interrupted by  
riot.

**41** Where the proceedings at any such Election are interrupted or obstructed by any riot or open violence, the Mayor shall not for such cause finally close the poll, but shall adjourn the taking of the poll until the same time on the following day, and if necessary shall in like manner further adjourn such poll until such interruption or obstruction has ceased, when the Mayor shall again proceed with the taking of the poll.

Mayor to declare  
result of  
Elections.

**42** The Mayor shall immediately on the close of the poll, at the Polling-place, in the presence of such of the Scrutineers, Poll Clerks, and Candidates as choose to attend, open the ballot-boxes and make out an Abstract of the result of the ballot at the poll, and shall at the Polling-place, and as soon as may be practicable, publish a notice under his hand declaring the general state of the poll at the close of the Election as the same has been so made up and ascertained by him from the ballot-papers taken at the Election, and also declaring the name or names of the person or persons duly elected at such Election ; and in the event of the number of votes being found to be equal for any two or more persons, the Mayor shall, by his casting vote, decide which of the said persons shall be elected : Provided however, that the Mayor shall not vote at any Election except in the case of an equality of votes as aforesaid.

Where numbers  
equal, Mayor to  
have a casting  
vote.

Ballot-papers, &c.  
used at Elections  
of Aldermen to be  
sealed up and  
deposited with  
Corporation Re-  
cords for Three  
years.

**43** All ballot-papers taken at each Election of Aldermen, together with the ballot-papers not used, the said copies of the Polling List and Abstract and Declarations, shall be sealed up by the Town Clerk and deposited with the Records of the Corporation, and the same shall be kept for Three years, and the sealed packets containing the same shall, on the outside thereof, be described to be the papers connected with the Election to which they relate ; and in case any question arises touching the Election, such papers or any of them upon production thereof, and proof either by evidence or by a certificate thereon under the hand of the Town Clerk that the same came to and then were in his custody as such Town Clerk, shall be received in evidence.

Provides for the  
Mayor being  
a candidate for  
re-election, or  
being unable to  
act as Returning  
Officer.

**44** In case at any election of Aldermen the Mayor is one of the Aldermen going out of office and a candidate for re-election, the Council shall appoint an Alderman to hold such Election, who shall for such purpose have and perform all the powers and duties by this Act conferred and imposed on the Mayor ; and in any case in which the

*Hobart Corporation.*

Mayor or the Alderman appointed as aforesaid to hold such Election shall be at any time unable in consequence of absence, illness, or other incapacity to perform the duties of Returning Officer at any such Election, it shall be lawful for the Town Clerk, and he is hereby authorised and empowered, in any such case to perform such duties and to act as Returning Officer at any such Election during the absence or illness or other incapacity of the Mayor or such Alderman as aforesaid. A.D. 1893. —

**45** Every person who shall vote more than once, or offer to vote more than once at any Election under this Act, or who shall depart or attempt to depart from any polling-booth after having received a ballot-paper without having deposited the same in the Ballot-box as hereinbefore mentioned, or who shall personate any other person for the purpose of voting at such election, shall be guilty of a Misdemeanor, and shall on conviction thereof be liable to be imprisoned for any period not exceeding One year, with or without hard labour. False answer, polling twice, and personation.

**46** All the acts enumerated as acts of bribery and corruption in any Act in force for the time being regulating Elections of Members to the Parliament of *Tasmania* shall be deemed to be acts of bribery and corruption with reference to all elections under this Act. And every person committing any such act shall be deemed guilty of a Misdemeanor, and shall be punishable in the manner and to the same extent as if the provisions of the said Act relating to bribery and corruption had been set forth herein. Bribery and corruption.

The acts of all authorised agents of a candidate shall be held to be acts of their principal, if proved to have been committed with his consent.

**47** Every person who, having or claiming to have any right to vote at any election under this Act, shall directly or indirectly ask, receive, or take any money or other reward by way of gift or employment for himself or any of his family or kindred friends or dependents, as a consideration or inducement expressed, implied, or understood for giving his vote or for abstaining from giving his vote at any such election, and every person who, by himself, his friends, or by any person employed by him, shall by any gift or reward, or by any promise or agreement or security for any gift or reward, procure any person to give his vote at any such election, or to abstain from giving the same, shall for every such offence forfeit the sum of Fifty Pounds to the first person who shall *bonâ fide* for his own use and not collusively sue for the same. Penalty for receiving or offering reward for voting or withholding vote.

*Proceedings validated.*

**48** No Election under this Act shall be liable to be questioned by reason only of any defect in the title, or any want of title of the person by or before whom such Election or any polling for the same has been held: Provided that such person has been actually appointed to preside or hold the poll, or has been acting in the office giving the right to preside at such Election. Election not to be questioned for defect in title of persons presiding *de facto*.

**49** No advantage shall be taken of the invalidity of any Election under this Act in any action or suit which is brought by or against the Corporation, but every such action or suit shall be tried as if no such objection existed. Invalidity of Election no plea in action.

*Hobart Corporation.*

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## PART IV.

## THE MAYOR.

Present Mayor  
to be the first  
Mayor under this  
Act.

**50** The person holding the office of Mayor of the City of *Hobart* on the day before the date on which this Act comes into operation shall without a fresh election be the first Mayor of the said City under this Act, and shall go out of office as Mayor on the *Saturday* following the Second *Friday* in the month of *December*, 1893, on the election of his successor, as hereinafter mentioned ; and on that day the Aldermen shall assemble at noon at the Town Clerk's Office, and shall close the doors of the said office against all other persons except the Town Clerk, and shall then and there elect one of their own body to be the Mayor of the City, who shall enter on office on election ; and the Mayor so elected shall go out of office as Mayor on the *Saturday* following the Second *Friday* in the month of *December* in the year 1894 ; on which day, and on the like day in every succeeding year, the Aldermen shall, at the time and in the manner aforesaid, assemble and elect one of their own body to be Mayor, who shall enter on office on election, and shall retire at the end of his year of office on the election of his successor.

Mayor to retire  
annually.

Mode of proceed-  
ing at Elections  
of Mayor:

**51** Before proceeding to the Election of the Mayor, the Aldermen present shall by a majority of their voices appoint one of those present to preside at such Election, and Two others to be Scrutineers at the same ; and in case of equality of voices as to the Alderman to preside or as to the Scrutineers, the appointment shall be determined by lot between those who have such equality of voices ; and thereafter each Alderman shall receive from the Town Clerk a printed ballot-paper endorsed by the Town Clerk with his signature, and containing the names of all the Aldermen, with the name of the Alderman receiving the paper struck out by the Town Clerk ; and the Alderman so chosen to preside shall strike out on his voting paper the names of all the Aldermen excepting the name of the Alderman for whom he votes, and shall then deposit his voting-paper in a box to be provided for that purpose ; and thereafter each of the other Aldermen shall strike out on his voting-paper the names of all the Aldermen, excepting the name of the Alderman for whom he votes, and shall then deposit his voting-paper in the said box ; and at the expiration of one hour from the time when the presiding Alderman so deposited such voting-paper, or sooner if the whole of the Aldermen have sooner delivered their voting-papers, the presiding Alderman and the Scrutineers shall examine the said voting-papers, and declare the name of the Alderman who has the majority of votes to be duly elected to be Mayor ; and such Alderman shall be Mayor ; and in the event of there being an equality of votes for any Two or more Aldermen, the presiding Alderman shall decide which of such Aldermen shall be Mayor, who shall thereupon be deemed to be duly elected.

Mayor *ex officio*  
Justice of the  
Peace.

Precedence of  
Mayor.

**52** The Mayor shall *ex officio* be a Justice of the Peace in and for the City during his continuance in office ; and the Mayor shall, in any Police Court or Court of Petty Sessions holden within the City, as such Justice have precedence over all other Justices of the Peace, excepting the Chairman of any Court of General Sessions of the Peace holden within the City, and shall, during the period of his Mayoralty, have precedence in all Municipal proceedings.

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**53** The Mayor shall be entitled to receive for his services out of the Municipal Fund such salary or allowances as the Municipal Council from time to time determines: Provided that such salary and allowances shall not exceed the sum of Six hundred Pounds per annum.

A.D. 1893.

Allowances to Mayor.

**PART V.****AUDITORS.**

**54** The Auditors of the City of *Hobart*, duly elected under the provisions of any Act hereby repealed and in office on the day preceding the date on which this Act comes into operation, shall continue to be the Auditors of the City of *Hobart* under this Act until their successors are appointed in the manner hereinafter provided.

Auditors continued in office.

**55** On the first *Friday* in *March* in every year the Citizens shall elect Two fit and proper persons qualified to be, but not being, Aldermen, to be the Auditors of the City; and the Auditors shall enter on office on the day next following the declaration of their election, and shall hold office until their successors shall enter on office.

Auditors to be elected annually.

**56** On and after the Seventh day, and until the hour of Twelve at noon of the Third day next before any Election of Auditors, any Two Male Citizens qualified to vote may, by writing stating their respective residences, nominate to the Mayor for election any number of other Male Citizens qualified to be elected as Auditors, not exceeding the number of Auditors to be elected; and if a greater number of qualified Citizens than the number of Auditors to be elected are duly nominated, there shall be published under the hand of the Mayor on the Two days next before the Election, and on the day of Election, the names and residences of all Citizens so nominated and of their Nominators respectively, and no person not so nominated shall be elected as Auditor. Provided that it shall not be necessary to publish the names and residences of more than Five Nominators.

Nomination of persons for Election of Auditors.

**57** All the provisions of this Act relating to the Election of Aldermen shall apply to the Election of Auditors under this Act; and the Mayor shall declare the result of every such Election within Two days after the holding thereof.

Mode of proceeding at Elections of Auditors.

**PART VI.****EXTRAORDINARY VACANCIES OF MAYOR, ALDERMEN, AND AUDITORS.**

**58** If any extraordinary vacancy occurs in the office of Alderman or Auditor, the Mayor shall appoint a day not later than Fourteen days from the occurrence of such vacancy for the Election of another qualified Citizen to supply such vacancy, and the Mayor shall give due public notice of such Election not less than Seven days before the day of Election.

Extraordinary vacancy in office of Alderman or Auditor.

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Extraordinary  
vacancy in office  
of Mayor.

**59** In case any extraordinary vacancy occurs in the office of Mayor, the Aldermen shall, within Fourteen days from the occurrence of such vacancy, and after notice published in the *Gazette* by the Town Clerk, elect out of their own body another person to be Mayor of the City for the remainder of the then current year.

Mode of pro-  
ceeding at Elec-  
tions in cases of  
extraordinary  
vacancies.

**60** At all extraordinary Elections of a Mayor, Alderman, ~~or Auditor~~, the course of proceeding shall be the same, as nearly as may be, as is herein directed to be followed at an ordinary Election; and the same Polling List which was used at the immediately preceding Annual Election of Aldermen may be used at any Extraordinary Election of an Alderman.

When Mayor, &c.  
elected to supply  
a vacancy, is to go  
out of office.

**61** Every person elected to supply any extraordinary vacancy in the office of Mayor, Alderman, ~~or Auditor~~ shall go out of office at the time when his predecessor would have gone out of office if no such vacancy had occurred.

**PART VII.****QUALIFICATION OF MAYOR, ALDERMEN, AND AUDITORS.**Qualification of  
Aldermen.

**62** Every Male Citizen who is entitled to vote at the Election of Aldermen, and is seised of real estate or possessed of some chattel interest therein to the amount of Five hundred Pounds, or assessed under an existing Assessment for the City in respect of property of the annual value of not less than One hundred Pounds, and who has paid all rates due and payable by him to the Corporation, shall be qualified to be nominated for election, and to be elected an Alderman, and not otherwise.

Mayor, &c. eligible  
for re-election.

**63** Any Mayor, Alderman, ~~or Auditor~~ going out of office shall be eligible for re-election if still qualified.

Members of Par-  
liament exempted  
from serving  
under this Act.

**64** Members of the Parliament of *Tasmania* are hereby exempted, but not disqualified, from serving in any Corporate office under this Act.

Disqualification of  
Aldermen.

**65** Every person, being a Judge or Chairman of any Court of Justice, or a Minister of any Religious Denomination, or holding any office or place of profit under the Crown, or in the gift or disposal of the Municipal Council other than that of Mayor, or being an Officer on full pay in the Naval or Military Service, or being directly or indirectly by himself or any partner engaged or interested in any contract or employment with, by or on behalf of the Corporation, shall be disqualified from being an Alderman; Provided, that no person shall be disqualified from being an Alderman by reason of being a proprietor or shareholder of any Joint Stock Company contracting with the Corporation.

Penalty on  
Mayor, &c. for  
being interested  
in a contract with  
the Corporation.

**66** Every person who, being Mayor, or an Alderman or ~~Auditor~~, continues to be or becomes directly or indirectly, by means of partnership with any other person or otherwise howsoever, wilfully or knowingly engaged or interested in any contract or agreement or employment with, by, or on behalf of the Corporation, except as proprietor or shareholder of any Joint Stock Company contracting with the Corporation, shall be liable to a penalty not exceeding One hundred Pounds

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and not less than Fifty Pounds, and shall be for Seven years after A.D. 1893.  
conviction of any such offence disqualified from holding any office in  
or under the Corporation.

**67** If any person holding the office of Mayor, Alderman, ~~or~~ Mayor, &c. ~~Auditor~~ is declared insolvent, or compounds by deed or otherwise declared insolvent, with his creditors, or if the Mayor or any Alderman is absent &c. disqualified and to vacate office from four consecutive Meetings of the Council without leave of absence granted by the Council, unless such absence is caused by illness certified by a duly qualified Medical Practitioner, such person shall thereby become disqualified and cease to hold such office, and in the case of absence, unless caused through such illness as aforesaid, shall be liable to the same fine as if he had refused to accept such office; and the Council shall in any such case declare such office to be vacant, and the same shall be vacant accordingly; but every person so becoming disqualified to hold any office on account of insolvency or compounding as aforesaid shall, on obtaining his certificate of final discharge, or on payment of his debts in full, or on obtaining a release from his creditors, be capable if otherwise qualified of being re-elected to any such office.

**68** No person elected Mayor or an Alderman or an Auditor under this Act shall be capable of acting as such, except in administering such Declaration as is hereinafter mentioned, until he has made and subscribed before any two or more Aldermen a Declaration in the form in the Schedule (7.), and any two or more Aldermen are hereby authorised and required, upon request, to administer the said Declaration. Declaration to be made by Mayor, &c. before acting.

**69** If any person wilfully and falsely makes such Declaration as aforesaid, such person shall be deemed guilty of a Misdemeanor, and on conviction thereof shall suffer the like penalties as persons convicted of wilful and corrupt Perjury, and shall also upon conviction cease to hold office under this Act. Punishment for making false Declaration.

**70** If any person acts as Mayor, or Alderman, or Auditor without having made the Declaration hereinbefore required in that behalf, or without being duly qualified, he shall for any such offence forfeit and pay a penalty of One hundred Pounds, to be recovered with full costs of suit by action of debt in the Supreme Court by any person who sues for the same within Three months after the commission of such offence; and if any person sued as herein mentioned for acting as Mayor, or Alderman, or Auditor without being qualified as aforesaid shall fail to prove that he was at the time of so acting as Mayor, Alderman, or Auditor qualified as aforesaid, he shall pay the said penalty without any further evidence being given by the Plaintiff than that such person acted as Mayor, or Alderman, or Auditor, as the case may be; and one moiety of any such penalty so recovered shall, after payment of the costs and expenses attending the recovery of such penalty, be paid to the person so suing as aforesaid, and the other moiety shall be applied in aid of the Municipal Fund: Provided always, that it shall be lawful for any Defendant by a Judge's Order, to be obtained within Fourteen days after he has been served with process in any such action, to require the Plaintiff to give security for costs; and in such case all further proceedings in the cause shall be stayed until the Plaintiff gives security to the satisfaction of the proper Officer of the Court for Penalty for acting as Mayor, &c., without making Declaration, or not qualified.

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the costs of such action in case the verdict passes for the Defendant, or the Plaintiff becomes nonsuited or discontinues such action, or if upon demurrer or otherwise judgment is given against the Plaintiff; and the Defendant shall in any such case as last aforesaid recover his full costs of suit as between attorney and client: Provided also, that no such action shall be brought except by a Citizen of the City, nor unless the Citizen bringing the same has within Fourteen days after the commission of the offence served a notice in writing upon the party committing such offence, personally, or by leaving the same at his residence, of his intention to bring such action.

Acts and proceedings of Municipal Council, &c. to be valid notwithstanding defect in election, &c.

**71** All acts and proceedings of the Municipal Council or of any person in possession of the office of Mayor, Alderman, ~~or Auditor~~, and acting as such, shall, notwithstanding it be afterwards discovered that there was some defect in the election of the said Council, or of such person as aforesaid, or that such person as aforesaid was disqualified or had not duly made such Declaration as aforesaid, be as valid and effectual as if the said Council or such person as aforesaid had been duly elected or qualified, or had duly made such Declaration as aforesaid.

**PART VIII.****NON-ACCEPTANCE OF OFFICE OF MAYOR, ALDERMAN, ~~OR~~  
AUDITOR.**

Persons elected to accept office or pay a fine.

**72** Every person duly qualified and duly elected to the office of Mayor, Alderman, ~~or Auditor~~ shall accept such office by making and subscribing the Declaration hereinbefore mentioned within Five Days after notice of his Election has been served on him personally, or left at his usual place of abode, or shall in lieu thereof pay to the Municipal Council in aid of the Municipal Fund a fine of One hundred Pounds in case of a Mayor, and a fine of Fifty Pounds in case of an Alderman ~~or Auditor~~: Provided, that no person disabled by deafness, blindness, or other permanent infirmity of body, or who is above the age of Sixty years, or who was nominated for election as an Alderman ~~or Auditor~~ without his written consent thereto, or who has already served any such office, or paid the fine for not accepting any such office, or for resigning any such office, within Five years next before the day on which he is re-elected, shall be liable to any fine for refusing or neglecting to accept any such office as aforesaid.

Certain persons exempted from fine.

Provision for resigning office.

**73** Every person elected into any Corporate Office under this Act may at any time resign such office, and the resignation shall be held to be complete from the date of its being received by the Town Clerk: Provided, that the person so resigning shall be liable to the same penalty as he would be liable to pay for non-acceptance of such office, unless he becomes entitled to claim exemption from payment of such fine, or disqualified from accepting or serving in such office, under any provision herein contained.

If persons refuse to accept office, fresh Election to be had as in case of a vacancy.

**74** If any person elected into any Corporate office under this Act refuses or fails to accept such office, or resigns such office, the same shall thereupon be deemed vacant, and shall be filled up by a fresh Election as in the case of a vacancy.



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**75** No Alderman who shall resign office at any time not more than Thirty days nor less than Twenty days before the annual election day in *December*, and who has held office for at least One year immediately preceding the date of his resignation, shall be liable to any fine in consequence of such resignation, anything hereinbefore contained to the contrary notwithstanding.

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Aldermen may resign at a certain period of the year without being liable to a fine.

**76** The vacancy created by any such resignation as last aforesaid shall not be deemed or taken to be an extraordinary vacancy, and the place or places of the resigning Alderman or Aldermen shall not be filled up until the first subsequent annual election of Aldermen.

Certain vacancies not to be filled up until annual election.

**77** In case one or more Aldermen shall in any one year resign office as aforesaid, the Three persons having respectively the highest number of votes at the then ensuing Election shall be declared elected, and be placed at the top of the list of Aldermen in like manner as if there had been no such resignation; and the person having the next highest number of votes shall be declared elected, and take the place of the resigning Alderman, if there be but one resigning Alderman; but if there be more than one such, then such person shall be declared elected, and take the place of the Alderman who would had he not resigned have continued longest in office; and the person having the next highest number of votes shall be declared elected, and take the place of the Alderman who would, had he not resigned, have continued next longest in office; and so on throughout until the required number of Aldermen is complete.

Rotation in which Aldermen to retire.

**78** If no greater number of persons are nominated for election than the number of retiring and resigning Aldermen then to be elected, the Mayor shall, upon the day of Election, without any Poll, publish a Notice under his hand declaring the persons so nominated to have been elected as Aldermen; and it shall be determined by lot, at any time before the Election of Mayor, in what rotation, as between themselves, such Aldermen shall retire; and the Aldermen shall retire according to the rotation so determined.

In case of election without Poll, rotation to be determined by lot.

**79** Notwithstanding anything to the contrary contained in this Act, every Mayor, Alderman, and Auditor shall continue in office until his successor enters on office.

Retiring Mayor, &c., to hold office until successor enters on office.

**80** In case no election of Mayor, or Alderman, or Auditor shall be made upon the day or within the time provided for such election, or if any such election, after having been made, shall become void, whether such omission or avoidance happens through the default of any officer concerned in such election, or by any accident or other means whatsoever, the Corporation shall not thereby be deemed or taken to be dissolved or to be disabled from electing such Mayor, Alderman, or Auditor for the future, or incur any other disability whatever; but in any such case the election of a Mayor, Alderman, or Auditor shall be made as in case of an extraordinary vacancy; and every act necessary to be done for completing such election shall and may be done, and shall be as valid and effectual for all purposes, as if the election so delayed had been made upon the day or within the time first appointed for that purpose.

Provides for irregularity in Elections.

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As to Elections to  
be held under  
Mandamus.

**81** All the powers, authorities, and jurisdictions by the Act of the Imperial Parliament of the Eleventh *George* the First, Chapter Four, given to the Court of Queen's Bench in *England* in cases where no election is made of the Mayor, Bailiff or Bailiffs, or other Chief Officer or Officers of Cities, Boroughs, or Towns Corporate upon the day or within the time appointed by Charter or usage for that purpose, or where any such election having been made afterwards becomes void, are hereby extended to the Supreme Court of *Tasmania*, and the said powers, authorities, and jurisdictions shall be exercisable by the said Supreme Court in all cases in which no election of a Mayor, Alderman, or Auditor is made upon the day or within the time provided for such election, or in pursuance of the provisions in the last preceding Section contained, as well as in cases where any such election after being made becomes void; and the said Court is hereby empowered in all such cases as aforesaid to award a Mandamus, and to cause such proceedings to be had thereupon, and to make such orders, and to do all other acts, matters, and things in respect thereof as may be necessary in that behalf; and the elections to be held under such Mandamus shall be held, and the proceedings thereon conducted, in the same manner and under the like regulations and provisions as are in the said Act of Parliament of the Eleventh *George* the First, Chapter Four, enacted and provided.

## PART IX.

## OUSTER OF OFFICE.

Limit of time for  
obtaining *quo*  
*warranto*.

**82** Every application to the Supreme Court for the purpose of calling upon any person to show by what warrant he claims to exercise the office of Mayor, Alderman, or Auditor, shall be made before the end of Six months after the election or the time when the person against whom such application is directed has become disqualified, and not at any subsequent time.

Disputed elections  
or exercise of  
office.

**83** Upon affidavit that any person who has been declared elected as Mayor or Alderman or Auditor of the said City has been elected unduly or contrary to any of the provisions of this Act, or that any person who has been elected to or who holds or exercises the office of Mayor or Alderman or Auditor of the said City is incapable under the provisions of this Act of being or continuing such Mayor or Alderman or Auditor, and upon payment into Court of the sum of Twenty Pounds as security for costs to abide the event of such application, it shall be lawful for the Supreme Court or any Judge thereof to grant a rule or order calling upon such person to show cause to the Court why he should not be by the said Court ousted of the said office; and where, upon the return of such rule or order, it shall appear to the Court that such person so elected or holding or exercising such office respectively was elected unduly or contrary to this Act, or was at the time of his election or while holding or exercising such office respectively incapable under the provisions of this Act of being or continuing such Mayor or Alderman or Auditor, as the case may be, the Court may make such rule or order absolute, or if the matter shall not so appear may discharge such rule or order, and in either and every such case with or without the payment of costs to or by either party as to the Court shall seem meet; and the person against whom any rule shall be made absolute as aforesaid shall be deemed thereby to be ousted of such

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office accordingly : Provided that no such rule for ousting any person as having been elected unduly or contrary to this Act shall be granted after the expiration of Three months from the declaration of such election.

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**84** It shall be lawful for the Supreme Court or any Judge thereof, where any proceeding with respect to any election as having been made unduly or contrary to this Act, or with respect to the unlawful holding or exercise by any person of the office of Mayor or Alderman hereunder shall be depending in such Court, to order from time to time that an enquiry be had by such fit person as shall be named by the said Court or Judge in the order, touching any matters of fact which it shall seem to the said Court or Judge necessary or expedient to ascertain for dealing with the proceedings so depending, and that such person do report to the said Court touching the said matters : and the Sections of the Act of Council of 5 *William* 4th, No. 2, numbered respectively from One to Six both inclusive, so far as the same respectively apply to powers, rights, and liabilities conferred or imposed in the case of an order under the said first-mentioned Section for the issue of a commission for the examination of witnesses, shall be deemed to apply in the case of any order under this Section in like manner as if the person ordered to report hereunder had been authorised and required to take examinations under the said Act ; and such person shall have power to call upon the Town Clerk for and to inspect the Ballot-papers.

Supreme Court  
may direct an  
inquiry to be  
made.

**PART X.****ASSESSMENT ROLL.**

**85** The Council shall, on or before the Thirty-first day of *December* in every year, assess by a just and equitable Assessment the annual value of all property within the City, for the purpose of preparing the Assessment Roll of the said City for the following year as hereinafter mentioned ; and the annual value of every piece of land within the City not having any building upon it or not having upon it any building or buildings the capital value whereof exceeds a sum equal to one-fifth of the capital value of such piece of land, shall be assessed at a sum equal to Five per cent. of the capital value thereof.

An Assessment to  
be made annually.

And all tramways within the City shall be assessed at an annual value of One hundred Pounds per mile, exclusive of the value of any land or buildings used or occupied in connection therewith.

**86** Where any building is occupied in apartments or portions by more persons than one, the Council shall assess the annual value of such apartments or portions separately.

Portions of build-  
ings separately  
occupied to be  
separately  
assessed.

**87** The Council may cause a valuation to be made of all lands and buildings within the City by some competent person or persons appointed by the said Council for that purpose ; and the Assessment so to be made by the said Council as ~~before~~ *before* may be made upon such valuation ; and before any such valuation is made the person or persons appointed to make such valuation shall make and subscribe a solemn Declaration to make such valuation truly, fairly, and impartially according to the best of his or their judgment ; and a Minute shall be made by the Town Clerk on the book of proceedings of

Valuators may be  
appointed.

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the said Council of the making and subscribing of such Declaration and of the date thereof; and any Justice to whom application is made for such purpose shall administer such Declaration.

Penalty on  
occupier refusing  
to disclose name of  
owner of property.

**88** If, on the request of any Valuator appointed as aforesaid, or of any Alderman, or of the Town Clerk, or of any Collector of Rates, the occupier of any property refuses or wilfully omits to disclose, or wilfully misstates to such Valuator, Alderman, Town Clerk, or Collector making such request, the name of the owner of such property, or of the person receiving or authorised to receive the rents of the same, any Justice of the Peace, upon being satisfied by a statement made on oath before him that such request had been made and had been refused, or that any such wilful omission or misstatement as aforesaid had been made in reply to any such request as aforesaid, may summon the person who has so refused or wilfully omitted or misstated as aforesaid to appear at a time and place to be mentioned in such summons before such Justice, or before such other Justice as may then be there; and if the person so summoned neglects or refuses to attend at the time and place mentioned in the summons, or attends and does not show good cause to the Justice then present for his refusal or wilful omission or misstatement, such Justice, upon proof in case of the neglect or refusal to attend of the due service of the summons, may impose a penalty upon such persons not exceeding Five Pounds.

Notice of Assess-  
ment to be  
published.

**89** Upon any such Assessment being made the Council shall cause a Notice thereof to be published in the *Gazette*, and every such Notice shall be in the form and shall contain the particulars given in the Schedule (8.) hereto; and the Council shall cause copies of such *Gazette* to be kept fixed on the Town Clerk's Office, and on the doors of the Court House and Police Office, within the City, for the period of at least Ten days previous to the day for hearing Appeals as hereinafter mentioned: Provided that no such Assessment shall be invalidated by reason that a copy of such *Gazette* has not been affixed or published in every place and for the full time required hereby for the publication thereof, but the person charged with the duty of publishing or affixing such copy of *Gazette* who makes default in such publication or affixing shall forfeit a penalty not exceeding Ten Pounds for each such default, to be recovered in a summary way before any Two Justices of the Peace.

Unoccupied pro-  
perty to be  
described in  
Notice of Assess-  
ment as "empty."

**90** If at the time of making any Assessment under this Act any property is unoccupied, or the name of the owner of any property is unknown to the Council, such property shall nevertheless be included in the notice of such Assessment, and shall be described in the column appropriated to the name of the occupier as being "empty," or the owner of such property shall be described by the designation of "the owner" without stating his name, as the case may be; and if any person afterwards occupies such property, or if the name of the owner of such property afterwards becomes known to the said Council, the said Council shall insert in the Assessment Roll the name of such occupier or owner, as the case may be.

Assessment Roll  
annually.

**91** After the holding of the Court of Appeal as hereinafter mentioned and the determination of all Appeals, the Town Clerk shall, in each and every year, forthwith cause to be made a List containing a full and true account of each property assessed, the annual value at which

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the same are respectively assessed, and the names of the owners and occupiers thereof, which list shall be signed by the Mayor and Town Clerk, and shall be and be called the Assessment Roll of the City; and every Citizen or Ratepayer of the City shall have access to the Assessment Roll at all reasonable times, and be permitted to inspect the same without fee or reward; and if the Town Clerk neglects in any year to make the Assessment Roll, or refuses to allow any Citizen or Ratepayer to inspect the same as aforesaid, then and in every such case such Town Clerk shall forfeit and pay for any such offence the sum of Five Pounds.

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**92** When and as often as any change takes place in the ownership or occupation of any assessed land or building, the Council shall, upon satisfactory proof being given of such change, cause the Assessment Roll to be amended by striking out the name of the person who theretofore owned or occupied such land or building, and inserting instead thereof the name of the person who becomes the owner or occupier of such land or building.

Provides for amendment of Assessment Roll in case of change of ownership or occupation.

**93** If it shall at any time appear to the Council that the name of any person who ought to be included in the Assessment Roll has been omitted therefrom, or that the name of any person has been inserted therein as the owner or occupier of any property in respect of which the name of some other person ought to have been inserted, or that any other alteration, amendment, or addition is necessary in or to such Assessment Roll, the Council shall cause to be added to, or inserted therein, the name of any person so omitted, together with the value at which the land or building ought to be assessed, and also cause to be inserted and substituted the name of any person who is the actual owner or occupier of any property instead of and for the name of the person incorrectly inserted in such Assessment Roll; and the Municipal Council shall cause to be added to, or inserted in, such Assessment Roll the name of any person being the owner or occupier of any newly erected building, together with the value at which such building ought to be assessed.

Provides for amending Assessment Roll in cases of omission, &c.

**94** Every such insertion, addition, alteration, or amendment to or in the Assessment Roll as is hereinbefore mentioned shall be valid and effectual to all intents and purposes: Provided that notice of every such insertion, addition, alteration, or amendment shall be given to all persons thereby affected, and opportunity afforded to such persons to appeal to the next Court of General Sessions of the Peace holden within in the City not less than Fourteen days after such notice against such insertion, addition, alteration, or amendment being made; and every such person shall be entitled to appeal to such General Sessions in the same manner as persons are hereinafter entitled to appeal to the Special General Sessions of the Peace: Provided also, that no such notice shall be required in the case of any person who has left the Colony, or who cannot upon reasonable search being made be found.

Amendments of Assessment Roll to be valid. Appeal against amendments.

**95** The Assessment Roll so made by the Town Clerk as aforesaid, and all entries made therein in manner by this Act directed, shall, upon the production thereof alone, and without any evidence that the requirements of this Act have been complied with, be received as *prima facie* evidence of the facts therein mentioned.

Assessment Roll and amendments evidence.

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If Assessment  
Roll not com-  
pleted, Rates may  
be levied on the  
Roll of previous  
year.

**96** Where from any cause the making of the Assessment Roll shall not be completed in any year within the time prescribed by Law, the Assessment Roll in force for the preceding year shall, subject to such insertions, additions, alterations, or amendments as are mentioned in this Act, be deemed to be and shall be the Assessment Roll, and shall remain and continue in force for such first-mentioned year, and Rates may be lawfully made and levied upon the annual value of the property within the City as shown by such Roll.

Errors or infor-  
malities not to  
invalidate  
Assessment Roll.

**97** No error or informality, either in the mode of making the Assessment or in the constitution of the Court of Appeal held for the purpose of hearing Appeals from such Assessment, shall vitiate or render invalid any Assessment Roll, or any Rate duly made thereunder, provided that the requirements of this Act as to the publication of Notice of such Assessment have been complied with, and opportunity has been afforded to every person affected by such Assessment to appeal against the same in the manner prescribed by this Act.

*Appeals from Assessments.*

Sessions to be  
holden for hearing  
Appeals against  
Assessment.

Notice thereof to  
be given.

**98** A Court of Special General Sessions of Justices of the Peace residing within the City, presided over by the Chairman of General Sessions for *Hobart*, or in his absence by a Chairman selected from among themselves, shall be holden within Twenty-one days and not less than Fourteen days after the publication in the *Gazette* of any such Notice of Assessment as aforesaid for the purpose of hearing Appeals from such Assessment; and Notice of the holding of such Court, and of the time and place at which the same will be holden, shall be given by the Clerk of the Peace in the *Gazette*, and in One newspaper at the least published in the City, not less than Seven clear days before the same takes place.

*Gazette* con-  
taining Notice of  
Assessment to be  
evidence.

**99** The *Gazette* containing any such Notice of Assessment shall, upon the production thereof alone and without any proof, be received at such Court of Appeal as *prima facie* evidence of the facts in such Notice mentioned.

Grounds of  
Appeal.

Court to deter-  
mine same, and  
correct Assess-  
ment.

Notice of Appeal  
to be given.

**100** It shall be lawful for any Citizen or any other person affected by any such Assessment, or for the Attorney or Agent of any Citizen or of any such other person, to appeal from such Assessment to such Court of Appeal in respect of any property included in such Assessment, either on the ground that any land or building occupied by or belonging to the Citizen or other person appealing is overvalued, or that he or she is erroneously stated in such Assessment to be the owner or occupier of any land or building, or that the land or building of some other Citizen or person is undervalued, or is omitted altogether from the said Assessment, or on the ground of any other inequality or unfairness of such Assessment; and the said Court shall hear and determine all such Appeals as are made thereat, and shall have power to alter such Assessment or to confirm the same, and also to correct any mistake and supply any omission which is proved to the said Court to have been made in such Assessment.

**101** No such appeal as aforesaid shall be entertained by the said Court of Appeal unless notice in writing of such appeal, specifying the grounds thereof, is given by the Appellant to the Municipal Council

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by leaving such notice with the Town Clerk at his Office at least Four days previous to the day of holding such Court; and in case it appears to such Court that any such appeal is frivolous or vexatious, it shall be lawful for the Court to award such costs not exceeding Five Pounds as to such Court seems meet against the party so appealing, and such costs shall be recovered in a summary way.

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Costs.

**102** It shall not be lawful for any Justice of the Peace to act or sit as Justice at any Court of Special General Sessions held within the City of *Hobart* for the purpose of hearing Appeals against Assessment who is either an appellant or agent for any appellant in any appeal to be heard at such Court.

Sessions to be holden for appeal against Assessment.

**PART XI.****RATES.**

**103** It shall be lawful for the Council, at yearly or half-yearly or such other periods as to the Council may seem necessary, to make and levy Rates, for the purpose of improving, maintaining, and repairing the streets of the said City, and for draining, cleansing, and lighting the said City, and such Rates when received shall form part of the Municipal Fund hereinafter mentioned: Provided that it shall be lawful for the Council to make and levy separate Rates for improving or maintaining and repairing the streets of the said City, or for draining and cleansing or for lighting the said City, or one general Rate for all or any of the purposes aforesaid: Provided also, that such Rates so to be made and levied for the purposes aforesaid shall not in any case, collectively or separately, and together with any other Rate or Rates which the Council is by any other Act empowered to make and levy for the same purposes, exceed the sum of One Shilling and Sixpence in the Pound in any one year upon the assessed annual value of the lands and buildings within the said City.

Council empowered to levy Rates.

"ninepence"  
63 pence 70

**104** Upon the making of any Rate which the Council is by any Law empowered to make, a Notice signed by the Mayor and not less than Five Aldermen, specifying the amount of the Rate, the purpose and period for which the same is made, and at what times the same is payable, shall be published in the *Gazette*; and upon any such Notice being so published, the Rate therein mentioned shall be payable and paid at the times specified in such notice by the respective occupiers of all assessed lands and buildings within the City, according to the annual value of such lands and buildings as ascertained and determined by the Assessment Roll then in force for the City; and it shall not be necessary in any such Notice to set forth the names of the persons liable to the payment of the Rate, or the sums which according to such Rate such persons are liable to pay, or any other particulars than hereinbefore in that behalf mentioned.

Upon making a Rate, notice of same to be given.

Rates payable by occupiers.

**105** All Rates made and imposed by the Council, unless it is otherwise specially provided by any Act hereafter passed, shall be payable in advance in such portions and at such periods as the Municipal Council from time to time appoints; and all the provisions hereinafter contained

Rates to be payable in advance.

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referring to the payment and recovery of any Rate shall apply to the payment and recovery of any such portion of any Rate.

Proportion of Rate in arrear recoverable from persons becoming occupiers after time fixed for payment of same.

**106** If any person becomes the occupier of property after the time at which any portion of a Rate payable in respect of such property is appointed to be paid, whether such property was occupied or unoccupied at such time, and such portion of such Rate is in arrear and unpaid, such person shall be liable to pay and shall pay such portion of such Rate so in arrear and unpaid, deducting therefrom a sum proportionate to the period which elapsed after the time when such portion of such Rate was appointed to be paid, and before the time when such person became such occupier: Provided, that nothing in this Section contained shall be deemed to relieve the occupier, if any, of such property at the time when such amount of Rate so in arrear and unpaid was appointed to be paid from his liability to pay the same; but such amount of Rate shall be recoverable from such last-mentioned occupier, subject to the deduction of any portion thereof which may have been paid by or recovered from any other person.

Rates on property under £20, &c. to be paid by owner.

**107** All Rates payable in respect of property the assessed annual value of which does not exceed Twenty Pounds, or which is let to weekly or monthly tenants, or payable in respect of buildings let in separate apartments or portions, shall be payable and shall be paid by the owner instead of the occupier or occupiers thereof.

Where any property shall be let as aforesaid, the person letting the same, or receiving the rents for the same, shall be deemed to be the owner thereof for the purposes of this Section.

Allowance to owners in case of unoccupied buildings assessed at Twenty Pounds and under.

**108** If any building, the assessed annual value of which does not exceed Twenty Pounds, shall be unoccupied at the time at which any Rate payable in respect of such building is appointed to be paid, the owner of such building shall not be liable for such Rate; but when and so soon as such building is occupied the owner shall then be liable to pay, and shall pay such Rate, deducting such portion thereof as is proportionate to the period which has elapsed since the time when such amount of Rate was appointed to be paid, and until the time when such building became occupied.

Occupiers under existing leases to repay owner.

**109** Where any owner is liable to the payment of Rates in respect of any property in the occupation of a tenant under a lease or agreement made prior to the commencement of this Act, such occupier shall repay to the owner all sums paid by him during the continuance of such lease on account of such Rates, unless it has been agreed between such owner and occupier that the owner shall pay all Rates in respect of such property; and every sum so payable by the occupier to the owner may be recovered, if not paid upon demand, as arrears of rent could be recovered from the occupier by the owner.

Rates payable by owners may be recovered from occupiers.

**110** When the owner of any property is liable to the payment of any Rate in respect thereof, and such Rate remains unpaid for one month, the Municipal Council or any Collector of Rates may demand and recover the amount of such Rate from the occupier of such property; and every such occupier is hereby empowered to deduct from the rent payable by him to such owner so much as was so paid by or recovered from such occupier.



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**111** Provided always, that no such occupier shall be required to pay any further sum than the amount of rent due from him to the owner at the time of the demand made upon him for the amount of the Rate, or which after such demand, and after notice not to pay rent to the owner, at any time accrues and becomes payable by him, unless he refuses, on application being made to him for that purpose by the Town Clerk or any Collector of Rates, truly to disclose the amount of his rent, and the name and address of the owner; and the proof that the sum demanded from any such occupier is greater than the rent due by him at the time of such demand, or which accrued since such demand and notice, shall be upon such occupier.

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Occupiers not liable for more Rate than rent due.

**112** In case there is no occupier of any property, or the occupier cannot be found or is not known, the Rates payable in respect of such property shall be payable by and recoverable from the owner in the first instance, who shall be entitled to recover the same from the tenant (if any) as money paid to his use, or, if not paid on demand, by distress as for rent in arrear.

If occupier not found, owner to pay Rates.

**113** When the occupier of any property liable to the payment of any Rate fails for a period of Three months to pay the same, any Collector of Rates may, notwithstanding the issue of any Warrant of Distress for the recovery of such Rate from such occupier, at any time within Twelve months after such Rate became payable, demand payment thereof from the owner of such property, and if not paid upon demand the same may be recovered from such owner as if he had been originally liable to pay the same.

Owner to pay Rates in default of occupier.

**114** If, on the request of any Collector of Rates or other officer of the Municipal Council, the occupier of any property refuses or wilfully omits to disclose, or wilfully misstates to the Collector or officer making such request, the name of the owner of such property or of the person receiving the rents of the same, such occupier shall be liable to a penalty not exceeding Five Pounds.

Occupier refusing to give name of owner liable to penalty.

**115** If any person liable to pay any Rate then payable shall quit or be about to quit the property in respect of which such Rate is payable, and before payment of such Rate, the same may be recovered by Warrant of Distress, although the space of Fourteen days has not elapsed since the same was demanded.

Remedy against persons quitting before payment of Rates.

**116** The Municipal Council shall not levy or raise any Rate whatever in respect of any of the properties hereinafter mentioned (that is to say)—

Certain property exempted from Rates.

Any lands or buildings the property of and occupied on behalf of Her Majesty :

Any lands or buildings hired or used by the Government of *Tasmania* for any public purpose :

Any Hospital, Benevolent Asylum, or other building used solely for charitable purposes :

Any Public Library or Public Museum :

Any Public School under "The Education Act :"

Any church, chapel, or other building used solely for Public Worship.

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Rates may be  
remitted on  
account of poverty.

**117** It shall be lawful for the Municipal Council, upon the complaint of any person liable to the payment of any amount of Rate, to remit or excuse the payment thereof, or any part thereof, on account of the poverty of such person.

Rates leviable by  
distress.

**118** All Rates imposed by the Municipal Council shall be paid to the Corporation by the persons liable to pay the same; and in case any such person neglects or refuses to pay the amount of any such Rate to a Collector of Rates, or to the Treasurer or Town Clerk at the Town Clerk's Office, for the space of Seven days after the same has been demanded, either personally or in writing, by any Collector of Rates appointed under this Act, it shall be lawful for the Mayor, and he is hereby authorised and empowered, by warrant under his hand to distrain the goods and chattels of such person, whether the same are on the property assessed or elsewhere, and to cause such goods and chattels when distrained to be sold, and out of the moneys to arise by such sale to pay all costs, charges, and expenses attendant upon such distress and sale, and in the next place to pay the amount of the Rate for which such distress and sale are made, and to pay over the surplus (if any) to such person whose goods and chattels have been so distrained and sold as aforesaid; and in the event of any distress so made as aforesaid not realising sufficient to pay such Rate, costs, charges, and expenses as aforesaid, it shall be lawful for the Mayor from time to time to make further and other distress in manner aforesaid, until the whole amount of such Rate, costs, charges, and expenses has been fully paid: Provided always, that it shall not be lawful for the Mayor to issue any Warrant of Distress as herein mentioned unless and until complaint has been made before him that the person liable to pay the Rate in respect of which such Warrant of Distress is issued has been summoned to show cause why such Rate should not be paid.

Service of  
demand of Rate.

**119** The demand mentioned in the immediately preceding Section may be made in writing, or partly in writing and partly printed, with the name of the Collector signed or printed thereon, and may be served personally on the person liable, or by leaving the same at his usual or last known place of abode, or by forwarding the same by post addressed to his usual or last known place of abode; and whenever any such demand is sent by post, the Collector shall retain a duplicate of the demand; and the production by the Collector of such duplicate shall be evidence of the demand having been delivered to the person to whom it is addressed on the day on which such demand would in ordinary course of post have been delivered.

All goods found  
on property liable  
for Rates.

**120** All goods and chattels whatsoever found upon the property in respect of which any Municipal Rate is payable, to whomsoever the same may belong, and notwithstanding any previous seizure or possession thereof by any landlord under any Warrant of Distraint for the recovery of rent, or by the holder of any Bill of Sale, shall be liable to be taken under any Warrant of Distress issued for the recovery of such Rate.

Form of Distress  
Warrant.

**121** The Warrant of Distress for the recovery of any Rate may be in the form or to the effect in the Schedule (9.); and in all cases where a distress is by this Act authorised to be made, every Constable

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shall, upon being required by a Collector of Rates, aid in making a distress or sale pursuant to such warrant, and any Constable who refuses so to do shall be liable to a penalty not exceeding Five Pounds. A.D. 1893.

**122** No distress made under the authority of this Act shall be deemed unlawful, or the person making the same be deemed a trespasser, on account of any defect or want of form in the Warrant of Distress or in any other proceeding relating thereto; nor shall the person distraining be deemed a trespasser *ab initio* on account of any irregularity which he may afterwards commit, but the person aggrieved by such irregularity may recover full satisfaction for the special damage in an action on the case. Distress not unlawful for want of form.

**123** Any overdue and unpaid Rate may be recovered from any occupier of the property in the same manner as if such occupier had been originally liable to the payment of such Rate, and the production of the receipt for any such overdue Rate paid by or recovered from any tenant not originally liable for payment of the same shall be a discharge for the sum so paid or recovered in payment of rent to the landlord, and the landlord shall be entitled to recover from the person who was tenant of the property when such overdue Rate became payable the proportion of such Rate for which such tenant was liable as money paid to the use of such tenant. Unpaid Rate recoverable from present occupier.

**124** Notwithstanding anything hereinbefore contained, if the owner or occupier of any lands or buildings shall refuse or neglect, for the space of Seven days after the same has been demanded, to pay any Municipal Rate which now is or hereafter may be due, owing, or payable by such owner or occupier, such Rate, or any part thereof, may be recovered with costs by action of debt in any Court of competent jurisdiction, and in every case in which a Warrant of Distress has been issued for the recovery of any unpaid Rate as hereinbefore provided, the Treasurer of the Corporation may take proceedings under "The Small Debts Act, 1887," to attach any debts owing to the person against whom such Warrant of Distress has issued in the same manner as if the Corporation had obtained a judgment for the amount of such unpaid Rate. Owners may be sued in any Court of competent jurisdiction.

**125** No misnomer, mistake, or informality committed in any proceedings for recovery of any Rates, charges, or expenses under this Act shall prejudice the recovery thereof, nor shall such proceedings fall, lapse, cease, or abate by the death, resignation, or removal of the Collector instituting the same, or by any change in the persons composing the Council; but it shall be lawful for the Collector for the time being to prosecute and follow forth procedure commenced and carried on in the name of any previous Collector in all respects as if such procedure had been taken by himself, and it shall not be competent for any person to sue, nor for any Court to entertain any action or proceeding against the Council, or any Collector, or any person employed in executing any Warrant of Distress in reference to any Rates, charges, and expenses under this Act, by reason of any misnomer, mistake, or informality if the goods or other effects seized or sold under such Warrant were *bonâ fide* the property or in the lawful possession of the person actually liable in payment thereof under the provisions of this Act. Misnomers, &c. not to affect proceedings for recovery of Rates.

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Rates not recover-  
able later than  
Six years after  
they become due.

**126** Notwithstanding anything contained in this Act, no summons or warrant shall be issued or any other proceedings commenced for the recovery of any Rate or instalment of any Rate at any period after the expiration of Six years from the time when such Rate or instalment of Rate is made payable by such Notice as in this Act is mentioned.

*Power to take and lease Land for Arrears of Rates.*

Power to take  
possession of and  
lease property on  
which arrears of  
Rates are due.

**127** Where any rateable property in the said City is unoccupied and the Rates thereon accrued under any Act heretofore in force or this Act have been unpaid for Five years, the Council may in the name of the Corporation take possession of such property, and may hold the same as against any person interested therein, and from time to time grant leases of the same subject to the provisions hereinafter contained.

Notice to be given  
before taking  
possession.

**128** The Council shall not take possession of any such property until One month after a notice in writing setting forth that Rates in respect of such property are unpaid and demanding payment thereof, and stating that in default of such payment the Corporation will take possession thereof under the provisions of this Act, has been served on every person in *Tasmania* entitled to an estate of freehold in possession in such property or to the possession of such property under any lease whose name and address is known to the Council, or, if there is no such person whose name and address is so known, has been affixed to some conspicuous place on such property; and every such notice served on any person shall contain a sufficient description of the property to identify the same, but every lease of such property which shall be granted by the Council otherwise in accordance with the provisions of this Act shall be valid notwithstanding the non-compliance with any of the provisions of this Section unless all arrears of Rates due in respect of such property are paid and a release demanded from the Council within Twelve months after the Council take possession.

Release of  
property after  
demand and pay-  
ment of arrears.

**129** Within Three months after demand by any person who but for the provisions of this Act would be entitled to the possession of any such property made within Thirty years after the taking possession thereof on the part of the Council, and after payment of all Rates due in respect thereof and interest upon all arrears of such Rates at the rate of Eight Pounds per centum per annum, the Council shall execute under the Common Seal of the Corporation a release of such property from all Rates due in respect thereof; and if the Council make default in executing such release, the Supreme Court in its equitable jurisdiction may, at the suit of any person interested in that behalf, compel them so to do, and, upon the execution of such release subject to any lease theretofore lawfully granted by the Council under the provisions of this Act, such person or persons shall be entitled to such property and the possession thereof as would have been so entitled if this Act had not passed; and any tenant of such property under any such lease shall attorn to such person or persons accordingly.

Lease.

**130** Every such lease shall be for such term not exceeding Seven years as to the Council may seem fit, and shall reserve the best rent which can be reasonably obtained for such property, and shall contain and be subject to such other reservations and such exceptions, covenants, and conditions as to the Council may seem fit.

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**131** All rent and other moneys payable under any such lease shall, until the execution of a release as hereinbefore mentioned, or the expiration of Thirty years from the Council's taking possession, which shall first happen, be received by the Treasurer of the Corporation, and shall be applicable—

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Application of rents.

- i. In defraying the expenses of and incidental to the execution of such lease and the collection of the rents:
- ii. In payment to the Council of all arrears of Rates and other payments due in respect of such property, together with interest on all arrears of Rates at the rate of Eight Pounds per centum per annum from the time such Rates shall have become due respectively, and in payment of all Rates and other payments accruing due thereon:

And the residue of any such moneys shall belong to such person or persons as would when the same respectively were received have been entitled to receive the rents and profits of such property if this Act had not passed; and the Treasurer of the Corporation shall deal with such residue in all respects as persons in the public service are directed to deal with money coming to their possession or control by virtue of their office or employment, for or on account or for the use or benefit of any other person under any law now or hereafter to be in force relating to the collection and audit of the public moneys and accounts; and all the provisions of any such law applicable to moneys so received by persons in the public service shall be applicable to such residue.

**132** Unless some person entitled in that behalf perform the conditions entitling him to demand a release of any property of which the Council has taken possession under the foregoing provisions within Thirty years after such taking possession, such property and all accumulations of rent and other moneys on account thereof shall vest absolutely in the Corporation.

After Twenty-one years property to vest in Municipality.

**133** On taking possession of any property as aforesaid, the Council shall cause to be affixed upon some conspicuous part thereof a notice that such property has been taken possession of by the Corporation under the provisions of this Act, and is to be let on lease.

Notice to be affixed on taking possession.

**PART XII.****MORTGAGES OF RATES.**

**134** Whenever the Corporation is by any Law authorised to borrow money upon the security of any Municipal Rates, and no other mode is specially provided, such money shall be raised by Mortgage of such Rates in manner following.

General provisions regulating the borrowing of money by mortgage of Rates.

**135** Every mortgage in security of Rates shall be by Deed under the Common Seal of the Corporation, and may be according to the form in the Schedule (10.) or to the like effect; and the respective mortgagees in security shall be entitled one with another to their respective proportions of the Rates comprised in such mortgages, according to the respective sums in such mortgages mentioned to be advanced by such mortgagees respectively, and to be repaid the sums so advanced, with interest, without any preference one above another by reason of the priority of advancing such moneys or of the dates of any such mortgages.

Form of Mortgage of Rates.

Repealed by 58 Vict. No. 29

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Mortgages to be registered and enrolled.

**136** A register of such mortgages in security shall be kept by the Town Clerk, and in the event of separate sums being borrowed on security of separate Rates a separate register shall be kept for each class of mortgages in security; and a copy of every such mortgage shall within One month after the date thereof be delivered by the mortgagee to the Registrar of Deeds, who is hereby authorised and required to receive and keep the same on payment of a fee of Ten Shillings and no more; and any such copy may at all reasonable times be perused and inspected at the Office of the said Registrar upon payment of a fee of Two Shillings and Sixpence.

Transfers of Mortgages.

**137** Any person entitled to any such mortgage may transfer his right and interest therein to any other person; and every such transfer shall be by Deed wherein the consideration is truly stated, and may be according to the form in the Schedule (11.) or to the like effect.

Repealed by 58 Vict. No. 29  
Transfers to be registered and enrolled.

**138** Within One month after the date of any such transfer a copy thereof shall be deposited by the transferee with the Registrar of Deeds, who is hereby authorised and required to receive and keep the same on payment of a fee of Ten Shillings and no more, and any such copy may at all reasonable times be perused and inspected at the Office of the said Registrar upon payment of a fee of Two Shillings and Sixpence; and every such transfer shall also within One month from the date thereof be produced to the Town Clerk, and thereupon such Town Clerk shall cause an entry thereof to be made in the same manner as in the case of an original mortgage in security, and for every such entry the Town Clerk may demand the sum of Five Shillings, and after such entry every such transfer shall entitle the transferee, his executors, administrators, and assigns, to the full benefit of the original mortgage in security, and the principal and interest thereby secured, and such transferee may in like manner transfer the same again *toties quoties*; and it shall not be in the power of any person except the person to whom the same shall have been last transferred, his executors, administrators, or assigns, to make void, release, or discharge the mortgage so transferred, or any money thereby secured.

Power to borrow money at a lower rate of interest to pay off securities at a higher rate.

**139** If the Corporation can at any time borrow any sum of money, in order to pay off and discharge any security given by the Corporation and then in force, at a lower rate of interest than such existing security bears, it shall be lawful for the Corporation to borrow such sum for such purpose, and to charge the Rates authorised to be mortgaged in security, or any part thereof, with payment of such sum and such lower rate of interest, in such manner and subject to such regulations as are herein contained with respect to other moneys borrowed on mortgage in security of Rates.

Repayment of money borrowed when no time has been agreed upon.

**140** If no time be fixed in the mortgage-deed in security for the repayment of the money so borrowed, the party entitled to receive such money may at the expiration or at any time after the expiration of One year from the date of such deed demand payment of the principal money thereby secured, with all arrears of interest, upon giving Six months' previous notice for that purpose; and in the like case the Corporation may at any time pay off the money borrowed on giving the like notice; and every such notice shall be in writing or print, or both, and if given by a mortgagee or transferee shall be delivered to the Town Clerk or left at his Office, and if given by the Council shall be

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signed by the Town Clerk, and be given either personally to such mortgagee or transferee or left at his residence, or if such mortgagee or transferee be unknown to the Council, or cannot be found after diligent enquiry, such notice shall be given by advertisement in the *Gazette*. **A.D. 1893.**

**141** If the Council gives notice of the intention of the Corporation to pay off any such mortgage in security at a time when the same may lawfully be paid off, then at the expiration of such notice all further interest shall cease to be payable thereon, unless on demand of payment made pursuant to such notice, or at any time thereafter, the Corporation fails to pay the principal and interest due at the expiration of such notice on such mortgage in security. **Interest to cease on expiration of notice to pay off a mortgage debt.**

**142** Whenever the Corporation is enabled to pay off one or more of the mortgages in security which are then payable, and is not able to pay off the whole of the same class, the Council shall decide the order in which they are paid off by lot among the class to which such one or more of the mortgages in security may belong, and shall cause a notice signed by the Town Clerk to be given to the person entitled to the money to be paid off pursuant to such lot; and such notice shall express the principal sum so proposed to be paid off, and that the same will be paid, together with the interest due thereon, at a place to be specified at the expiration of Six months from the date of giving such notice. **Mode of paying off mortgages.**

**143** Until every mortgage in security of any Rate or Rates is paid off, the Council shall periodically continue to make and levy such Rate or Rates so as to raise an amount equal to the maximum amount raised by such Rate or Rates at the time of effecting any such mortgage then subsisting; and in case the Council at any period during the continuance of any such mortgage neglects or refuses to make and levy any such Rate or Rates so mortgaged so as to raise such amount, the said Council shall be compelled so to do by the Supreme Court by Mandamus. **During continuance of mortgage, Council to continue to make and levy the Rates mortgaged.**

**144** It shall not be lawful for any mortgagee or transferee in security as aforesaid to enter into the receipt or possession of such Rates so mortgaged as aforesaid until default is made in payment of the interest due upon such security for the space of Twenty-eight days, and unless after demand thereof in writing the same is not paid within such time; and in case after demand made as aforesaid any such interest is not paid within such time as aforesaid, or in case within Six months after the principal money owing upon any such mortgage in security becomes payable, and after demand thereof in writing the same is not paid, together with all interest due in respect thereof, or if in any case in which no time is fixed in the mortgage-deed in security for the repayment of the money borrowed repayment thereof is demanded as hereinbefore provided, and the same, together with all interest due in respect thereof, is not paid pursuant to such demand, it shall be lawful for the mortgagee or transferee in security, his executors, administrators, or assigns, as the case may be, to enter into possession of such Rates so mortgaged, if no other mortgagee or transferee in security shall then be in possession, and to continue in such possession, and in receipt of such Rates as aforesaid until such interest, or until such principal and interest, as the case may be, together with all costs, including the charges of receiving the Rates aforesaid, are fully paid; and every mortgagee or transferee in security **Mortgagee may enter and receive Rates on default.**

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so in possession of such Rates shall have and exercise all powers for collecting and recovering the said Rates hereinbefore contained for those purposes; and if there is any other mortgagee or transferee in security as aforesaid in such possession as aforesaid, then such mortgage shall be deemed and taken to be a continuing security for the payment of the principal and interest mentioned in such mortgage until the same are fully paid and satisfied, notwithstanding the period for which such mortgage has been granted has expired.

Rates to be applied by mortgagee in possession *pari passu*.

**145** Any mortgagee or transferee in security as aforesaid, who so enters into the possession and receipt of such Rates as aforesaid, shall not apply such Rates which may consequently be received by him to his own exclusive use and benefit, but to and for the use and benefit of all other mortgagees and transferees in security, if any, of such Rates *pari passu*, and in proportion to the several sums which are due to them as such mortgagees or transferees in security.

## PART XIII.

## OFFICERS AND THEIR ACCOUNTABILITY.

Power to appoint Town Clerk and other Officers.

**146** The Council may from time to time appoint and employ a Town Clerk, Treasurer, and such Engineers, Surveyors, Superintendents, Collectors, and other Officers as the said Council thinks necessary and proper for the execution of the powers vested in the said Council, and from time to time may remove any of such Officers, and appoint others in the room of such as are so removed, or as may die, resign, or discontinue their offices, and may, out of the Municipal Fund, pay such salaries and allowances to the said Officers respectively as the Council thinks reasonable: Provided, that nothing herein contained shall prevent the same person from being appointed to hold more than one of such offices at the same time if the Council so thinks fit, and that no Mace-bearer or other Officer merely for parade or show shall be appointed.

Mayor may suspend Officers.

**147** It shall be lawful for the Mayor to suspend from office at any time any Officer or Servant of the Council who may in his opinion be guilty of misconduct or neglect, and if necessary temporarily to appoint another Officer or Servant to fulfil the duties of the Officer or Servant so suspended, and to take security when necessary for the faithful discharge of the duties of such Officer or Servant during his temporary appointment: Provided always, that at the next meeting of the Council after such suspension the Mayor shall report the matter to the Council, and should the Officer or Servant so suspended be dismissed by the Council no salary or wages shall be due or paid to him from and after the date of his suspension; and every Officer or Servant so temporarily appointed by the Mayor shall hold office and receive remuneration (which shall in no case exceed that paid to the Officer or Servant so suspended) until the Council decides whether the person suspended shall be reinstated or dismissed, and, if he is dismissed, until a successor is appointed in his stead.

Officer taking other than allowed fees to lose office, and forfeit £50.

**148** Every Officer employed by the Council who exacts or accepts on account of anything done by virtue of his office or in relation to the matters to be done under this or any other Act relating to



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the Corporation, any fee or reward whatsoever other than the salary or allowances allowed by the Council, or who is in anywise concerned or interested in any bargain or contract made by the Council, shall lose his office and be incapable of being afterwards employed by the Council, and shall forfeit the sum of Fifty Pounds; and any person may sue for such penalty by action of debt or on the case in the Supreme Court, and shall on recovery thereof be entitled to full costs of suit. **A.D. 1893.**

**149** Before any person, whether Town Clerk, Treasurer, Collector, or other Officer, who is entrusted by the Council with the custody or control of moneys, securities, or muniments by virtue of his office, shall enter upon such office, the Council shall take sufficient security for the faithful execution thereof. **Security from Officers.**

**150** Every Officer or person employed under the Corporation shall in books to be kept for that purpose, enter true accounts of all sums of money by him received and paid, and of the several matters for which such sums have been received or paid; and such books shall at all times be open to the inspection of the Mayor or any Alderman or Auditor, and shall with all vouchers and papers relating thereto be submitted to the Council in the months of *June* and *December* in every year, for the purpose of being examined and audited; and if the said Accounts are then found to be correct the Mayor shall sign the same. **Officers of the Corporation to keep books of account.**

**151** Every Collector or other Officer appointed or employed by the Municipal Council to receive or collect money shall, within Seven days after he has received any moneys belonging to the Corporation, pay over the same to the Treasurer, and the receipt of such Treasurer for the moneys so paid shall be a sufficient discharge to such Collector or other Officer; and every such Collector or Officer shall, in such time and in such manner as the Municipal Council directs, deliver to the Council true and perfect accounts in writing under his hand of all moneys received by him and of all moneys paid by him to the said Treasurer, and also a list of the names of all persons who have neglected or refused to pay any money owing by them, with a statement of the moneys due from them respectively. **Collectors, &c. to pay over moneys within Seven days to the Treasurer.**

**152** Every Collector and other Officer appointed or employed by the Municipal Council shall, from time to time when required by the Council, make out and deliver to the Council, or to any person appointed by the Council for that purpose, a true and perfect account in writing under his hand of all moneys received by him on behalf of the Corporation, and such account shall state how and to whom and for what purpose such moneys have been disposed of, and together with such account such Officer shall deliver the vouchers and receipts for such payments; and every such Officer shall pay to the Council, or to any person appointed by the Council to receive the same, all moneys which shall appear to be owing from him upon the balance of such accounts. **Officers to account.**

**153** If any such Collector or other Officer fails to render such accounts as aforesaid, or to produce and deliver up all the vouchers and receipts relating to the same in his possession or power, or to pay the **Summary recovery against parties failing to account.**

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balance thereof when thereunto required, or if for Five days after being thereunto required he fails to deliver up to the Council, or to any person appointed by the Council to receive the same, all books, papers, and writings, property, effects, matters, and things in his possession or power relating to the execution of his office or belonging to the Corporation, then on complaint thereof being made to a Justice such Justice shall summon such Officer to appear before two or more Justices, at a time and place to be set forth in such summons, to answer such charge; and upon the appearance of such Officer, or upon proof that such summons was personally served upon him or left at his last known place of abode, such Justices may hear and determine the matter in a summary way, and may adjust and declare the balance owing by such Officer; and if it appears, either upon confession of such Officer, or upon evidence, or upon inspection of the account, that any moneys of the Corporation are in the hands of such Officer, or owing by him to the Corporation, such Justices may order such Officer to pay the same, and if he fails to pay the amount it shall be lawful for such Justices to grant a warrant to levy the same by distress, and in default of sufficient distress to commit the offender to gaol, there to remain without bail for a period not exceeding Three months, unless the same is sooner paid.

Officers refusing to make out account and deliver up documents, &c. may be committed to prison.

**154** If any such Officer summoned as aforesaid refuses to make out such account in writing, or to produce and deliver to the Justices the several vouchers and receipts relating thereto, or to deliver up any books, papers, or writings, property, effects, matters, or things in his possession or power belonging to the Corporation, such Justices may commit such offender to gaol, there to remain until he has delivered up all the vouchers and receipts in his possession or power relating to such accounts, and all the books, papers, writings, property, effects, matters, and things in his possession or power belonging to the Corporation.

Where Officer about to abscond, a warrant may be issued in the first instance.

**155** If any Alderman, or other person acting on behalf of the Corporation, makes oath that he has good reason to believe, upon grounds to be stated in his deposition, and does believe that it is the intention of any such Officer as aforesaid to abscond, the Justice before whom the complaint is made may, instead of issuing his summons, issue his warrant for bringing such Officer before such two Justices as aforesaid; but no person executing such warrant shall keep such Officer in custody longer than Twenty-four hours without bringing him before some Justice; and the Justice before whom such Officer is brought may either discharge such Officer, if he thinks there is no sufficient ground for his detention, or order such Officer to be detained in custody so as to be brought before two Justices at a time and place to be named in such Order, unless such Officer gives bail to the satisfaction of such Justice for his appearance before such Justices to answer the complaint of the Corporation.

Proceedings against Officers not to discharge sureties.

**156** No such proceeding against or dealing with any such Officer as aforesaid shall deprive the Corporation of any remedy which it otherwise has against such Officer or any surety of such Officer.

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## PART XIV.

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## ACCOUNTS.

**157** The Council shall cause books to be provided and kept, and true and regular Accounts to be entered therein of all sums of money received and paid for or on account of the Corporation, and of the several purposes for which such sums of money have been received and paid, which books shall at all reasonable times be open to the inspection of the Mayor or any Alderman, ~~or Auditor~~, or any Mortgagee, Transferee in security of Rates, or other Creditor of the Corporation, without fee or reward, and the persons aforesaid, or any of them, may take copies of or extracts from the said books without paying anything for the same; and any Clerk or other person having the custody of the said books who does not on the reasonable demand of any person as aforesaid permit him to inspect the said books, or to take such copies or extracts as aforesaid, shall be liable to a penalty of Five Pounds for every such offence.

Accounts to be kept of receipts and disbursements.

**158** The Council shall, in the first week in the month of *January* in each year, cause the Accounts of the Corporation, up to and including the Thirty-first day of *December* next preceding, to be balanced, and also cause a full and true statement and account to be drawn out of the amount of all Assessments made and Rates levied, and of all contracts entered into, and of all moneys received and expended during the preceding year, and also of all debts then owing by and to the Corporation, and such statement and account signed by the Mayor and not less than Five Aldermen shall remain for inspection at the Town Clerk's Office; and every Creditor of the Corporation, or any person acting on behalf of any such Creditor, may, at all reasonable times, inspect such statement and account, and compare the same with the books and documents relating thereto in the possession of the Municipal Council.

Statement of accounts to be annually prepared.

Repeated by Vict. 11

**159** The Auditors shall, during the month of *January*, and as soon as conveniently may be after each annual balancing of the Corporation accounts, attend at the Town Clerk's Office and proceed to audit the accounts of the Corporation for the preceding year; and the Council shall, by the Treasurer, produce and lay before such Auditors the accounts so balanced as aforesaid, together with the statement and account hereinbefore mentioned, accompanied with proper vouchers in support of the same, and all books, papers, and writings in the custody or power of the Council relating thereto; and any person interested in the said accounts as a Creditor of the Corporation may be present at the audit of the said accounts by himself or his Agent, and may make any objection to any part of such accounts; and if the said accounts are found correct such Auditors shall sign the same in token of their allowance thereof.

Auditors to inspect accounts.

**160** Upon the annual accounts being so examined and audited as aforesaid, the Municipal Council shall cause a copy of such accounts, and of such statement and account as hereinbefore mentioned, each signed by the Mayor and not less than Five Aldermen and by the Auditors, to be delivered to the Clerk of each House of the Legislature of this Colony, in order that the same may be laid on the Table of such House; and the Treasurer shall make out and cause to

Publication of accounts.

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be printed a full abstract of the accounts for the year as audited ; and a copy of the said abstract shall be published in the *Gazette* within Fourteen days after such accounts have been so audited as aforesaid.

*Corporate Funds.*

All Corporate moneys to be paid to the Treasurer.

And form a fund called "The Municipal Fund."

**161** The rents and profits of all lands, buildings, market dues, tolls, and other hereditaments which belong to and are vested in the Corporation, and the interest, dividends, and annual proceeds of all moneys, dues, chattels, and valuable securities belonging or payable to the Corporation, and all moneys belonging or payable to the Corporation, shall be paid to the Treasurer ; and all moneys which he so receives shall be carried by him to an account to be called "The Municipal Fund," and shall be forthwith paid into some one of the Public Banks in this Colony to the account of "The Municipal Fund;" and no part of such moneys shall be drawn out of such Public Bank except by an Order signed by the Mayor and countersigned by one Alderman and the Treasurer.

*Certiorari.*

**162** Any Order of the Municipal Council, Mayor, Alderman, or Treasurer, for the payment of any sum of money out of the Municipal Fund, may be removed into the Supreme Court of *Tasmania* by Writ of *Certiorari*, to be moved for according to the usual practice of the said Court ; and such Order may be disallowed or confirmed upon motion and hearing, with costs, according to the judgment and discretion of the said Court.

*Appropriation of Corporate Funds.*

General appropriation of the Municipal Fund.

**163** All moneys payable to and received by the Corporation under this or any other Act relating to the Corporation, not otherwise specifically appropriated, shall be applied by the Council towards the payment of the allowance or salary (if any) made to the Mayor—of the respective salaries or allowances of the Treasurer, Town Clerk, and other Officers, Clerks, Workmen, Artificers, and other persons whom the Council appoints and employs,—the payment of the expenses incurred from time to time in the assessment of land and buildings, in preparing and printing Assessment Rolls and Polling Lists, and otherwise occasioned by Elections held under this Act,—the expenses of purchasing, erecting, and maintaining the Corporate and other buildings which belong to the Corporation,—the payment of all other expenses of the Corporation not otherwise provided for,—and generally in the improvement of the City, and carrying out and effectuating the several objects of this or any other Act relating to the Corporation.

**PART XV.****POWERS AND FUNCTIONS OF THE COUNCIL.***(1.) Hobart Rivulet.*

Hobart Rivulet within Town Boundary vested in the Mayor and Aldermen.

**164** Subject to all private rights and interests therein, if any, which shall have been acquired previously to the passing of this Act, so much of the *Hobart Rivulet* and the bed and soil thereof as is or shall be situate within the boundaries of the City of *Hobart*, as the same is defined in the Schedule (2.) hereto, together with the water flowing over

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and upon so much of the bed and soil of the said Rivulet as aforesaid, and the right of ingress and egress to and from so much of the said Rivulet for the purpose of inspecting and cleansing the same and repairing and making good the banks thereof, shall be and the same are hereby declared to be respectively vested in the Corporation for the use of the public for ever. A.D. 1893.

**165** So much of the said Rivulet as last aforesaid shall be under the supervision, control, and management of the Council; and it shall be lawful for the Council to use the bed and soil of so much of the said Rivulet, and the water flowing over and upon the same, as and for a sewer and for the cleansing of the said City; and so much of the said Rivulet, and the bed and soil thereof, shall be and be deemed and taken to be a sewer of and for the said City under the control and management of the Council. So much of the said Rivulet to be a sewer.

**166** The Council are hereby authorised and empowered, from time to time, to widen, divert, or alter so much of the said Rivulet as last aforesaid, or any part thereof, and to purchase and take, in accordance with the provisions of this Act, any land which may be required for the purpose of so widening, diverting, or altering so much of the said Rivulet or any part thereof. Mayor and Aldermen authorised to purchase land to widen, &c. the Rivulet.

**167** All land taken and purchased by the Council for the purpose of widening, altering, or diverting the said Rivulet shall, immediately upon the completion of the taking and purchase thereof, become vested in the Corporation. All land purchased to vest in the Corporation.

**168** It shall be lawful for the Council and its servants and assistants, with all necessary means and appliances, and they are hereby authorised and empowered, to enter upon and take possession of any land which shall become so vested in the Corporation for the purpose of widening, altering, or diverting the said Rivulet, and to take down and remove all buildings, erections, and things thereupon or thereover, and to sell or otherwise deal with and appropriate such buildings, erections, and things, and the materials thereof for the benefit of the Municipal Fund of the said City, and to dig up, excavate, and appropriate such land as and for the channel of the *Hobart* Rivulet. Land to be taken possession of, &c.

**169** If any person so as aforesaid interested in any such land as aforesaid which shall become vested in the Corporation under the provisions of this Act, or any other person whatsoever, shall knowingly and wilfully obstruct the Council or its servants in entering upon or taking possession of such land, or in taking down or removing any such buildings, erections, or things thereupon, or in otherwise dealing with, applying, or appropriating such land or any such buildings, erections, or things thereupon as aforesaid, every such person as aforesaid shall be deemed guilty of an offence against this Act, and shall upon conviction thereof be subject and liable to a penalty not exceeding Fifty Pounds. Penalty for obstructing Mayor and Aldermen in taking possession of land.

**170** The channel of the said Rivulet, as the same shall from time to time be widened, diverted, or altered by the Council under the provisions of this Act, shall be deemed and taken to be and shall be the *Hobart* Rivulet within the intent and meaning of this and all other Acts relating to the said Rivulet as if the same were the original channel of Channel as made by the Mayor and Aldermen to be the Hobart Rivulet.

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the said Rivulet, and shall be deemed to be and shall be vested in the Corporation as and for a sewer of and for the said City and for the cleansing thereof.

Power to enter upon Rivulet to cleanse, &c. same.

**171** The Council and its servants and assistants, with all necessary implements, means, and appliances, shall, without being deemed to be or being trespassers for so doing, at all times have power and authority, and they and each of them are hereby expressly authorised and empowered, to enter upon the bed and soil of so much of the said Rivulet as aforesaid as the same now is or hereafter may be when so widened, diverted, or altered as aforesaid, and to remove all obstructions thereon and encroachments thereupon or thereover, and also to construct such works therein as shall be necessary for facilitating the flow of water in the said Rivulet and the effecting the better drainage thereby of the said City, any law or usage to the contrary notwithstanding.

If Rivulet diverted part thereby rendered useless may be sold.

**172** Upon any part of so much of the said Rivulet as aforesaid being so diverted or altered as aforesaid, it shall be lawful for the Council, and they are hereby authorised and empowered, to grant, sell, alienate, assign, demise, assure, and convey for any estate, term, or interest, any portion of the said Rivulet which may have thereby ceased to be used as and for the channel of the said Rivulet, and the proceeds or any moneys thereby arising shall be applied in aid of the Municipal Funds of the said City.

Municipal Council authorised to have bed of Rivulet cleansed.

**173** The Council is hereby authorised to take all necessary steps for cleansing the bed or channel of the Rivulet, and for removing all obstructions therefrom, and for repairing and maintaining the banks or walls of the said Rivulet so as to secure an uninterrupted flow for the water and sewerage matter which may flow or be in the said Rivulet; and the Council shall perform such works in such a manner as far as practicable so as to prevent further injury to the health of the inhabitants of the said City caused by the noxious emanations arising from the accumulations of sewerage matter now existing or which may hereafter exist in the said Rivulet, and so as to prevent future damage accruing to life or property from the overflowing of the waters of the said Rivulet caused or aggravated by the presence in the bed of the said Rivulet and upon the banks thereof of obstructions to such flow of water as aforesaid; and for the like purposes the said Council shall from time to time thereafter keep the bed of the said Rivulet clear of such obstructions and free from such accumulations of sewerage matter as are hereinbefore referred to.

Expense of retaining walls to be borne by owners of lands abutting on Rivulet.

**174** Whenever the said Council shall see fit so to do, they shall be at liberty to call upon the owners of lands abutting upon the said Rivulet from time to time to erect, re-erect, or repair retaining walls of or with brick, stone, or other suitable material so as to support and uphold the banks of the said Rivulet, and of such height and thickness as the said Council may deem necessary; and if the owners of any land abutting upon the said Rivulet neglect during Fourteen days after notice in writing for that purpose, signed by the Town Clerk, to commence to erect, re-erect, or repair, or cause to be commenced to be erected, re-erected, or repaired, or shall neglect to complete within a reasonable time after such notice along and upon the banks of the said Rivulet such retaining walls aforesaid in the manner required by

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the Council, the Council may cause such retaining wall to be so erected, re-erected, or repaired along and upon the banks of the said Rivulet in such manner as the Council may deem necessary; and for the purposes of the erection or re-erection of such retaining walls or repairing the same, the Council, their agents, servants, and workmen, may enter upon any lands abutting on the said Rivulet without making any compensation therefor, and the expense incurred by the Council in respect thereof shall be repaid by the owners of such lands by whom the same ought to have been done; and if such owner refuses or neglects to pay such expense within One month after the same has been demanded, such expense shall be recoverable in the same way as any Municipal Rate is now recoverable by law; and such retaining walls shall afterwards be repaired and kept in repair by the owners of the abutting lands; and such retaining walls shall in every case be erected, re-erected, and repaired respectively under the supervision and to the satisfaction of the City Surveyor.

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**175** Any expenses incurred by the Council in erecting or repairing or re-erecting any such retaining wall as aforesaid, and remaining unpaid for the space of One month after the same has been demanded, shall be and remain a charge upon the land in respect of which such instalment is due, and continue so notwithstanding such land may be sold and transferred, and may be recovered at any time from the then owner of the land whether he be the owner at the time such instalment became payable or not at the suit of the Corporation in an action in any Court of competent jurisdiction as for a debt due by him, and if the then owner be not the owner at the time such instalment became payable, he shall be entitled to recover from the person who was the owner of such land when the instalment became payable the proportion of the instalment to which such person was liable as money paid to his use.

Unpaid expenses made a charge upon land.

**176** It shall not be lawful for the owner of any land abutting on the said Rivulet to erect any fence or retaining wall along that portion of his land which abuts on the said Rivulet without the permission in writing of the City Surveyor first obtained for any such purpose, except such owner has received the notice hereinbefore mentioned; and the Council may pull down and remove any fence or wall erected and abutting on the said Rivulet which, in the opinion of the City Surveyor, is erected in such a manner as to contravene the provisions or objects of this Act or the principal Act; and in any such case the Council may proceed to erect a retaining wall under the provisions of this Act.

Owner must not erect wall without sanction of City Surveyor.

**177** Any retaining wall to be erected under this Act may be erected either wholly on the bed of the said Rivulet or wholly on the land of the abutting owner, or partly on the bed of the said Rivulet and partly on the land of such abutting owner, as the Council or the City Surveyor may decide; but no compensation shall in any case be payable to the said abutting owner for the land upon which the said retaining wall or any part thereof may be built.

On what land wall may be built.

**178** If any building, wall, fence, or other thing, erected, standing, or being upon any land abutting on the said Rivulet is deemed by the City Surveyor to be likely to fall into or obstruct the flow of water in

Ruinous buildings and fences, &amp;c. to be removed by the owner;

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after notice  
Surveyor may  
remove same.

the said Rivulet, he shall, by notice in writing served personally upon the owner of such land, or posted to or left at his last known place of abode in *Tasmania*, require the owner of such land within Seven days after service of such notice to remove such building, wall, fence, or thing, or otherwise to prevent the same from falling into or obstructing the flow of water in the said Rivulet; and in case the owner of such land is not known or cannot be found, then the said Surveyor shall serve a like notice in like manner upon the occupier of the said land; and if after the expiration of the said period of Seven days the requirements of such notice have not been complied with, then it shall be lawful for the said Surveyor to enter into and upon the said land with such workmen as may be necessary, and forthwith to remove such building, wall, fence, or thing, or otherwise to prevent the same from falling into or obstructing the flow of water in the said Rivulet; and the necessary expenses incurred in and about the same may be recovered in the same way as any Municipal Rate is now recoverable by law; and where any sum of money is paid by any occupier, the same may be deducted from or set off against the rent then due or thereafter to become due to his landlord.

Removal of  
obstructions in  
Rivulet.

**179** When and so often as any building, wall, or fence, or any part thereof shall fall into the said Rivulet, or obstruct the flow of water in the same, such building, wall, or fence, and the materials thereof, shall forthwith, after notice requiring him so to do has been served upon him by the City Surveyor, be removed by the owner thereof, and if the owner shall not remove the same within Three days after service of such notice upon him, the expense of removing the same by the said Surveyor shall be defrayed by the owner of such building, wall, or fence, and if the same is not paid upon demand the amount shall be recoverable in the same way as any Municipal Rate is recoverable by law.

Where the owner of such building, wall, or fence is not known or cannot be found, then the occupier of the land whereon such building, wall, or fence was erected, built, or placed shall be liable to remove such obstruction, or to defray the cost of removing the same.

Owner of  
estate less than  
fee simple may  
recover contribu-  
tion from persons  
having estate  
in remainder, &c.  
39 Vict. No. 12.

**180** Every person, being the owner of an estate or interest less than an estate in fee simple in any land abutting upon the *Hobart* Rivulet, who shall have expended any sum of money in erecting, re-erecting, or repairing retaining walls as hereinbefore provided, or who shall have repaid to the Council any expense incurred by the said Council thereunder, or from whom such expense shall have been recovered as provided therein, shall be entitled to contribution towards the sum of money paid, or the expenses repaid or recovered as aforesaid from all persons having any estate in remainder or reversion in the said land; and the amount of such contribution may be recovered from the person liable to the contribution as if the same were money paid to the use of the person entitled thereto, and shall also be a charge upon the said land.

Proportion of  
contribution.

**181** The amount of the contribution to be made pursuant to the preceding Section shall be a sum which bears the same proportion to the sum of money paid, or the expenses repaid or recovered as aforesaid, as the case may be, as the value of the estate or interest owned by the contributor bears to the value of the fee simple in the said land.



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**182** Subject to the provisions of this Act, if any difference shall arise between persons as to the amount of the contribution to be made in accordance with the provisions of this Act, such difference shall be summarily decided by a Judge of the Supreme Court sitting in Chambers.

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Disputes as to amount of contribution to be decided by a Judge.

**183** It shall be lawful for the Judges of the said Court to make such Rules from time to time as they see fit for regulating the mode of deciding all such differences, and for prescribing the forms to be used in connection therewith.

Judges may make Rules.

(2.) *Markets.*

**184** All powers and authorities which by the Act of Council of the 5th *William* the 4th, No. 9, are vested in, or conferred upon, or made exercisable by the Governor, and all other matters and things which by virtue of the said Act of Council affect or relate to the Governor in respect of any Market which by virtue of Section One of the said Act of Council now is, or hereafter may be, proclaimed as such within the City of *Hobart*, are hereby transferred to and conferred upon, and shall hereafter be exercisable by, and affect and relate to the Municipal Council of *Hobart* in as full and ample a manner, to all intents and purposes, as though "The Municipal Council of the City of *Hobart*" was named in the said Act of Council instead of Governor.

Powers of Governor under 5 W. 4, No. 9, vested in Municipal Council of *Hobart*.

**185** All such moneys as are under this Act received by the Council by virtue of the said Act of Council in respect of any Market which now is or hereafter may be proclaimed within the said City, shall be applied by the Council to the erection and support of the Market or Markets in the said City and otherwise to defray the expenses occasioned thereby, and the surplus, if any, shall be applied in aid of the Municipal Fund of the said City.

Appropriates moneys received in *Hobart* by virtue of 5 W. 4, No. 9.

**186** All powers and authorities by the Act of Council of the 14th *Victoria*, No. 6, vested in, conferred upon, and made exercisable by the Commissioner or Commissioners therein mentioned, and all other matters and things which by virtue of the last-mentioned Act of Council affect or relate to such Commissioner or Commissioners in respect of the Market therein mentioned, are hereby transferred to and conferred upon, and shall hereafter be exercisable by, and affect and relate to the Council, as fully and amply to all intents and purposes as though "The Municipal Council of the City of *Hobart*" was named in the last-mentioned Act of Council instead of the Commissioner or Commissioners therein named.

Powers of Commissioners under 14 Vict. No. 6 vested in Council.

**187** Such surplus, if any, as is mentioned in Section Fourteen of the Act of Council of the 14th *Victoria*, No. 6, shall be applied by the Council to the erection and support of any Market or Markets other than the Market mentioned in the Act of Council of the 14th *Victoria*, No. 6, which now is or may hereafter be proclaimed within the City and otherwise to defray the expenses occasioned thereby, or if there is no such Market, or if after such appropriation to any such Market or Markets there is any further surplus, such surplus or further surplus shall be applied in aid of the Municipal Fund of the said City.

Appropriates surplus received by virtue of 14 Vict. No. 6.

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Power of Council  
to provide  
markets.

**188** In addition to the powers and authorities hereinbefore or by any previous Act vested in the Council in respect of any Market in the City of *Hobart*, the Council shall have the power within the said City:—

To provide market-places and construct market-houses and other conveniences for the purpose of holding markets:

To provide houses and places for weighing carts:

To make convenient approaches to such markets:

To provide all such matters and things as may be necessary for the convenient use of such markets.

Markets, &c.,  
tolls.

**189** It shall be lawful for the Council to demand, receive, and have of and from every person exposing or offering for sale or selling any corn, grain, hay, straw, meat, poultry, eggs, milk, butter, vegetables, or other provisions, or any cattle, in any market provided by the Council, or who shall rent or use any stall or standing place in such market, and also from every person who shall use any building, place, or machine provided by the Council for the weighing of carts, and from every person who shall at any time use for the sale of cattle any yards or premises within the said City and outside any market provided by the Council, such sums of money as and for stallages, rents, tolls, and dues, not exceeding such amounts as are authorised by the Governor in Council by general regulations to be from time to time made for the purpose, as are for the time being appointed by special order of the Council in that behalf.

Interpretations in  
this Part.

**190** The following words and expressions in this Part shall have the meanings hereby assigned to them, unless there is something in the subject or context repugnant to such construction; that is to say:—

“The market.”

The expression “the market” shall mean a market and the works connected therewith provided by the said Council:

“Cart.”

The word “cart” shall include waggon, and also any carriage used wholly or chiefly for the conveyance of goods:

“Driver.”

The word “driver” shall include the carter or other person having the care of any cart:

“Collector.”

The expression “the Collector” shall mean the person appointed by the Council to collect the stallages, rents, or tolls authorised by this Act, and shall include the assistants of the Collector.

Before the market  
shall be opened,  
notice to be given  
by the Council.

**191** Before any market is open for public use the Council shall give not less than Ten days' notice of the time when the same will be opened; and such notice shall be given by the publication thereof in some newspaper generally circulated in the neighbourhood, and by printed handbills posted upon some conspicuous places within the said City.

Sales elsewhere  
than in markets  
prohibited under  
a penalty not  
exceeding Forty  
Shillings.

**192** After the market is opened for public use, every person, other than a licensed hawker, who shall sell, offer, or expose for sale in any place within the said City, 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 in respect of which tolls are by this Act authorised to be taken in the market, shall for every such offence be liable to a penalty not exceeding Forty Shillings.

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**193** Nothing in the last preceding Section contained shall exempt any licensed hawker from paying the duties and tolls to be paid by virtue of this Act by all persons selling, offering or exposing for sale any articles in the market; and every lease of any stall or standing in the market shall, as to the lessee thereof, be deemed within the said City to be a hawker's licence of the description mentioned in the Act of Council, intituled "An Act to provide for the Licensing of Hawkers and Carriers."

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—  
Licensed hawkers  
not exempted  
from paying tolls.

6 Will. IV., No. 7.

**194** It shall be lawful for the Council from time to time, and either by public auction or private contract, to demise or let to farm, for any term not exceeding Three years, and on such terms and conditions as the Council shall think proper, 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 such market.

Letting of tolls.

**195** Every person who demands and takes a greater toll than that authorised to be taken under this Part of this Act, shall for every such offence be liable to a penalty not exceeding Forty Shillings.

Penalty on taking  
a greater toll than  
authorised by this  
Act.

**196** If any person liable to pay any stallage, rent, toll, or dues, authorised by this Act to be taken, do not pay the same when demanded, the Council or their lessee, or any person authorised by the Council or their lessee to collect the same, may levy the same by distress of all or any of the cattle or other articles in respect of which such stallage, rent, toll, or dues is or are payable, or of any other cattle or other articles in the market belonging to or under the charge of the person liable to pay such stallage, rent, toll, or dues, or the same may be recovered before any Two Justices upon a complaint made and heard in accordance with the provisions of *The Magistrates Summary Procedure Act*, or in any Court having competent jurisdiction.

Recovery of tolls.

19 Vict. No. 8.

**197** Any dispute concerning any such stallage, rent, toll, or dues may be determined by a Justice in a summary way, who may make such order therein and award such costs to either party as to him may seem proper.

Disputes  
respecting tolls  
how to be settled.

**198** The Council or their lessee shall from time to time cause to be painted on boards, or to be printed and attached to boards, in large and legible characters, lists of the several stallages, rents, and tolls from time to time payable under this Act, and shall cause to be conspicuously set up and continued in the market and in each weighing-house provided by the Council, a board as aforesaid containing every list relating thereto; and no stallage, rent, or toll shall be payable at any such place as aforesaid which is not specified on some board set up therein: Provided always, that if any such list is destroyed, injured, or obliterated, the stallages, rents, and tolls shall continue to be payable during such time as is reasonably required for the restoration of such list, in the same manner as if such list had continued in the state required by this Act.

List of tolls, &c.  
to be set up and  
placed in con-  
spicuous places.

**199** The Council may from time to time make such Market By-laws as they think fit for all or any of the following purposes; that is to say:—

By-laws relating  
to markets.

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- For prescribing what articles may be sold or offered for sale in any market under the control of the Council :
- For regulating the market-place and the buildings, stalls, pens, and standings therein, and for preventing nuisances or obstructions therein or in the immediate approaches thereto :
- For fixing the days and the hours during each day on which the market shall be held :
- For licensing yards and premises for the sale of cattle within the said City, and for fixing (subject to the limitation hereinbefore mentioned) the dues to be paid for such licences :
- For regulating the carriers resorting to the market, and fixing the rates for carrying articles carried therefrom within the limits of the said City :
- For regulating the use of the weighing machines provided by the Council, and for preventing the use of false or defective weights, scales, or measures :
- For preventing for sale or exposure for sale of unwholesome provisions in the market :
- For regulating the amount, and the time and manner of payment, of all stallages, rents, tolls, and dues authorised by this Act to be charged under any of the preceding Sections relating to markets.

(3.) *Slaughter of Animals and Sale of Meat.*

Limits within which Act to apply.

**200** The provisions hereinafter contained relating to the slaughter of animals and the sale of meat shall extend and apply to the City of *Hobart*, and to the area around the City within the distance of One mile from any part of the boundary of the City : Provided, that any portion of such area which may hereafter be comprised within a Rural Municipality shall be exempted from the operation of this Part of this Act.

Interpretation.

**201** In the construction and for the purposes of the provisions hereinafter contained relating to the slaughter of animals and the sale of meat, and of all proceedings thereunder, the following words shall have the meanings hereunder assigned to them, unless there is something in the context of the Act repugnant to such construction :—

“Animal” shall mean and include any bull, bullock, cow, steer, heifer, calf, ram, ewe, wedder, lamb, boar, sow, or barrow pig :

“Carcass” shall extend to and include a part of the carcass of any animal :

“Limits of this Act” shall mean and include the City of *Hobart* and the area within the distance of One mile from any part of the boundary of the City.

Vests certain Land in Corporation of *Hobart*.

**202** The Land described in the Schedule (12.), with the Buildings and appurtenances erected thereon and belonging thereto, is hereby vested in the Corporation for the purposes of this Part of this Act, and shall be deemed to be part of the City of *Hobart*.

Buildings on Land may be completed and fitted up.

**203** It shall be lawful for the Council from time to time to fit up the said Buildings and appurtenances in such manner and with such materials as it thinks necessary for rendering the same suitable and commodious for the purposes of a public Slaughter-house for the City, and to defray the expenses thereby incurred out of the Municipal Fund.

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- 204** The Council is hereby empowered from time to time to enlarge the said Buildings and appurtenances, and to erect such additional Buildings, and provide such other accommodation on the said Land for the purposes of such public Slaughter-house, as the said Council thinks necessary. **A.D. 1893.**  
Power to enlarge Buildings, &c.
- 205** The Council is hereby empowered from time to time to nominate and appoint, during pleasure, an Inspector of Stock, and all proper and suitable officers and persons who may be required to conduct, manage, and supervise such public Slaughter-house, who shall severally receive such salaries or wages as the Council from time to time directs. Council to appoint Officers to manage Slaughter-house.
- 206** Every person who slaughters for sale any animal, or sells the carcass of any animal, without having obtained a Butcher's Licence in manner hereinafter directed, shall forfeit a penalty not exceeding Fifty Pounds. Penalty for slaughtering for sale, or selling meat without a Licence.
- 207** Every such Butcher's Licence shall be granted by the Mayor under his hand, and may be in the form contained in the Schedule (13.); and shall, without reference to the time when the same is granted, be in force until the First day of *January* next ensuing the granting thereof and no longer; and the Mayor is hereby authorised to charge and receive for every such Licence such sum not exceeding Five Pounds as for the time being is in that behalf fixed by the Municipal Council. Licences to be granted by Mayor. Duration thereof. Fee for same.
- 208** Every Licence to slaughter, or to sell Meat, by Law granted and in force when the whole of this Act takes effect, shall be deemed to be a Licence granted under this Act, and shall continue in full force and effect until the First day of *January* then next following. Continues existing Licences.
- 209** If any person slaughters any animal excepting in the public Slaughter-house for the City, such person shall, for every animal so slaughtered, forfeit a penalty not exceeding Twenty Pounds. Penalty for slaughtering elsewhere than at public Slaughter-house.
- 210** If any person brings for sale, or sells or offers or exposes for sale within the limits of this Act, the unsalted carcass of any animal, except Pigs, which has not been slaughtered in such public Slaughter-house as aforesaid, he shall forfeit a penalty not exceeding Fifty Pounds: Provided, that nothing in this Section shall extend to the landing of the carcasses of animals from vessels arriving in the Port of *Hobart*. Penalty for selling meat not slaughtered in the public Slaughter-house.
- 211** If any person slaughters any animal for sale without giving sufficient notice of his intention so to do to the Inspector of Stock to enable such Inspector to inspect such animal, and affording opportunity and permission to such Inspector to inspect such animal before the same is slaughtered, or refuses or neglects to state to such Inspector, upon being by him requested so to do, the name and residence, as well of the owner of any such animal as of the person from whom he received the same, he shall forfeit a penalty not exceeding Twenty Pounds. Animals not to be slaughtered for sale without notice to Inspector. Name of owner, &c. of animals to be stated on demand.
- 212** If any person ships on board of any vessel in the Port of *Hobart* any animal without giving sufficient notice of his intention so to do to the Inspector of Stock to enable such Inspector to inspect such animal, and affording opportunity and permission to such Inspector to Animals not to be exported without notice to Inspector.

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Name of owner,  
&c. of animals  
to be stated on  
demand.

Animals to be  
yarded to enable  
Inspector to  
inspect.

Inspector may  
brand animals on  
inspection.

Council to fix fees  
for slaughtering  
and inspecting  
animals.

Penalty for not  
duly paying such  
fees.

Penalty for sell-  
ing imported  
carcasses as  
human food.

Penalty for sell-  
ing unwholesome  
meat as human  
food.

Unwholesome  
meat exposed for  
sale as human food  
may be seized and  
destroyed.

inspect such animal before the embarkation thereof, or refuses or neglects to state to such Inspector, upon being by him requested so to do, the name and residence, as well of the owner of any such animal as of the person from whom he received the same, he shall forfeit a penalty not exceeding Fifty Pounds.

**213** Every person who, in pursuance of this Act, or of any By-law made thereunder, gives any notice to the Inspector of Stock for the purpose of enabling such Inspector to inspect any animal, shall yard such animal in a yard of the public Slaughter-house, so as to enable such Inspector properly and effectually to inspect the same; and it shall be lawful for such Inspector upon his inspecting any animal to brand or otherwise mark such animal so as to enable him to recognise the same; and if any person does not so yard any animal so as to enable the Inspector of Stock properly and effectually to inspect the same, or obstructs or refuses to permit the branding or otherwise marking any such animal by such Inspector, he shall forfeit a penalty not exceeding Twenty Pounds.

**214** The Council is hereby empowered from time to time, by notice under the hand of the Mayor, published in the *Hobart Gazette* and in one or more local newspapers, to fix the rates or sums to be paid for the slaughtering of animals at such public Slaughter-house,—the fees to be payable on the inspection of animals by the Inspector of Stock in pursuance of any notice given under the authority of this Act, or of any By-law made thereunder,—and the persons by whom, and mode in which, and time when such rates, sums, and fees shall be paid.

**215** If any person does not duly pay any such rates, sums, or fees as last aforesaid, he shall, over and above the amount of such rates, sums, or fees not so paid, forfeit a penalty not exceeding Five Pounds.

**216** If any person sells, or offers or exposes for sale, as the food of man, any animal's carcass landed from any vessel arriving in the Port of *Hobart*, between the Thirty-first day of *August* and the Thirtieth day of *April*, he shall forfeit a penalty not exceeding Fifty Pounds: Provided, that nothing contained in this Section shall extend to prevent the landing or sale of salted or cured meat, or of any animal's carcass which has been conveyed in any such vessel as aforesaid in a refrigerating chamber properly constructed and maintained for that purpose.

**217** If any person sells, or offers or exposes for sale, as the food of man, the carcass of any sickly or diseased animal, or any putrid or unwholesome meat whatsoever, he shall, for every such offence, forfeit a penalty not exceeding Fifty Pounds.

**218** It shall be lawful for the Mayor or any Alderman, or for the City Inspector, Officer of Health, or Inspector of Stock, or for any Justice of the Peace, or the Superintendent or any Sub-Inspector of Police, either alone or attended by any Constable or other person, to enter into any house, shop, or other place where the carcass of any sickly or diseased animal, or any putrid or unwholesome meat, is offered or exposed for sale as the food of man, and to seize, take away, and destroy such carcass or meat; and if any person resists or obstructs any such person

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in entering into any such house, shop, or other place as aforesaid, or in seizing, taking away, or destroying any such carcass or meat, he shall forfeit a penalty not exceeding Twenty Pounds. A.D. 1893.

**219** If any person holding a Butcher's Licence under this Act puts, places, or throws, or wrongfully permits or suffers to remain, any skin, offal, horn, or blood, or other part whatsoever of any animal in or on any public street or place, or in or on his premises, or any other place whatsoever, where the same occasions or is likely to occasion public annoyance, he shall forfeit a penalty not exceeding Twenty Pounds. Penalty for allowing offal, &c. to remain on premises or public places.

**220** If upon the inspection of any animal, or of the carcass of any animal, by the Inspector of Stock, the same appears to such Inspector to be unfit for the food of man, it shall be lawful for such Inspector to seize, take away, and destroy such animal or carcass; and if any person resists or obstructs such Inspector in seizing, taking away, or destroying any such animal, or any such carcass of any animal, he shall forfeit and pay a penalty not exceeding Twenty Pounds: Provided, that if any owner of any such animal or of any such carcass of any animal, or any person on behalf of such owner, objects to such animal or carcass so being seized and destroyed, the Inspector of Stock shall forthwith convey the same before some Alderman or Justice of the Peace; and if such Alderman or Justice determines that such animal or carcass is unfit for the food of man, it shall be lawful for such Alderman or Justice to order the same to be immediately destroyed or otherwise disposed of by the Inspector of Stock, in such a way as to prevent the same being exposed for sale or used for the food of man: Provided also, that it shall in any case be lawful for the Inspector of Stock to permit the tallow or fat to be separated from any such carcass under his own immediate inspection, and subject to such restrictions as are for that purpose prescribed by the Council. Inspector may seize and destroy animals or carcasses unfit for human food.

Proceedings in case owner objects to seizure.

**221** If the Inspector of Stock has reasonable cause of suspicion that any animal he is inspecting has been stolen, it shall be lawful for such Inspector to seize and detain such animal; and he is hereby directed forthwith to report any such seizure, and the grounds thereof, to the Mayor or some Justice of the Peace residing in the City, who shall thereupon make such order in the matter as the justice of the case may require. Inspector may seize animals suspected to be stolen.

**222** It shall be lawful for the Mayor or any Alderman, or for the City Inspector, or the Inspector of Stock, or for any Justice of the Peace, or the Superintendent or any Sub-Inspector of Police, either alone or attended by any Constable or other person, to enter and search, the house or premises of any person holding a Butcher's Licence under this Act, at any hour by day or by night; and if any person refuses to admit or wilfully delays admitting the Mayor or any such Alderman, City Inspector, Inspector of Stock, Justice of the Peace, Superintendent or Sub-Inspector of Police, or other Constable or person as aforesaid, he shall forfeit a penalty not exceeding Twenty-five Pounds. Power to enter premises of persons licensed under this Act.

**223** It shall be lawful for the Council to keep and maintain an establishment or place at the public Slaughter-house for the boiling down of carcasses, which establishment or place shall be under the control and management of the Council; and carcasses may be boiled Municipal Council may keep a boiling-down establishment at the public Slaughter-house.

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down at such establishment or place under such regulations as the Council from time to time appoints.

Penalty for keeping a boiling-down establishment elsewhere than at public Slaughter-house.

**224** Excepting as aforesaid, if any person keeps or maintains any establishment or place for the purpose of boiling down animals, or in which animals are boiled down within the limits of this Act, he shall forfeit a penalty not exceeding Twenty Pounds for every day the same is so kept or maintained as aforesaid; and if any person boils down, or does any act towards the boiling down of, the carcass of any animal within the limits of this Act, excepting in such establishment or place as may be maintained by the Council as aforesaid, he shall, for every such offence, forfeit a penalty not exceeding Fifty Pounds.

By-laws.

**225** It shall be lawful for the Council from time to time to make, publish, alter, modify, amend, or repeal such By-laws as to the said Council seems meet—

For the proper ordering, conduct, management, and cleansing of such public Slaughter-house and of the shops and premises of persons holding Butchers' Licences under this Act :

For better preventing the sale of unwholesome meat as the food of man, and for regulating the conditions upon which meat unfit for the food of man may be sold for other purposes than for the food of man :

For regulating the time, place, and manner of landing live animals from vessels arriving in the Port of *Hobart* :

For regulating the time, place, and manner in which the carcasses of animals may be landed from vessels arriving at the Port of *Hobart*, and the disposal of such carcasses :

For regulating the time, place, and manner of shipping animals on board of vessels departing from the Port of *Hobart* :

For fixing the hours when, and streets or other public places within the limits of this Act where, and other restrictions under which animals imported into this Colony, or brought within the limits of this Act, may be driven :

For fixing the places within the limits of this Act where, and the restrictions under which, animals may be sold by public auction :

~~And for any of the purposes of this Act which the Council may think it expedient to carry out or effectuate by By-laws :~~

And it shall be lawful for the Council to appoint by such By-laws such penalties, not exceeding in any case the sum of Twenty Pounds, as the said Council deems necessary for enforcing such By-laws.

By-law regulating the driving of animals not to apply to tame cows, &c.

**226** The provisions of any By-law made under this Act regulating the driving of animals within the limits of this Act shall not apply or extend to working bullocks in yoke, or tame milch cows being driven to or from pasture.

Act not to affect persons slaughtering pigs for their own use, or any case where humanity demands the death of any animal.

**227** Nothing in this Act contained shall extend to or affect any person who slaughters any pig for the consumption of his family, servants, or workmen, or shall extend to or affect any person in respect of any animal slaughtered in any case where humanity enjoins its immediate death : Provided that in every such case as last aforesaid the person slaughtering such animal shall, as soon as possible afterwards, give notice thereof to the Inspector of Stock, and shall, if required so to do, produce the ears and entire skin of such animal to such Inspector.



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**228** All meat sold or offered or exposed for sale shall be deemed to be sold or offered or exposed for sale as the food of man unless the same is marked or otherwise sold or offered or exposed for sale, in conformity with the By-law in force for the time being regulating the conditions upon which meat unfit for the food of man may be sold for other purposes than for the food of man.

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Meat to be deemed to be sold for human food unless otherwise marked.

**229** The unsalted carcass or any portion of the unsalted carcass of any pig which will be brought for sale within the City of *Hobart*, or within One mile of the boundaries of such City, shall be inspected by an Inspector of Stock or other person appointed by the Municipal Council of the said City respectively to inspect carcasses of cattle and sheep, as hereinbefore provided; and every person who in any manner whatsoever acts in contravention of this Section shall for every such offence be liable to a penalty not exceeding Twenty Pounds.

Carcasses of pigs brought into *Hobart* for sale to be inspected. *See S. 201 & 202*

*The provisions of these two sections apply*

**230** All unsalted carcases and portions of carcases of pigs brought into the said City for sale shall be conveyed to the place appointed by the Council for inspecting the carcases of cattle and sheep as provided in this Act; and there shall be paid to the Inspector or person appointed as hereinbefore mentioned such fees as shall from time to time be fixed by the Council in respect of the inspection of the carcass or part of the carcass of any animal intended for sale as human food, which said several sums of money shall be paid to such Inspector or person forthwith; and if the same is not paid forthwith on demand such carcass or part of the carcass shall be forfeited to the use of such Inspector or person.

Carcasses to be brought to place appointed and inspected. *to Cattle, sheep. See S. 201.*

**231** No carcass or portion of any carcass shall be removed from the place appointed for inspecting the same, or sold, until the same has been inspected as hereinbefore required; and if any person acts in contravention of this provision he shall be liable to a penalty not exceeding Five Pounds.

Carcass not to be removed or sold until inspected.

**232** Notwithstanding anything to the contrary hereinbefore contained, it shall be lawful for any person to sell within the City of *Hobart*, or within one mile of the boundaries of the said City, the unsalted carcass or any portion of the unsalted carcass of any cattle or sheep or pig which shall not have been killed at any public slaughter-house appointed for the said City, provided—

Persons may sell within the City of *Hobart* meat killed elsewhere.

1. That every such person shall be the holder of any such Licence as is hereinbefore mentioned:
2. That such carcass or portion of a carcass has not been landed from any vessel arriving within this Colony from any part beyond this Colony:
3. That such carcass or portion of a carcass has been inspected by an Inspector of Stock or other person appointed for that purpose by the Council of the said City:

and every person who in any manner whatsoever acts in contravention of this Section shall for every such offence be liable to a penalty of not exceeding Twenty Pounds.

Nothing herein contained shall authorise the slaughter for sale of any animal within the City of *Hobart*, or within One mile of the boundaries of the said City, except in accordance with the provisions of this Act.

*Repealed by S. 201 & 202.*

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Carcass to be brought to place appointed and inspected.

**233** All unsalted carcases and portions of carcases of cattle or sheep or pigs brought into the said City for sale shall be conveyed to such place as the Council may appoint for inspecting the same; and there shall be paid to the Inspector or person appointed for that purpose such fees as shall from time to time be fixed by the Council, in respect of the inspection of a carcass or part of the carcass of any animal intended for sale as human food, which said several sums of money shall be paid to such Inspector or person forthwith; and if the same is not paid forthwith on demand, such carcass or part of the carcass shall be forfeited to the use of such Inspector or person.

Licence not to be issued to non-resident unless he produces certificate from Warden, &c.

**234** Where any person not being resident within the said City shall apply for any such Licence as is hereinbefore mentioned for the purpose of selling meat under the provisions of this Act, it shall not be lawful to grant any such Licence to him unless he shall produce to the person authorised to issue the same a certificate signed by the Warden of the Municipality or Stipendiary Magistrate of the District in which such applicant resides, to the effect that he is a fit and proper person to hold any such Licence for the purposes of this Act.

*(4.) Noxious Trades.*

Council may give compensation to persons removing offensive trades, &c.

**235** When any profession, occupation, manufacture, trade, calling, or business, now or hereafter to be established within the City, becomes and is of so offensive a nature as to create, cause, or be a public nuisance, the Council may contract and agree with the person or company carrying on or causing to be carried on such offensive profession, occupation, manufacture, trade, calling, or business for the discontinuance or removal of the same within such distance from the boundaries of the City as may be agreed upon in such contract; and the Council may give out of the Municipal Fund to such person or company such reasonable compensation by way of consideration for such contract as may be agreed upon between the contracting parties.

Compensation to be given only upon notice under certain conditions.

**236** No proposition to make such contract and give such compensation as mentioned in the last preceding Section shall be considered by the Council unless a notice setting forth the terms of the proposed contract and the amount of compensation proposed to be given has been published in the *Gazette* and also Three times in some Newspaper generally circulating in the neighbourhood not less than One month nor more than Two months before such proposition is considered; and no resolution to make such contract and give such compensation shall be valid unless such resolution has been confirmed at a subsequent meeting of the Council held not less than Six weeks after the meeting of the Council at which such resolution is first agreed to, nor unless an ordinary Annual Election of Aldermen has taken place after the meeting at which such resolution was first agreed to, and before the meeting at which such resolution has been confirmed, nor unless at the last-mentioned meeting the resolution for confirmation is carried by a majority of the whole number of members of the Council: Provided, that nothing in this or the last preceding Section contained shall in any way alter or affect the right of any Council to proceed against any such person or company under any law now or hereafter in force relating to the abatement of nuisances or the punishment of persons guilty of creating or causing nuisances.

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**237** It shall be lawful for the Council, by notice in the *Gazette*, to appoint and declare certain limits within the said City within which the roofs of buildings shall not be externally covered with shingles or other combustible material, under such restrictions as the Council may impose, and may in like manner amend or alter any such notice, and may also in like manner restrict or enlarge such limits as aforesaid.

Council may, within certain limits, restrict use of shingles, &c. for roofing purposes.

**238** It shall be lawful for the Council to agree with any persons or associations for or with respect to providing the necessary labour and assistance for extinguishing such fires as may take place within the City, and for the payment to such persons or associations, out of the Municipal Fund, of reasonable remuneration for the same, and also to contribute from the said fund such sum as may be reasonable in general aid of any persons who shall be associated together for the purposes aforesaid.

Remuneration, &c. of persons for extinguishing fires.

(6.) *Boundary Fences.*

**239** Where no Fence or no sufficient Fence already exists, it shall be lawful for the Council from time to time, and at all times, to compel the owners of any lands abutting on any street or public place within the City to erect and maintain, at their own expense, a substantial Five-foot 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 Town 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 they are hereby authorised, to erect and put up all such Fences, and from time to time 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 in a summary manner before any Justice of the Peace in accordance with the provisions of *The Magistrates Summary Procedure Act*.

Council to compel owners of vacant land to erect Fence.

And in case of neglect, Council to do so at owner's expense.

(7.) *Steam Rollers.*

**240** It shall be lawful for the Council to use upon any street or place within the said City locomotives propelled by steam for the purpose of making and rolling the street of the said City, provided that such locomotives are worked and propelled according to the following rules and regulations; (that is to say)—

Council may use steam roller on streets.

- i. At least Two persons shall be employed in using each locomotive, one of whom, when the locomotive is travelling to or from any place where it is to be or has been used, shall walk at least Twenty yards in front of the locomotive when it is in motion, and shall carry a flag.
- ii. Barriers shall be provided and fixed whenever practicable at the ends and intersections of streets to prevent ingress or egress during the time a street or place is undergoing rolling with a roller propelled by steam.

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(8.) *Paving Streets.*

Half the expenses of paving the footways to be borne by owners of lands abutting thereon.

**241** Whenever the Council, at the request of the owner or owners of any land abutting on any street or any public place within the City, shall cause any footway therein to be made, formed, and paved with stone or cement, One-half the expense incurred thereby shall be repaid to the Council by the owners of the lands abutting on such Street or public place or the portion thereof so made, formed, and paved; and if such owner refuses or neglects to pay the same within One month after the same has been demanded, the same shall be recovered in the same way as any Municipal Rate is now recoverable by Law; and such footway shall afterwards be repaired and kept in repair by the Council.

(9.) *Private Streets.*

Council may cause Private Streets to be constructed.

**242** The Council may, within the City of *Hobart*, cause any Private Street or any portion thereof to be constructed in such manner as the Council may from time to time 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 out of any moneys at their disposal.

Cost of construction to be certified by City Auditors.

**243** When and so often as the Council shall cause any Private Street or any portion thereof to be constructed as aforesaid, the City Surveyor shall certify to the City Auditors that such Street or any portion thereof has been constructed to the satisfaction of the Council, and thereupon the City Auditors shall certify under their hands the amount of money spent by the Council upon the construction of such Street, and the amount so certified by the City Auditors 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.

Cost of construction to be repaid by owners of adjoining lands by instalments.

**244** The amount of money so certified as aforesaid as spent by the Council in the construction of any Private Street, together with interest thereon at the rate of Five Pounds per centum per annum, shall be payable to the Council by the owner or owners of the lands fronting or abutting on any such Private Street proportionately to the frontage of the land on such Private Street, in Twenty equal yearly instalments. The first of such yearly instalments shall be payable on the First day of *January* next after the date of the City Auditors' Certificate, and thereafter such instalments shall be payable on the First day of *January* in every succeeding year until the whole of the instalments shall be paid.

Where owner cannot be found Tax may be recovered from occupier.

**245** 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 occupier or occupiers of such land, 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 or

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instalments 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.

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**246** 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 and recovered in the same manner and by the same process as any Municipal Rate is now recoverable by Law, or as hereinafter provided.

Moneys to be recoverable as Municipal Rates.

**247** Any unpaid instalment shall be and remain a charge upon the land in respect of which such instalment is due, and continue so notwithstanding such land may be sold and transferred, and may be recovered at any time from the then owner of the land whether he be the owner at the time such instalment became payable or not at the suit of the Corporation in an action in any Court of competent jurisdiction as for a debt due by him, and if the then owner be not the owner at the time such instalment became payable, he shall be entitled to recover from the person who was the owner of such land when the instalment became payable the proportion of the instalment to which such person was liable as money paid to his use.

Unpaid instalment made a charge upon land.

**248** It shall be lawful for the Corporation to borrow upon the security of any Municipal Rates any sum or sums of money not exceeding Ten thousand Pounds for the purposes of constructing such Private Streets as aforesaid.

Power to borrow. 45 Vict. No. 16.

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

**249** 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.

**250** The Council shall cause the amount of interest included in such moneys as is mentioned in the immediately preceding Section to be paid into and form part of the Municipal Fund.

Portion of instalments paid into Municipal Fund.

**251** It shall be lawful for the owner of any land abutting on any Private Street constructed by the Council to pay at any time the whole of the amount for which he is liable in respect of the construction of such street, and in every such case a deduction shall be allowed in the sum added by way of interest as hereinbefore provided.

Instalments may be paid off at any time.

**252** 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

Plan of new Streets to be submitted to Council.

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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 Municipal Council, and obtaining their approval thereto: Provided, that if no disapproval be expressed by the Council within Fourteen days after such plan and sketch as aforesaid shall have been submitted to the Council, the intended disposition may be proceeded with.

Streets to be used  
as carriage roads  
to be 60 feet wide.

**253** 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.

Street exceeding  
100 feet long to  
be a carriage  
road.

**254** 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 the manner hereinafter provided.

Streets less than  
100 feet long to  
be 30 feet wide.

**255** 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.

Manner in which  
Street shall be  
constructed.

**256** Every person who shall construct a Private Street for use as a carriage road shall comply with the following requirements:—

- i. He shall construct the carriage-way of such street so that the whole width thereof shall be Forty-two feet wide at the least, and the surface of the carriage-way shall have a curve or fall from the crown to the channel at the sides thereof of not more than Twelve inches, and the centre of the carriage-way to the uniform width of not less than Twenty feet shall be covered with not less than Six inches of good bluestone metal, broken to Two-inch ring gauge, or good ironstone gravel, and thoroughly consolidated.
- ii. He shall construct on each side of such street a footway of not less than Nine feet in width and with a cross-fall of half inch per foot to the channel, the surface of footways to be coated with asphalt or good ironstone gravel not less than Two inches thick, well laid and rolled smooth.
- iii. He shall kerb each footway with stone kerbing Three inches thick and Sixteen inches deep, laid solidly and parallel to centre line of road, and with same gradient as road, and so as to show Six inches of a dressed face above the channel.

Entrance to  
street.

**257** Every person who shall construct a Private Street shall provide at each end of such Street an entrance of a width equal to width of such Street and open from ground upwards.

Order of Council  
for payment of  
money, how  
enforced.

**258** Whenever any Order shall have been made by the Council, under the hand of the Mayor or Town Clerk, 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 on such person, or left at his usual or last known place of abode in *Tasmania*, or, if there shall be no such place of abode, shall have been affixed or left upon the house or land (if any) referred to in such

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Order, and such Order shall not have been satisfied within the time thereby limited, any Two Justices, upon complaint thereof, and upon proof of such copy Order having been left, served, or affixed as aforesaid, and of such Order remaining unsatisfied, either wholly or in part, may order the amount payable in respect of such Order, and all costs and expenses incurred by reason of the same not being satisfied, to be levied by distress and sale of the goods and chattels of the person mentioned in such Order, and in default of such distress, or if no sufficient distress shall be found, may commit such person to the nearest gaol for any period not less than Fourteen days nor more than Three months.

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Provided always, that the amount payable in respect of any such Order as aforesaid may be recoverable at the suit of the Corporation at any time within Six years after the surface of such Order by an action in any Court of competent jurisdiction.

**259** Every person who 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, shall, upon conviction, forfeit and pay for every such offence a penalty not exceeding Ten Pounds, and a penalty not exceeding Five Pounds for every day during which such offence shall be repeated or continued.

Penalties.

*(10.) Power to take Land for Works and Undertakings.*

**260** Subject to the provisions of this Act, the Corporation may compulsorily acquire easements over land, and may purchase and take land compulsorily for the purpose of executing any of the works and undertakings which the Corporation or Council may at any time be authorised to execute.

Power to take land compulsorily.

**261** Whenever the Council deems it expedient to execute any work or undertaking for the purposes whereof the exercise of any compulsory power of taking land will in their opinion be necessary or desirable, they shall cause their surveyor to prepare such specifications, maps, plans, sections, and elevations as may be necessary, expressing the nature and extent of such work or undertaking and the exact site and admeasurements thereof, and on and through what lands the same is proposed to be placed and to be extended, and the names of the owners or reputed owners, lessees, or reputed lessees, and the occupiers thereof so far as known; and the same when so prepared and approved by the Council shall be deposited at the Office of the Council, and shall be open for inspection by all persons interested at all reasonable hours for the space of Forty clear days after notice has been given by advertisement in the *Gazette* as next hereinafter provided; and any clerk or other person having the custody of the said specifications, maps, or other papers who shall refuse to permit such inspection, shall for every such offence be liable to a penalty not exceeding Five Pounds.

Plans, &amp;c. of works, &amp;c. to be prepared.

**262** The Council shall forthwith after the said specifications, maps, plans, sections, and elevations have been deposited, cause to be published in the *Gazette*, and twice in some newspaper generally circulating in the neighbourhood, a notice describing shortly the purport of the said specifications, maps, and other papers, and stating that the same are deposited for inspection and the place where they are so deposited, and

Publication of notice.

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Service of notice.

calling upon all persons affected by the proposed work or undertaking to set forth in writing addressed to the Council or the Town Clerk, within Forty days from the publication of such notice in the *Gazette*, all objections which they may have to the work or undertaking; and shall further, within One week after such publication in the *Gazette*, serve a notice in manner hereinafter mentioned on every owner or reputed owner, lessee or reputed lessee, and occupier of such lands, defining in each case the particular land intended to be taken, and requiring an answer stating whether the person so served assents, dissents, or is neuter in respect of taking such land; such notice to be served—

- i. By delivery of the same personally to the person required to be served, or, if such person is absent from *Tasmania*, to his agent; or
- ii. By leaving the same at the usual or last known place of abode of such person as aforesaid; or
- iii. By forwarding the same by post in a registered letter addressed to the usual or last known place of abode of such person.

Objections.

**263** At the next ordinary meeting of the Council after the expiration of Forty days from the publication of such notice in the *Gazette*, any person affected by the proposed work or undertaking, or his agent or manager for the property in respect of which he is so affected, who has set forth in writing his objections to the said work or undertaking within the time hereby limited for the purpose, may appear before the Council in support of such objections.

Power to receive evidence.

**264** The Council shall, touching all such objections, have authority to hear, receive, and take evidence, and by summons under the hand of the person who shall act as Chairman at the meeting of the Council, to require all such persons as the Council may think fit to appear personally before the Council at their office, at a time to be fixed in and by such summons, and to produce to such Council all such books and papers in their possession or under their control as may appear necessary for the purpose of their examination; and the person who shall act as Chairman at the meeting shall administer and take for the Council all necessary oaths, affirmations, and declarations.

Order for execution of work.

**265** If, after the expiration of such term of Forty days, and hearing all objections (if any) so set forth as aforesaid and such evidence as the Council shall require, it appears to them expedient to proceed with the work or undertaking, they may make an order directing the work or undertaking to be executed according to the specifications, maps, plans, sections, and elevations deposited as aforesaid.

After confirmation work may be executed.

**266** Upon the making of such order as aforesaid, and not before, the Council shall be authorised to take and use, subject to the provisions hereinafter contained for the purpose of such work or undertaking, all such land as is described in and by the said specifications, maps, plans, and sections as being required for the said work or undertaking.

Provided, that the Council shall make to the owners of, and all persons interested in, any lands taken or used for the purposes of such work or undertaking, or injuriously affected by the execution thereof, full compensation for the value of the lands so taken or used, and for all damage sustained by such owners, occupiers, and other persons by



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reason of the exercise of the powers vested in the Council by this Act; and the amount of such compensation shall be ascertained and determined in manner hereinafter provided. A.D. 1893. —

**267** *The Lands Clauses Act* is hereby incorporated with this Act, and shall be construed together herewith as one Act, and shall take effect with regard to all works and undertakings for the purposes of which the Corporation shall be authorised to take and use lands, and not otherwise: and for the purposes of this Act the following expressions in the said Act shall have the meaning hereby assigned to them, save where the context is inconsistent therewith; that is to say:—

*Lands Clauses Act incorporated.*  
21 Vict. No. 11.

“The Promoters of the undertaking” shall mean the Council.

“The Special Act” shall mean this Act.

**268** Notwithstanding anything in *The Lands Clauses Act* contained, in estimating the amount of compensation to be paid to any person for land taken for improving, widening, diverting, altering, or making any street, the arbitrators or umpire shall take into consideration the benefit that is likely to accrue to the person whose land is about to be so taken for such street, and the arbitrators or umpire, in awarding compensation to be paid for taking such land, shall make such deduction for such benefit as shall be deemed just; and in case it appears to the arbitrators or umpire that the benefit likely to accrue to the person through whose land such street is about to be taken is equal to or greater than the loss he will sustain by reason of the taking of his land for such street, the arbitrators or umpire may award that no compensation is to be paid, and thereupon the same rights shall accrue as if compensation had been awarded and duly paid.

In estimating compensation to be paid for land taken for a street, benefit to owner to be considered.

**269** Where the Council gives notice of an intention to take land for any of the purposes hereinbefore set forth, and the compensation in respect thereof is determined as in cases of disputed compensation, if the Council respectively deem it inexpedient to pay the amount of compensation so determined, the Council may, within Twenty-one days after notice of the amount of compensation so determined on, withdraw the first-mentioned notice on payment of all the costs of reference and award.

Land may be given up if compensation excessive.

**270** The Corporation may purchase and take land compulsorily under the provisions of this Act for any one or more of the following purposes: that is to say—

Purposes for which Council may take land.

- I. The opening and making of new streets and roads, and the diverting, altering, or increasing the width of streets and roads:
- II. The raising, lowering, or altering of the level of streets and roads:
- III. The extension of existing streets and the junction by a new route of any two or more existing streets:
- IV. The construction or alteration of bridges and culverts:
- V. The construction, enlargement, and alteration of sewers, and drains and works connected with sewerage and drainage:
- VI. The construction and purchase of water-works:
- VII. The construction and purchase of gas-works or electric works:
- VIII. The construction and providing of Municipal offices, pounds, abattoirs, market-places, market-houses, places for weighing

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carts and their loadings, and the making of convenient approaches to markets:

- ix. The providing of baths and wash-houses:
- x. The providing of pleasure-grounds, libraries, museums, schools of art, and places of public resort and recreation.

(11.) *Power to lease Land vested in the Corporation.*

Power to lease  
land vested in  
Corporation.

**271** The Council may from time to time demise or let any lands, tenements, or hereditaments which now are or may hereafter become vested in the Corporation for the general purposes of this Act, on building or other leases, in one or more lots, either by public tender or by public auction, or after having been offered by either of such means without having been accepted, then by private contract, for such rent as the Council may determine for any term not exceeding Fifty years, and at such rent and subject to such covenants, conditions, and restrictions, and especially as to the class and elevation of the buildings to be erected thereon by virtue of any building lease, as the Council may deem advisable and for the benefit of the Citizens; but so, nevertheless, that every such lease shall contain a condition for re-entry on breach of any of the covenants therein contained, and also on non-payment of the rent or any part thereof by such lease reserved within Twenty-one days after the same shall become due and payable without any formal or other demand being made therefor; Provided always that nothing in this Section contained shall authorise the demising or letting of any park lands, except under the authority of an Act of Parliament, or (if such demising or letting shall be for a temporary purpose only) except with the approval of the Governor in Council.

Power to let or  
manage property  
vested in Corporations for public or charitable purposes.

**272** The Council may also from time to time demise, let, manage, or improve any real or personal property heretofore or hereafter acquired by the Corporation for public or charitable purposes, in such manner as the Council may deem expedient, and as shall not be inconsistent with the purposes for or the trusts upon which the same may be held.

Power to lease  
Parks, &c.

**273** It shall be lawful for the Council to lease or let to any person or persons whom the Council may approve for that purpose the whole or any portion of any Park or Recreation Ground vested in the Corporation or under the control of the Council, together with all the buildings thereon or any portion thereof for any period not exceeding Three days; and all sums of money received by the Council as rent in respect of any such Park or Recreation Ground or any portion thereof leased or let as aforesaid shall form part of the Municipal Fund hereinbefore mentioned; and any person to whom any such Park or Recreation Ground or any portion thereof is leased or let by the Council as hereinbefore mentioned may make such charges as the Council shall approve for admission to such Park or Recreation Ground or such part thereof so leased or let as aforesaid, as the case may be.

(12.) *By-Laws.*

By-laws.

**274** It shall be lawful for the Municipal Council from time to time to make, publish, alter, modify, amend, or repeal such By-laws as to the said Council seems meet:—

- 1. For regulating the proceedings of the said Council:

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- II. For conducting the election of the Mayor, Aldermen, or Auditors, in any matter which may not be sufficiently provided for by this Act: A.D. 1893.
- III. For regulating the conduct of the officers and servants of the Corporation:
- IV. For providing for the due management of the affairs of the Corporation:
- V. For the prevention and suppression of nuisances:
- VI. For regulating bathing in the waters in and adjoining the City:
- VII. For the suppression and restraint of disorderly houses and houses of ill-fame and repute:
- VIII. For prohibiting every kind of fraudulent device and practice in relation to the sale of marketable commodities:
- IX. For regulating billiard and bagatelle tables, and for suppressing gambling tables, and gambling of every description:
- X. For preventing the congregation of idle and disorderly persons in the streets and public places of the City:
- XI. For regulating the use of bicycles and tricycles and like vehicles within the said City:
- XII. Regulating the construction, elevation, materials, and form of buildings in any specified part of the City:
- XIII. Regulating the opening and construction of private streets in accordance with the provisions of this Act:
- XIV. Regulating sewerage and drainage:
- XV. Regulating the lighting of public streets or other public places with gas or otherwise:
- XVI. Preventing any injury or obstruction to public streets:
- XVII. Preventing and extinguishing fires, and prohibiting the lighting of any fire within a dangerous distance of any fence or building:
- XVIII. Compelling owners or occupiers to keep their premises free from offensive or unwholesome matters:
- XIX. Regulating the killing of cattle and sale of butchers' meat, and the establishment and locality of slaughter-houses or abattoirs, and the carriage of meat through the streets of the City:
- XX. Preventing the fouling or obstruction of any river, rivulet, or other stream of water flowing through any part of the City:
- XXI. Providing for the emptying and cleansing of privies and cesspits:
- XXII. Providing for the cleansing of stables, pig-styes, fowl-houses, and other places where any animals may be kept:
- XXIII. Preventing or regulating the bathing or washing the person in any public water or near a public thoroughfare:
- XXIV. Preserving public decency:
- XXV. Causing vacant building lots in towns to be enclosed where public safety is likely to be endangered:
- XXVI. Generally controlling and managing public reserves under the control of the Council:
- XXVII. To prevent the storage or the keeping in any place of any animal or thing in the opinion of the Council offensive, injurious to health, or dangerous, within the Municipality, or any part thereof specified in the By-law, or within a distance of any habitation specified in the By-law:

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- xxviii. For regulating and controlling quarrying and blasting operations :
- xxix. For preventing dogs, fowls, geese, and other domestic animals from straying in the streets of the City :
- xxx. For regulating the use of steam engines within the said City :
- xxxi. For regulating traffic in the streets of the City :
- xxxii. For regulating processions in the streets of the City :
- xxxiii. For keeping the streets of the City clean, and preventing persons throwing or depositing any dangerous or disagreeable substance thereon :
- xxxiv. Regulating the letting and use of any park or reserve or recreation ground vested in the Corporation or under the control of the Council :
- xxxv. For providing for the destruction of noxious plants and weeds growing within the City :
- xxxvi. For the good rule and government of the City generally.

And to appoint by such By-laws such penalties as the said Council deems necessary for the prevention and suppression of such offences, nuisances, and annoyances, and for enforcing such By-laws, and to authorise the arrest of any person violating such By-law to the immediate injury or annoyance of any other person or persons; and every such By-law shall be reduced into writing, and shall have the Common Seal affixed thereto.

Provided, that no penalty so to be appointed shall exceed the sum of Ten Pounds, and that no such By-law shall be made unless a majority in number of the Members of the Council are present.

Provided also, that no such By-law shall, if the Legislature is sitting at the time of the making thereof, be of any force until Fourteen days after the same or a Copy thereof signed by the Mayor has been laid upon the Table of both House of the Legislature, nor until one week after a Copy of the same has been published in the *Gazette* after the expiration of the time during which the same has been lying before the Legislature as aforesaid; and if the Legislature or either House thereof disallows such By-law or any part thereof, such By-law or the part thereof so disallowed shall not come into operation.

Provided also that if the Legislature is not sitting at the time of the making of any such By-law, the same shall, after one week from the publication in *Gazette* of a Copy thereof signed by the Mayor, be of full force and effect, and a Copy of every such By-law as last aforesaid signed by the Mayor shall be laid upon the Table of the said Houses of the Legislature within Five days after the commencement of the Session thereof holden next after the making of such By-law as last aforesaid; and if the Legislature or either House thereof disallows any such By-law as last aforesaid, or any part thereof, within One month after such By-law has been laid upon the Table as aforesaid, such By-law or the part thereof so disallowed shall, upon disallowance thereof being notified in the *Gazette*, thenceforth cease to be of any force or effect whatsoever.

Provided also, that no By-law to be made by the Council shall be repugnant to this Act, or to the general spirit and intendment of the Laws in force in this Colony; and that, where by any Law any penalty is imposed for any offence, it shall not be lawful for the Council by any By-law to increase such penalty so as to make the whole penalty amount to more than Ten Pounds.

By-laws in writing under Common Seal.

Penalty of £10. Majority of Council to be present.

To be laid before Parliament, and published in *Gazette*.

Disallowance by Parliament.

If Parliament not sitting By-laws to be published in *Gazette* and be in force, but to be laid before Parliament at next Session.

Not to be repugnant to general Law.

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**275** In all proceedings the production of the *Gazette* containing any such By-law shall alone be sufficient *prima facie* evidence that all the provisions of this Act relating to the making and confirmation of such By-law have been duly complied with, and that such By-law is in full force and effect; and the onus of proving the contrary shall in every case be on the person disputing the validity of such By-law.

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*Gazette* evidence of By-laws.

**276** Wherever by any law heretofore passed the Council is empowered to make By-laws for any special purpose, such By-laws may be made by the Council by this Act established; and all such By-laws, and all By-laws which by any law hereafter passed the Council is empowered to make, shall, unless otherwise provided by any law hereafter passed, be made in the manner provided by this Act.

By-laws to be made under other Acts to be made in manner directed by this Act.

**277** In every By-law made under the authority of any Act hereby repealed and in force on the day on which this Act comes into operation, and in every By-law hereafter made under the authority of this Act, the words "Public Place" shall have the same meaning as they have in *The Police Act*, 1865, and in every Act amending that Act.

Meaning of "Public Place" in By-laws.

**278** All Municipal By-laws in force in the City of *Hobart* at the time when this Act comes into operation shall be deemed to have been made by virtue of this Act, and shall continue to be of full force and effect, and may be altered, modified, amended, or repealed in the manner provided by this Act.

Continues existing By-laws.

**279** If any Citizen of any Town desires to dispute the validity of any By-law, or part of a By-law, and shall pay to the Registrar of the Supreme Court the sum of Twenty Pounds as security for the costs of the proceedings hereinafter mentioned, it shall be lawful for such Citizen to apply to the said Court or a Judge for a Rule calling upon the Board to show cause why such By-law or part of a By-law should not be quashed for the illegality thereof, and upon the hearing of the matter the Court or Judge may quash or amend the By-law, or make such other Order, with or without costs, as to the Court or Judge shall seem meet.

Mode of testing the validity of By-law.

## PART XVI.

## SEPARATE LOCAL RATE.

**280** It shall be lawful for the Council to make and levy a Separate Local Rate upon the annual value or capital value of the land and buildings within any defined portion of the City for the purpose of defraying the cost or the interest upon the cost of any public work or improvement by which, in the judgment of the Council, special advantages may accrue to such defined portion.

Council may levy Separate Local Rate.

**281** Every Separate Local Rate shall be made and be recoverable in the same manner, and shall be payable by the like persons within such defined portion, as any other Rate under this Act; but such Separate Local Rate shall not exceed in any one year the sum of Eighteen Pence in the Pound upon the annual value, or the sum of

Separate Local Rate how recoverable.

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One Penny in the Pound on the capital value of the property within such defined portion.

Separate entries  
to be made.

**282** The Council shall cause separate entries to be made in the books mentioned in Part XIV. of this Act, of all moneys received and disbursed in respect of every such Separate Local Rate.

Notice of Separate  
Local Rate to be  
given.

**283** Before making any such Separate Local Rate the Council shall, by notice, define the portion of the City in respect of which such Rate shall be payable; and such notice shall be signed by the Mayor and not less than Three Aldermen, and shall specify the boundaries of such defined portion; and such notice shall be published by being inserted in Four consecutive numbers of the *Gazette* and twice in a newspaper circulating in the City, and by being fixed upon or near to the doors of all Churches, registered Chapels, Post Offices, and Police Offices, if any, within such defined portion, or, if there are no such places within such defined portion, then in such conspicuous places within the same as the Council thinks proper, for the period of not less than Four weeks next before the time when such notice is to take effect.

Mayor to call  
meeting to con-  
sider question if  
required by  
Citizens.

**284**—(1.) If a requisition in writing signed by Ten or more Citizens shall be presented to the Mayor not less than Seven days before the time when such notice is to take effect, requiring him to call a Public Meeting of the Citizens who are owners or occupiers of land and buildings within the portion of the City defined by such notice, to consider the question of making such Separate Local Rate, the Mayor shall, within Five days after the receipt by him of such requisition, convene a Public Meeting of such Citizens as aforesaid:

(2.) The Citizens present at any such Meeting may by a majority of votes alter but not extend the boundaries of the portion of the City in respect of which such Separate Local Rate shall be payable, or may agree to the boundaries as specified by the Council in such notice as aforesaid: and any such Rate made and levied by the Council shall, if any such Public Meeting is held as aforesaid, be made and levied only on the annual value or capital value of the land and buildings within the portion of the City the boundaries of which have been agreed to at such meeting: Provided, that if it shall be decided at such Meeting by a majority of the votes of the Citizens present thereat that no Separate Local Rate shall be made as aforesaid, it shall not be lawful for the Council to make and levy such Rate.

Not to affect  
other Rates.

**285** The making and levying a Separate Local Rate shall not in any way affect any other Rate which may under this Act or any law be made and levied upon the property in the defined portion; and no Separate Local Rate shall be deemed to be a Special Rate within the meaning of "The Local Bodies Loans Amendment Act."

46 Vict. No. 14.

## PART XVII.

## MINUTES AND PROCEEDINGS OF COUNCIL.

The Council to  
act by a majority  
of the members.

**286** All acts, save the making of By-laws as hereinbefore mentioned, by this or any other Act relating to the Corporation authorised or required to be done by the Council, and all questions which may

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come before the said Council, shall be done and decided by the majority of the Members of the said Council present at any Meeting of the said Council duly held, the whole number present at such Meeting not being less than Four. A.D. 1893.

**287** The Mayor, if present, shall preside at all Meetings of the Council, and in his absence such Alderman as the Members present shall choose shall be Chairman; and if at any time there is an equality of votes in the election of a Chairman, it shall be decided by lot which of the Aldermen having an equal number of votes shall be Chairman. Chairman at meetings of Council.

**288** The Mayor, or in his absence the Chairman of the Meeting, shall have a second or casting vote in all cases of equality of votes. Mayor or Chairman to have a casting vote.

**289** Notice of the time and place of every intended Meeting of the Council shall be given by the Town Clerk to the Members of the said Council. Notices of meetings.

**290** Every such notice shall be left at the usual or last known place of abode of every Member of the said Council, or sent to him by post Twenty-four hours at least before such Meeting. Notices to be served on Members of the Council.

**291** The Mayor shall call a Meeting of the Council as often as he thinks proper, or as the said Council may direct; and if the Mayor refuses or delays to call any such Meeting after receiving a requisition for that purpose signed by at least Five Members of the said Council, such Five Members may call a Meeting of the said Council by giving like notice as aforesaid, signed by themselves, stating therein the business proposed to be transacted. When meetings to be called.

**292** Minutes of the Proceedings of every Meeting of the Council shall be taken, and, being fairly transcribed into a book to be kept for that purpose, shall be read at the Meeting immediately succeeding, and shall be signed by the Mayor or Chairman of the Meeting at which the Minutes are read and confirmed. Minutes of Proceedings.

**293** Any Citizen shall be at liberty, at all reasonable times, on payment of the sum of One Shilling, to make any copy of any minute or entry in the Minute Book of the Council, and also to make any copy or take any extract from any Order of the said Council for the payment of any money. Copies and extracts from Minute Books.

**294** The Council may from time to time appoint out of their own body such and so many Committees, either of a general or special nature, and consisting of such number of persons not less than Three as the said Council thinks fit, for any purposes which in the discretion of such Council would be better regulated, arranged, and managed by means of such Committees, and may fix the quorum of any such Committee, and may continue, alter, or discontinue any such Committee: Provided, that the acts of every such Committee shall be submitted to the Council for approval. Committees.

**295** Every Committee so appointed may meet from time to time, and adjourn from place to place, as they may think proper for carrying Committee meetings.

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into effect the purposes of their appointment ; but no business shall be transacted at any Meeting of Committee unless the quorum of Members, if any, fixed by the Council, and if no quorum be fixed, Three Members be present ; and at all Meetings of the Committee the Mayor, if a Member of such Committee and present, shall preside, and in his absence such Alderman as the Members present shall choose shall be Chairman, such choice to be determined in case of an equality of votes as in the case of an election of a Chairman at a Meeting of the Council ; and all questions shall be determined by a majority of the votes of the Members present, and in case of an equality of votes the Mayor or Chairman shall have a casting vote in addition to his vote as a Member of the Committee.

## PART XVIII.

## NOTICES TO, DEMANDS UPON, AND REMEDIES AGAINST OWNERS, &amp;c.

Notices and demands against owners.

**296** Save where it is otherwise expressly provided, every notice or demand which by this Act is required to be given to the owner of any building or land shall be addressed to the owner of such building or land, and shall be served on the occupier thereof (if any) or left with some adult inmate of his abode, or if there be no occupier shall be put up on some conspicuous part of such building or land ; and it shall not be necessary in any such notice or demand to name the owner of any such building or land.

When the owner of any building or land and his residence are known to the Council, a copy of every such notice or demand shall, if such owner be resident within the City, be served on such owner or left with some adult inmate of his abode, and if such owner be not resident within the City, be sent by the post addressed to such owner at his residence.

Occupier may act in certain cases on default of owner.

May recover from owner.

**297** Whenever default is made by the owner of any building or land in the execution of any work by this Act required to be executed by him, the occupier of such building or land may, with the approval of the Council, cause such work to be executed. In such case, and in any case in which any occupier is compelled to do any work or pay any money which ought primarily to be done or paid by the owner, the expense of such work or the money so paid shall be repaid to such occupier by the owner, and such occupier may deduct the amount of such expense or the money so paid out of the rent from time to time becoming due from him to such owner.

Expenses payable by owner how recoverable from him.

**298** If any person made liable by this Act or any By-law made thereunder for the repayment to the Council of any expenses incurred by them do not as soon as the same becomes due and payable from him repay all such expenses to the Council, the Council may recover the same before Two Justices, or in an action of debt in any Court of competent jurisdiction.

May in certain cases be recovered from occupier.

**299** The Council may, by way of additional remedy, whether any such action or proceeding has been brought or taken against any owner or not, require the payment of all or any part of the expenses payable



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by any owner for the time being from the person who then or at any time thereafter occupies the building or land under such owner; and in default of payment thereof by such occupier on demand, the same may be recovered from him before Two Justices, or in an action of debt in any Court of competent jurisdiction.

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**300** If the occupier of any building or land within the City prevent the owner thereof from carrying into effect in respect of such building or land any of the provisions of this Act after notice of his intention so to do has been given by the owner to such occupier, any Justice, upon proof thereof, may make an Order in writing requiring such occupier to permit the owner to execute all such works with respect to such building or land as may be necessary for carrying into effect the provisions of this Act; and if after the expiration of Ten days from the date of such Order such occupier continue to refuse to permit such owner to execute such works, such occupier shall for every day during which he so continues to refuse be liable to a penalty not exceeding Five Pounds. And every such owner during the continuance of such refusal shall be discharged from any penalties to which he might otherwise have become liable by reason of his default in executing such works.

Occupier obstructing owner in carrying Act into effect.

**301** Provided always, that no occupier of any building or land shall be liable to pay more money in respect of any expenses charged by this Act on the owner thereof than the amount of rent due from him for the premises in respect of which such expenses are payable at the time of the demand made upon him, or which shall at any time after such demand and notice not to pay the same to his landlord have accrued and become payable by him, unless he neglect or refuse upon application made to him for that purpose by the Council truly to disclose the amount of his rent and the name and address of the person to whom such rent is payable; but the burden of proof that the sum demanded of any such occupier is greater than the rent which was due by him at the time of such demand, or which has since accrued, shall lie upon such occupier: Provided further, that nothing herein contained shall be taken to affect any special contract made between any such owner and occupier respecting the payment of the expenses of any such work as aforesaid.

But occupier not to be liable beyond rent due or to become due after notice.

**302** Where any such expenses payable to the Council by the owner of any such building or land amount to more than half the amount of the net annual value of such building or land, the Council may, if they think fit, at the request of such owner, allow time for the repayment of such expenses, and receive the same by such instalments as they under the circumstances of the case consider reasonable, but so that the same be repaid by annual instalments of not less than one-seventh part of the whole sum originally due, with interest for the principal money from time to time remaining unpaid after the yearly rate of Six Pounds for every One hundred Pounds during the period of forbearance; but all such sums remaining due, notwithstanding the Council have agreed to allow any time for the repayment thereof as aforesaid, shall 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 time had been allowed for repayment thereof.

Payment of expenses by instalments in certain cases.

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**PART XIX.****LEGAL PROCEEDINGS.***(1.) Legal Proceedings by and against the Corporation.*Service of notice  
and legal  
proceedings.**303** Any summons or notice, or any writ or other proceeding at law or in equity, requiring to be served upon the Corporation, may be served by being given personally to the Mayor or Town Clerk.Certain  
documents, how  
authenticated by  
the Council.**304** Every order, summons, notice, or other such document requiring authentication by the Council, may be sufficiently authenticated without the Common Seal of the Corporation if signed by Two Aldermen or by the Town Clerk.Summons for  
Rates without fee.**305** No fee shall be payable on any summons issued on the complaint of any Council to enforce payment of any Rates.Proceedings in  
estate of  
insolvents, &c.**306** If any person against whom the Corporation or the Council has any claim or demand take the benefit of any Act for the relief of insolvent debtors, the Town Clerk or Treasurer of the Corporation, in all proceedings against the estate of such bankrupt, or under any adjudication or act of bankruptcy against such bankrupt, may represent the Corporation or the Council, and act in their behalf in all respects as if such claim or demand had been the claim or demand of the Town Clerk or Treasurer.Proceedings in  
Petty Sessions.**307** In all proceedings in any Court of Petty Sessions, or before any Justice, the Town Clerk, or any other officer of the Council appointed by the Mayor in writing under his hand, may represent the Corporation or the Council in all respects as though he had been the party concerned.Reimbursement  
of officers.**308** The Town Clerk, Treasurer, or other officer appointed as last aforesaid, shall be reimbursed out of the Municipal Fund all damages, costs, charges, and expenses to which he may be put, or with which he may become chargeable, by reason of anything contained in either of the two last preceding Sections.Judge, &c. may  
adjudicate  
although a  
member of the  
Corporation.**309** No Judge of the Supreme Court, Justice of the Peace, or other inhabitant discharging any judicial or civil functions whatever, shall be disabled from acting in the due discharge and execution of his respective duties by reason of his being a member of the Corporation; and it shall be lawful for the Judges of the said Court or any of them, notwithstanding that they or any of them are members of the Corporation, to sit, determine, or otherwise adjudicate in the matters brought before them or him connected with the Corporation as in any ordinary case of the like nature, and for any Justice of the Peace to act as such in like manner as if he were not directly or indirectly interested in the concerns of the Corporation.*(2.) Recovery and Appropriation of Penalties.*Offences to be  
dealt with sum-  
marily.**310** All offences against this or any other Act relating to the Corporation, or against any By-law, and all penalties and sums of money imposed or made payable by this or any other Act relating to the Corporation, shall, where no other mode of proceeding is by Law provided,

*Hobart Corporation.*

be heard, determined, and recovered in a summary way by and before the Mayor or one or more Justice or Justices of the Peace in the mode prescribed by *The Magistrates Summary Procedure Act*.

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19 Vict. No. 8.

**311** No person, unless it be otherwise expressly provided, shall be imprisoned for nonpayment of any penalty under this or any other Act relating to the Corporation, or for want of sufficient distress, for a longer period than Three months, to be computed from the day, if such offender has been arrested, on which he was actually arrested.

Persons not to be imprisoned for more than Three months.

**312** No person shall be liable to be punished under this or any other Act relating to the Corporation, or under any By-law, and under any other Act, for the same offence.

One conviction only for same offence.

**313** All penalties received by virtue of this or any other Act relating to the Corporation, or any By-law, shall, if not otherwise in any case specifically directed, be paid to the Treasurer, and form part of the Municipal Fund.

Penalties to be paid to Treasurer.

Repealed by 63 Vict. No. 36

**314** Any person who thinks himself aggrieved by any penalty imposed under the authority of this or any other Act relating to the Corporation may, unless otherwise expressly provided, appeal against the same in the manner prescribed by *The Appeals Regulation Act*.

Appeal from penalties.

19 Vict. No. 10.

(3.) *Protection of Persons executing Acts relating to the Corporation.*

**315** Unless otherwise expressly provided, no action shall lie against any person for anything done in pursuance of this or any other Act relating to the Corporation unless notice in writing of such action, and of the cause thereof, is given to the Defendant One month at least before the commencement of the action, and such action is commenced within Three months after the cause of action has accrued; and in any such action the Defendant may plead the general issue, and give this or such other Act and the special matter in evidence; and no Plaintiff shall recover in any such action if tender of sufficient amends has been made before such action brought, or if a sufficient sum of money has been paid into Court by or on behalf of the Defendant after such action brought, together with the costs incurred up to that time; and if a verdict passes for the Defendant, or the Plaintiff becomes nonsuit or discontinues such action, or if upon demurrer or otherwise judgment is given against the Plaintiff, the Defendant shall recover his full costs as between attorney and client, and have the like remedy for recovering the same as any defendant has by Law in other cases; and though a verdict is given for the Plaintiff in any such action, such Plaintiff shall not have costs against the Defendant unless the Judge before whom the case is tried certifies his approbation of the action, and the verdict obtained thereupon.

Persons acting under Acts relating to the Corporation entitled to notice of action, &c.

PART XX.

MISCELLANEOUS.

*Performance of Works and Repairs beyond boundaries of the City.*

**316** The Council may combine with the Municipal Council or Board of any City or Rural Municipality or Town for the purpose of

Council may combine for certain works.

*Hobart Corporation.*

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executing and maintaining any works that may be for the joint benefit of the City of *Hobart* and such other City or Town or Municipality, as the case may be, and may borrow money for the purpose of contributing to the cost of any such work, in the same manner and to the same amount as if such money was borrowed for the execution or maintenance of any work undertaken solely by the Council, and whether such work is within the boundaries of the City of *Hobart* or not.

Repairs, &c, to  
Roads, &c.  
uniting Towns,  
&c.

**317** Whenever the Council is of opinion that any drain, sewer, watercourse, culvert, or bridge should be constructed upon or across the boundary line between the City of *Hobart* and any other City or any Town or Municipality, or that any repairs or alteration or other work should be done to any such drain, sewer, watercourse, culvert, or bridge, or any road or street abutting on such boundary line, and that such drain, sewer, watercourse, culvert, or bridge, or such repairs or alteration or other work will be a benefit to the adjoining Town or City or Municipality as well as to the City of *Hobart*, it shall be lawful for the Council to give to the Board or to the Municipal Council of the adjoining Town or City or Municipality notice in writing requiring the said last-mentioned Board or Municipal Council to concur in constructing such drain, sewer, watercourse, culvert, or bridge, or in executing such repairs or alteration or other works; and if an agreement shall not be entered into for constructing such drain, sewer, watercourse, culvert, or bridge, or for executing such repairs or alteration or other work within One month after service of such notice, the Council may construct such drain, sewer, watercourse, culvert, or bridge or execute such repairs, alteration, or other work; and it shall be lawful for the Minister of Lands and Works to decide, upon such evidence as he may deem sufficient, as to the manner in which the cost of constructing such drain, sewer, watercourse, culvert, or bridge, or of executing such repairs or alteration or other work shall be borne, and the Treasurer of *Tasmania* is hereby empowered to pay to the Council, out of any moneys which the defaulting Board or Municipal Council may at any time thereafter be entitled to receive out of the Consolidated Revenue Fund, such portion, if any, as the Minister may certify of the costs of constructing such drain, sewer, watercourse, culvert, or bridge, or executing such repairs or alteration or other works as aforesaid; and in the event of the said defaulting Board or Municipal Council not being entitled to receive any money out of the Consolidated Revenue Fund, such portion of the said costs and charges as the Minister certifies as aforesaid shall be recoverable by the Council from the defaulting Board or Municipal Council as money paid by the Council for the use of the defaulting Board or Municipal Council, as the case may be.

*Substitutes.*

When Mayor, &c.  
unable to perform  
duty, another per-  
son to be appointed  
for that purpose.

**318** Whenever in consequence of death, absence, or otherwise, it is not possible for any Alderman or Auditor, or the Town Clerk, or any other Corporate Officer or person, to perform any duty which he is directed to perform, it shall be lawful for the Mayor to appoint any other Alderman, Auditor, or person to perform the same; and if by any similar reason the Mayor is prevented from performing any duty imposed on him, the Municipal Council shall appoint one of the Aldermen to perform such duty.

*Hobart Corporation.**Neglect of Duty.*

**319** If any Mayor, Alderman, Auditor, or other person whomsoever appointed or enjoined to perform any duty, matter, or thing under this Act or any other Act relating to the Corporation wilfully neglects or refuses to perform any such duty, matter, or thing, or in any manner infringes or disobeys any provisions of this or such other Act, such Mayor, Alderman, Auditor, or other person as aforesaid shall for every such offence forfeit and pay a penalty of not less than Twenty Pounds nor more than Three hundred Pounds; and any such penalty shall be recoverable with full costs of suit by any person who sues for the same within Three months after the commission of such offence by action of debt in the Supreme Court; and one moiety of any such penalty so recovered shall be paid and applied, one moiety thereof to the person so suing, and the other moiety thereof shall be paid and applied in aid of the Municipal Fund.

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Mayor, &c., disobeying Act liable to a penalty.

*Obstructing Municipal Council and its Officers.*

**320** If any person wilfully obstructs, hinders, or interrupts, or causes or procures to be obstructed, hindered, or interrupted, the Municipal Council, or any Member thereof, or any Auditor, or any Officer, Agent, Servant, Workman, or Assistant of the Municipal Council, in doing or performing any work, or in the exercise of any power or authority authorised or vested in the said Council, or any of the persons aforesaid by this or any other Act relating to the Corporation, or threatens, or assaults, or uses improper or abusive language to, or otherwise insults, any of the persons aforesaid whilst in the performance or execution of his duty under this or any other Act relating to the Corporation, every such person shall for any such offence (if not otherwise specially provided for) forfeit and pay a penalty not exceeding Twenty Pounds: Provided, that no proceeding for the recovery of any such penalty, nor the payment thereof, shall be a bar to any action at law by any of the persons aforesaid for or in respect of any such assault as aforesaid, but every such action may be commenced and proceeded with as if this Act had not been passed, any law or usage to the contrary notwithstanding.

Penalty for obstructing the Council or its Officers.

*Enforcement of Act.—Penalties, &c.*

**321** The Council shall, for the purposes of this Act, have power by themselves or their officers to enter at all reasonable hours in the daytime into and upon any building or land within the City for the purpose of executing any work or making any inspection authorised to be executed or made by them under this Act, without being liable to any legal proceedings on account thereof.

Powers of entry by officers of Council.

**322** If any person shall refuse or neglect for the space of Seven days to comply with any order of the Council requiring such person to do any act which the Council is authorised by this Act to require such person to perform, the Council may cause such person to be summoned before any Two Justices of the Peace; and such person shall upon conviction of such refusal or neglect as aforesaid be liable to a penalty not exceeding Forty Shillings, and to a further penalty of Five Shillings per day for every day during which such refusal or neglect continues.

Persons refusing to comply with order of Council may be dealt with summarily.

*Hobart Corporation.*

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Act to apply  
the causing pro-  
hibited matters.

**323** Where any act, matter, or thing is prohibited by this Act, the causing such act, matter, or thing to be done or committed shall be deemed to be equally prohibited, and shall be punishable accordingly.

*Power to direct Prosecutions.*

Council may  
direct prosecu-  
tions, &c.

**324** The Council may order proceedings to be taken for the recovery of any penalties and for the punishment of any person offending against the provisions of this Act, and may order the expenses of such prosecution or other proceedings to be paid out of the Municipal Fund.

*Exemption of Mayor and Aldermen and Officers from service as Jurors.*

Mayor, &c.  
exempted from  
serving on Juries.

**325** The Mayor, Aldermen, Auditors, and all Corporate Officers shall, during their respective continuance in office, be exempt from serving on any Jury.

*Aldermen may be appointed Justices of the Peace.*

Aldermen may be  
appointed Jus-  
tices for the City.

**326** The Governor is hereby empowered to appoint such of the Aldermen as to him may seem necessary as and to be Justices of the Peace in and for the City of *Hobart*; and the Aldermen appointed such Justices shall, during their continuance in office as Aldermen, have in and for the City the like jurisdiction, power, authority, and privileges as any other Justice of the Peace; and every such appointment shall be made by notice published in the *Gazette*.

*Property vested in the Corporation.*

Property vested in  
Corporation.

**327** All real and personal property whatsoever purchased or acquired by the Council under and for the purposes of this Act shall be the property of the Corporation, and the piece of land described in the Schedule (2.) to the Act of Parliament 52 *Victoria*, No. 24, and by that Act vested in the Municipal Council of *Hobart*, is hereby vested in and declared to be the property of the Corporation.

*Hobart Corporation.***SCHEDULE.**

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(1.)

**REPEAL.**

Sect. 3.

<i>Date and Number of Act.</i>	<i>Title of Act.</i>	<i>Extent of Repeal.</i>	
18 Vict. No. 16.	The Hobart Town Rivulet Improvement Act.	The whole Act.	col II. P 892
21 Vict. No. 14.	The Hobart Town Corporation Act.	The whole Act.	P 833
21 Vict. No. 15.	The Hobart Town Slaughter Act.	The whole Act.	P 882
21 Vict. No. 22.	An Act to confer certain Powers upon the Municipal Councils of the City of Hobart and the Town of Launceston.	The whole Act.	P 850
22 Vict. No. 24.	The Hobart Town Corporation Amendment Act.	The whole Act.	P 862
26 Vict. No. 8.	The Hobart Town Corporation Amendment Act, No. 2.	The whole Act.	P 865
27 Vict. No. 27.	An Act to further amend "The Hobart Town Corporation Act."	The whole Act.	P 866
30 Vict. No. 15.	The Hobart Town Paving Act.	The whole Act.	P 879
31 Vict. No. 39.	An Act to further amend "The Hobart Town Corporation Act."	The whole Act.	P 880
33 Vict. No. 28.	An Act to further amend "The Hobart Town Corporation Act in certain Particulars."	The whole Act.	P 880
36 Vict. No. 12.	The Hobart Town Corporation Amendment Act, 1872.	The whole Act.	P 886
39 Vict. No. 12.	The Hobart Town Rivulet Improvement Act, No. 2.	The whole Act.	P 899
40 Vict. No. 10.	An Act to amend "The Hobart Town Corporation Act."	The whole Act.	P 869
42 Vict. No. 21.	The Hobart Town Paving Amendment Act.	The whole Act.	P 880
47 Vict. No. 22.	The Hobart Town Corporation Act Amendment Act, 1883.	The whole Act.	V P 2884
47 Vict. No. 24.	An Act to amend an Act to confer certain Powers upon the Municipal Councils of the City of Hobart and the Town of Launceston.	The whole Act.	P 3014
48 Vict. No. 11.	An Act to confer certain Powers upon the Municipal Council of the City of Hobart.	The whole Act.	P 3142
52 Vict. No. 6.	The Hobart Rivulet Improvement Act, 1888.	The whole Act.	

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(2.)

Sect. 18.

## BOUNDARIES OF THE CITY OF HOBART.

Commencing at the south-east angle of a grant to George Frankland on the Wellington or Sandy Bay Rivulet, and bounded by that rivulet to its confluence with the River Derwent, by that river and Sullivan's Cove to the northern side of the Hobart Rivulet at its confluence with the former, continuing thence along high-water mark of the River Derwent to a point immediately opposite the north-east angle of the Hobart Slaughter Yards, being a continuation of the line of the north-eastern boundary of the said yards, from that said point at high-water mark in a westerly direction to the north-east angle of the Slaughter Yards, thence north-westerly by the north-eastern boundary of the said Slaughter Yards to the north angle thereof, thence in a south-westerly direction by the north-western boundary of the said Slaughter Yards to the public road leading to the Slaughter Yards, and continuing the same line across that road to the north-eastern boundary of the Royal Engineers' Yard, thence in a south-easterly direction along that said boundary to the north-east angle of the said Royal Engineers' Yard, thence south-westerly by the south-eastern boundary of the Royal Engineers' Yard to the northern boundary of land in the occupation of the Hobart Gas Company, thence north-westerly along that said boundary to the northern angle of the said land in the occupation of the Hobart Gas Company, thence north-easterly by a straight line across the entrance of the road leading from Macquarie street to the Royal Engineers' Yard to the south-western angle of land in the occupation of the Territorial Police, from thence to the angle of intersection formed by the northern building-line of Park-street with the road leading to the Queen's Domain from Macquarie-street, thence along the north and north-eastern building-line of Park-street (crossing Liverpool-street) to a point on the south-western boundary of the Queen's Domain at Park-street and directly opposite the south-east building-line of Clara-street, from thence south-westerly along the said south-eastern building-line of Clara-street (crossing Park-street and Letitia-street) to the eastern side of Argyle-street, thence by a continuation of that line across Argyle-street to the south-eastern angle of a grant to James Milne Wilson, thence from the south-eastern angle of this grant to the eastern side of Commercial Road, thence by a continuation of that line across Commercial Road to the south-eastern angle of a grant to John Dunn, thence by the south-eastern boundary of that grant to the New Town Road, thence by a continuation of that line across the New Town Road to the north angle of a grant to Janet M'Tavish, thence by the north-west boundary of that grant to a point on the northern side of the Elphinstone Road, thence in a south-easterly direction crossing Elphinstone Road and across Mount Stuart Road to the west angle of a grant to John Swan, thence by the south-western boundary of that grant and also by the south-western boundary of a grant to John Dunn to the north-western side of Arthur-street, thence by the north-western building-line of Arthur-street in a south-westerly direction to the south-western side of Knocklofty Terrace, thence by the south-western side thereof to Poets' Road, and crossing the same, to an allotment granted to William Harris, thence by part of the north-western and by the north-eastern boundary of that grant and a continued south-easterly line (after crossing Salvator Rosa Glen) along the north-eastern boundaries of locations to Joseph Bowden and Peter Dudgeon (crossing Forest Road) and extending to the Hobart Rivulet, thence by that rivulet in a south-westerly direction (after crossing the same) to a point intersected by a continuation of a line directly along the centre of Glen-street, thence south-easterly along the centre of Glen-street to Macquarie-street, and continuing across that street to a point intersected by the centre line of Washington-street, thence southerly along the centre of that street to a point intersected by a straight line parallel to and distant Two hundred feet southwards from the southern building-line of D'Arcy-street, thence in a south-easterly direction along that parallel line with D'Arcy-street to Holbrook Place (Upper), and continuing across that roadway in the same line to a point in the centre thereof, thence in a northerly direction along the centre of Holbrook Place to a point intersected by a line in continuation of the south boundary of a grant to George Frankland, thence easterly by that continued line to the south-west angle of that grant, and by the south boundary of that said grant to a point on the western bank of the Sandy Bay Rivulet to the point of commencement.



*Hobart Corporation.*

(3.)

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## FORM OF NOMINATION.

Sect. 26.

The \_\_\_\_\_ day of \_\_\_\_\_ 18

WE, the undersigned Citizens of the City of Hobart, do hereby nominate  
 [stating Christian and Surname] of [state occupation] as a fit and  
 proper person to be elected as an Alderman of the said City.

[Here are to follow the Signatures of the Nominators as under.]

Surname and Christian Name of Nominator.

Place of Residence of Nominator.

I, the above-named \_\_\_\_\_, do hereby declare that I am duly  
 qualified to be nominated for election as an Alderman of the City of Hobart, and I  
 hereby consent to become a Candidate for election as an Alderman of the said City.  
 A.B.

(4.)

Sect. 29.

## SCRUTINEER'S DECLARATION.

I, A.B., appointed by C.D., one of the persons nominated for election as an  
 Alderman [or Auditor] at the ensuing Election, to be a Scrutineer at such Election,  
 do hereby solemnly declare that I will faithfully assist as such Scrutineer, and will not  
 attempt to ascertain for whom any Citizen votes, nor by any word or action directly or  
 indirectly aid in discovering the same, except in answer to any question which I am  
 legally bound to answer, or in compliance with the provisions of *The Hobart Corpora-*  
*tion Act.*

A.B.

(5.)

Sect. 33.

## BALLOT PAPER.

## One Vote.

[or whatever may be the number of Votes.]

1. Abel, John.
2. Bolton, Stephen.
3. Clarke, Henry.
4. Dodds, Thomas.

(6.)

Sect. 35.

## CITIZEN'S DECLARATION.

I, A.B., do hereby solemnly declare that I am the person named in the Assessment  
 Roll now in force for the City of *Hobart*, that I am not an alien, and that I have not  
 already voted at this Election; and I further solemnly declare that no part of any  
 Municipal Rate due and payable by me is in arrear.

A.B.

(7.)

Sect. 68.

## DECLARATION BY MAYOR, &amp;c.

I, A.B., having been elected Mayor [or an Alderman or Auditor] of the City of  
*Hobart*, do hereby declare that I take the said Office upon myself, and will duly and  
 faithfully fulfil the duties thereof according to the best of my judgment and ability;  
 and I do hereby declare that I am seised of real Estate [or possessed of a chattel  
 interest in real Estate] to the amount of Five hundred Pounds over and above what  
 will satisfy my debts [or rated in respect of property assessed under an existing Assess-  
 ment for the City of *Hobart* at the annual value of not less than One hundred Pounds,  
 as the case may be]; and that I have not fraudulently or collusively obtained the same  
 in order to render myself eligible for the Office to which I have been elected.

A.B.



*Hobart Corporation.*

(11.)

A.D. 1893.

## FORM OF TRANSFER OF MORTGAGE OF RATES.

Sect. 137.

I, *A.B.*, in consideration of the sum of \_\_\_\_\_ paid to me by *C.D.* of \_\_\_\_\_ hereby transfer to the said *C.D.*, his executors, administrators, and assigns, a certain Mortgage, Number \_\_\_\_\_, made by THE MAYOR, ALDERMEN, AND CITIZENS OF THE CITY OF HOBART, to \_\_\_\_\_ bearing date the \_\_\_\_\_ day of \_\_\_\_\_ 1893, for securing the sum of \_\_\_\_\_ and interest, (*or, if such transfer is by endorsement, the within security,*) and all my right, estate, and interest in and to the money thereby secured, and in and to the Rates thereby assigned.

In witness whereof I have hereunto set my hand and seal, this \_\_\_\_\_ day of \_\_\_\_\_ 189 .

*A.B.* (L.S.)

(12.)

Sect. 202.

## LAND VESTED IN THE CORPORATION OF THE CITY OF HOBART FOR THE PURPOSES OF THIS ACT.

A Piece of Land containing 3a. 1r. 0p.

Bounded on the north west by 3 chains 77 links north-easterly along the Royal Engineers' Yard commencing at the south angle thereof on the north-east boundary of a grant to Charity Eliza Mackay Collins, on the south west by 95 links north-westerly also along that yard, again on the north west by 3 chains 20 links north-easterly along Crown Land known as the Queen's Park, on the north east by a straight south-easterly line of 5 chains 12 links also along that land and along the River Derwent to the north-eastern extremity of a jetty, on the north-eastern side by the terminus of that jetty forming a line of 25 links extending south-easterly also along the River Derwent, on the south-eastern side by 92 links south-westerly also along that river, on the south-east by 7 chains 5 links south-westerly also along that river, again on the south west by 2 chains 44 links north-westerly also along that river to an allotment purchased from the Crown by Joseph Hone, Alexander M'Naughtan, and Askin Morrison, again on the north west by 90 links north-easterly along that allotment, again on the south west by 2 chains north-westerly also along that allotment to the east angle of the aforesaid grant to Charity Eliza Mackay Collins, and thence again on the south west by 16½ links north-westerly along that grant to the point of commencement. Reserving for the use of the Public a roadway 17 feet in width within and along the whole of the outer boundary of the land above described, except that portion of the said boundary which lies to the north east of the Royal Engineers' Yard, along which portion the width of the roadway hereby reserved shall be 33 feet.

(13.)

Sect. 207.

## FORM OF BUTCHER'S LICENCE.

*Butcher's Licence.*

WHEREAS under "The Hobart Corporation Act, 1893," *A.B.* of \_\_\_\_\_ has applied to me *G.S.C.*, Mayor of the City of Hobart, for a Licence to slaughter Animals for Sale, and also to sell Meat, within the limits of the said Act: And whereas I have received the Fee payable in respect of such Licence: I, the said Mayor, do therefore hereby grant to the said *A.B.* licence to slaughter Animals for Sale, and also to sell Meat within the limits aforesaid, pursuant to the said Act.

Dated this \_\_\_\_\_ day of \_\_\_\_\_ 18 .

*G.S.C.*

Mayor of the City of Hobart.