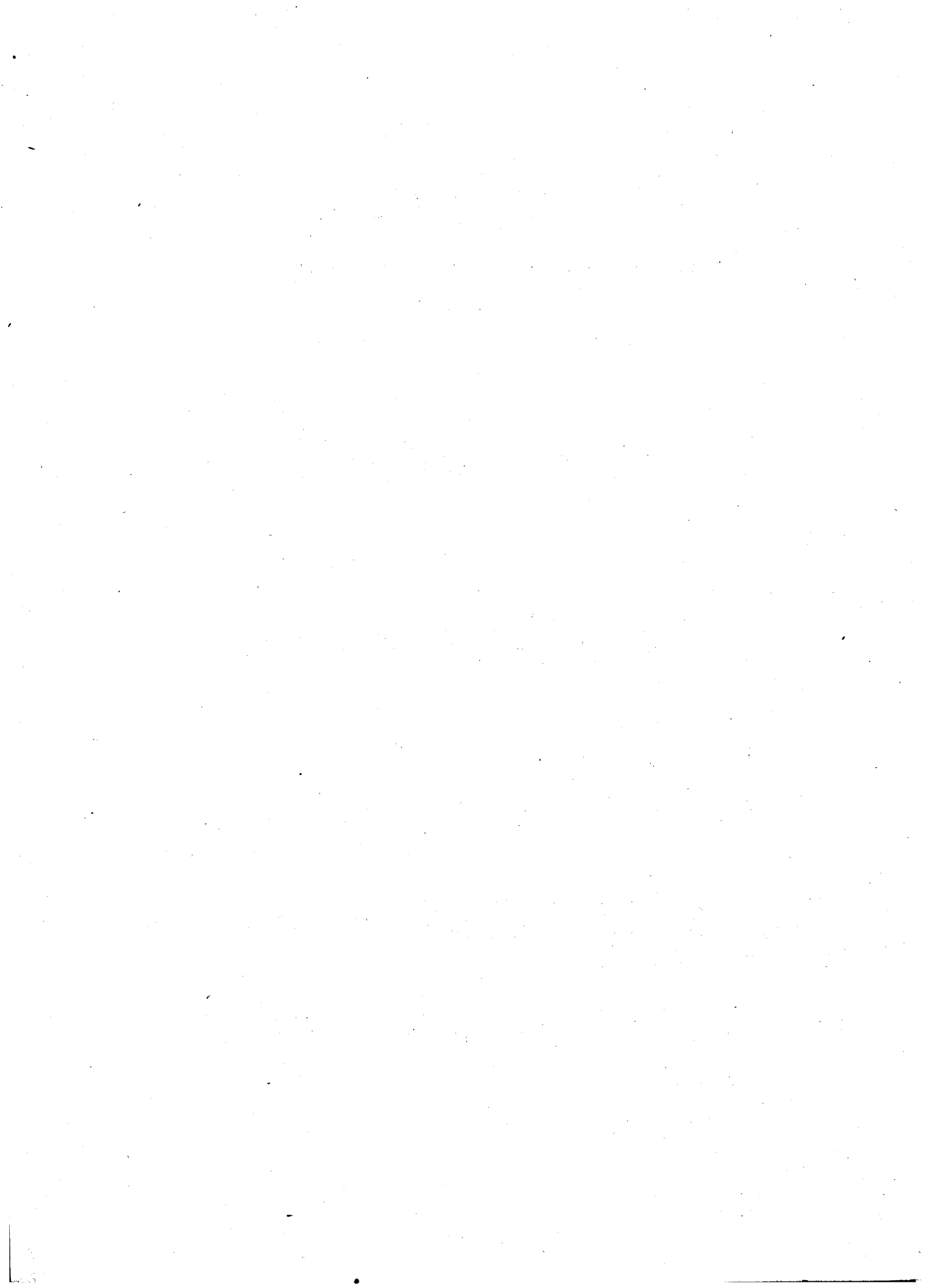


T A S M A N I A.

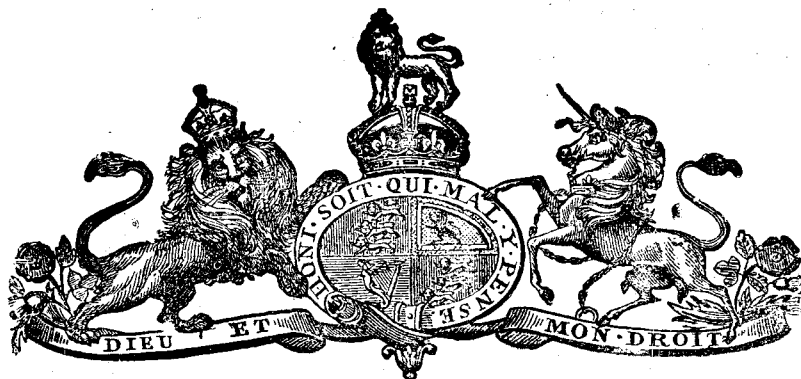
THE HOBART CORPORATION ACT,  
No. 2, 1919.

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TASMANIA.



1919.

ANNO DECIMO

GEORGII V. REGIS.

No. 64.

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A.D.  
1919.

AN ACT to further amend "The Hobart Corporation Acts, 1893-1918."

[6 January, 1920.]

**W**HEREAS it is expedient to further amend "The Hobart Corporation Acts, 1893 to 1918," in the manner hereinafter appearing : 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**—(1) This Act may be cited for all purposes as "The Hobart Corporation Act, 1919, No. 2," and is hereby incorporated with, and shall be read as one with, "The Hobart Corporation Act, 1893," and every amendment thereof. Short title and incorporation with 57 Vict. No. 11.

(2) "The Hobart Corporation Act, 1893," and every amendment thereof, inclusive of this Act, may together be cited as "The Hobart Corporation Acts, 1893 to 1919."

**2** In this Act, unless the context otherwise determines—

Interpretation

"The Corporation" means the Corporation of the Mayor, Aldermen, and Citizens of the City of Hobart:

"The Council" means the Hobart City Council:

"The Principal Act" means "The Hobart Corporation Act, 57 Vict. No. 11, 1893":

"Property," "Owner," and "Occupier" shall have the same meaning as is assigned to these words by Section Four of the Principal Act.

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Division of Act.

**3** This Act is divided into parts, as follow :—

Part I.—Rates.

Part II.—Private Streets.

## PART I.

## RATES.

Commencement  
of this part of  
Act.

**4** This part of this Act shall come into operation immediately after the Thirtieth day of June, One thousand nine hundred and twenty, and not before, and shall not affect anything duly done before that date, or any liability accruing before that date, and where any owner becomes 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 passing of this Act, whereby such occupier would but for the provisions of this part of this Act be liable to pay any rates or any part thereof, such occupier shall repay to the owner all sums paid by the owner during the continuance of such lease or agreement for or on account of such rates which the occupier would have had to pay under such lease or agreement if it had not been for this part of this Act; 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.

Amendment of  
Section 104 of  
57 Vict. No. 11.

**5** In Section One hundred and four of the Principal Act the word “occupiers,” occurring in the Eighth line, is hereby expunged, and the word “owners” inserted in lieu thereof; and the words “such annual value is” are hereby inserted before the word “ascertained” in the Ninth line of the said section.

Amendment of  
Section 106 of  
57 Vict. No. 11.

**6** Section One hundred and six of the Principal Act is hereby amended by inserting the word “owner” in lieu of the word “occupier” in the First, Ninth, Tenth, and Fourteenth lines thereof.

Repeal of Section  
107 of 57 Vict.  
No. 11.

**7** Section One hundred and seven of the Principal Act is hereby repealed.

Repeal of Section  
108 of  
57 Vict. No. 11,  
Sections 10 and  
12 of 59 Vict.  
No. 46, and Section  
6 of 62 Vict.  
No. 14.

**8** Section One hundred and eight of the Principal Act, Sections Ten and Twelve of “The Hobart Corporation Act, 1895,” and Section Six of “The Hobart Corporation Act, 1898,” are hereby repealed.

Unoccupied  
buildings to pay  
half rates.  
See 6 Ed. VII.  
No. 31, s. 174.**9** In every case where—

- i. Any dwelling-house or other building remains actually vacant and unoccupied for a period of not less than Six months in any rating year, whether continuously or not; and

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- ii. The person rated in respect thereof gives to the Council, within Fourteen days after the expiration of such period, notice in writing of the dates on which such house or building became vacant and unoccupied, and on which it again became occupied—

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then such person shall be liable to pay half the amount which would otherwise be payable for the year's rates in respect of such dwelling-house or other building, and shall be entitled to a refund of whatever sum he may have in excess of such half.

**10** Section One hundred and ten of the Principal Act is hereby amended by inserting after the word "property" in the Fifth line thereof the words "in the same manner in all respects as if such occupier were the owner."

Amendment of Section 110 of 57 Vict. No. 11.

**11** Sections One hundred and twelve and One hundred and thirteen of the Principal Act are hereby repealed.

Repeal of Sections 112 and 113 of 57 Vict. No. 11.

**12** Section One hundred and seventeen of the Principal Act is hereby repealed, and the following section is inserted in lieu thereof:—

Repeal of Section 117 of 57 Vict. No. 11, and substitution of new section.

"**117** It shall be lawful for the Council to remit or excuse the payment of the whole or any part of any rate, debt, fee, penalty, stallage, toll, due, rent, charge, costs, expenses, or sum of money payable to the Corporation or the Council by any person, upon its own motion, or upon the application of such person, if it shall appear to the Council or the Mayor that—

- i. Such person is in indigent or poor circumstances; or
- ii. That the payment of the same would inflict hardship on such person; or
- iii. The payment would be out of proportion to the benefits received; or
- iv. The amount cannot be collected; or
- v. In the interests of the municipality it is advisable so to do—

And the Council may from time to time delegate to the Mayor the power to remit and excuse hereby given."

**13** Section One hundred and twenty of the Principal Act is hereby amended by inserting the following provisions at the end of same:—

Amendment of Section 120 of 57 Vict. No. 11

"Provided that where the goods and chattels are those of an occupier who is not the owner, if such occupier shall pay to the Corporation the amount of rent due from him to the owner at the time of the distress, or after such distress accrues and becomes payable by the occupier, such distress shall be withdrawn; but the proof that the sum distrained for is greater than the rent due by the occupier at the time of such distraint, or which accrued since such distraint, shall be upon such occupier."

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Amendment of  
Section 121 of  
57 Vict. No. 11.

**14** Section One hundred and twenty-one of the Principal Act is hereby amended by inserting the following provisions at the end of the same:—

“ Provided that in all cases where it is sought to distrain for more than one year's rates, the Form (9A) in the schedule in this Act may be used in substitution for the Form (9) in the schedule to the Principal Act; and either of such forms may be varied or altered as may at any time or times be reasonably necessary or convenient, and no such alteration shall affect the validity of anything done under or in pursuance of the same, and in particular instead of inserting in any such form the date when any rate or rates is or are made, it shall be sufficient to insert the period or periods for which the same are made.”

Repeal of Section  
123 of 57 Vict.  
No. 11.

**15** Section One hundred and twenty-three of the Principal Act is hereby repealed.

Amendment of  
Sections 53, 54,  
55, and 58 of  
57 Vict. No. 25.

**16** Wherever the words “ occupier ” and “ occupiers ” occur in Sections Fifty-three, Fifty-four, Fifty-five, and Fifty-eight of “ The Hobart Water Act, 1893,” the same shall be expunged, and the words “ owner ” and “ owners ” inserted in lieu thereof; and the word “ lands ” shall be inserted after the word “ all ” in the Third line, and after the word “ such ” in the Fifth line of the said Section Fifty-three.

Amendment of  
Section 61 of  
57 Vict. No. 25.

**17** In Section Sixty-one of “ The Hobart Water Act, 1893,” the words “ or occupiers ” in the Second line thereof are hereby expunged.

Amendment of  
Section 66 of  
57 Vict. No. 25.

**18** Where the words “ occupiers or owners ” and “ occupier or owner ” occur in Section Sixty-six of “ The Hobart Water Act, 1893,” as amended by “ The Hobart Water Act, 1907,” the same shall be expunged, and the word “ owner ” or “ owners,” as the case may be, inserted in lieu thereof.

Repeal of Section  
69 of 57 Vict.  
No. 25, and sub-  
stitution of new  
section.

**19** Section Sixty-nine of “ The Hobart Water Act, 1893,” is hereby repealed, and the following section is inserted in lieu thereof:—

“ **69** Nothing in this Act contained shall exempt the owner of any unoccupied land from the payment of any water rate in respect thereof as being the owner of such land within the meaning of the word “ owner ” as defined in the Principal Act, provided that the main or other pipes of the Council are laid and properly supplied with water within Fifty feet of the outer boundary of such unoccupied land.”

Amendment of  
Section 3 of  
7 Ed. VII. No.  
41.

**20** In Section Three of “ The Hobart Water Act, 1907,” the word “ occupier ” in line Eight is hereby expunged, and the word “ Owners ” inserted in lieu thereof.

Amendment of  
Section 8 of  
5 Ed. VII. No.  
29.

**21** The word “ occupiers ” occurring in the Tenth line of Section Eight of “ The Health Rate Act, 1905,” shall be read as “ owners ” with respect to any rate made under that Act by the Corporation.

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**22** All unpaid rates and interest, and all expenses incurred in attempts to collect the same, shall be a charge upon the property in respect of which such rates are due, in priority to all mortgages, charges, liens, and encumbrances whatsoever, and, notwithstanding such property may be sold and transferred or conveyed, may be recovered at any time from the then owner thereof, whether he may have been the owner at the time the same became payable or not, at the suit of the Council in any action in any court of competent jurisdiction as for a debt due by him; and if the then owner was not the owner at the time any of such rates, interest, or expenses become payable, he shall be entitled to recover from each person who was the owner of the property when the same became payable, as money paid to his use, the amount of rates that became payable when such person was the owner, together with the interest and the expenses incurred with regard to such rates and interest. The amount of any rates, interest, and expenses may be paid by any mortgagee and may be added to the principal sum secured by his mortgage, and shall be recoverable with interest (at the rate chargeable under the mortgage upon the moneys thereby secured) as the same moneys are recoverable: Provided always that this section shall not apply to rates which became due and payable before the Thirtieth day of June, One thousand nine hundred and nineteen.

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Unpaid rates charged on property.

**23** The owner, prospective purchaser, mortgagee, prospective mortgagee, tenant, or occupier of any property may require the Council to state what (if any) unpaid rates, interest, or expenses there may be due, or what instalments in respect of private streets there may be due or becoming due, in respect thereof or charged thereon, and may upon payment of the sum of One Shilling require from the Council a certificate under the hand of the City Treasurer or the Town Clerk setting out what (if any) or that no rates, interest, and expenses are due or instalments due or becoming due in respect thereof, or charged thereon, and thereby the Council shall be stopped from demanding any rates, interest, or expenses in respect of that property, except such as are shown in such certificate, and such as shall subsequently become due or payable, or any instalments in respect of private streets in respect of that property, except such as are shown in such certificate, and such as are not then due or becoming due in respect thereof.

Certificate as to rates and other charges may be demanded.

**24**—(1) Whenever the amount of unpaid rates and interest and expenses incurred in attempts to collect the same charged upon the property as aforesaid shall total at least the amount of the rates payable during the last Five years in respect of that property, the Council may apply by petition to the Supreme Court, or a judge thereof, for a sale of such property or of such portion thereof as may be reasonably considered necessary to produce the amount due and accruing due to the Corporation.

Method of enforcing charge.

(2) One month at least before presenting such a petition a notice shall be gazetted, and also shall be advertised Once at least in One daily paper

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published in Hobart, and a copy of such notice shall be affixed on the property. The form of such notice may be the Form B set out in the schedule to this Act, but may be varied as circumstances require.

(3) The court or a judge, on being satisfied by the affidavit of the Treasurer or Town Clerk, or otherwise, that the amount claimed to be due to the Corporation is so due in respect of such property, and that a sufficient notice has been given as above mentioned, and that such further notice (if any) as the court or judge upon hearing the petition may consider necessary has been given to the owner of the property, shall order the sale of the same, or of such portion thereof, or of so much thereof, as may be reasonably considered necessary to pay the claim up to the time of sale, together with all costs of and attending the notices, the application, and the sale and conveyance and transfer of the property, and that the proceeds shall be paid into the court, and that out of the proceeds payment shall be first made of such claim and costs, and also of all further rates and expenses payable or accruing at the date of the sale in respect of the property which, or portion or part whereof, has been so sold; and the balance of the proceeds shall be subject to any orders of the court or a judge for the benefit of the parties interested therein, and after the expiration of Twenty-one years from the date of sale the court or a judge may order that the balance and all interest thereon not the subject of any order relating thereto shall be paid to the Corporation.

(4) The court or a judge may fix a reserve, and from time to time alter the same, and may direct the method of sale, and from time to time alter such directions.

(5) A conveyance or transfer, as the case may be, of the property sold shall be executed to the purchaser in such form and by such officer of the court as the court or a judge may approve or direct, and the purchaser shall on the completion of such conveyance or transfer take an estimate in fee simple free from encumbrances, and where the land is under the provisions of the "Real Property Act" such purchaser shall be entitled to a certificate of title therefor on payment of the usual transfer fees.

Remedies concurrent.

**25** All remedies for the recovery of rates, interest, or expenses may be concurrent, and any remedy or proceeding may be taken or proceeded with notwithstanding that some other remedy or proceeding has been instituted, commenced, or proceeded with.

Rates charged on property recoverable for Twenty years.

**26** The provisions of Section One hundred and twenty-six of the Principal Act shall not apply to the recovery of any rate or instalment of rate, interest, or expense which is a charge upon the property, which shall be recoverable at any period before the expiration of Twenty years from the time when such rate or instalment of rate was made payable.

Repeal of Section 127 of 57 Vict. No. 11, and substitution of new section.

**27** Section One hundred and twenty-seven of the Principal Act is hereby repealed, and the following section is inserted in lieu thereof:—

"**127** Whenever the amount of unpaid rates and interest, and expenses incurred in attempts to collect the same, charged upon the



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property as aforesaid, shall total at least the amount of the rates payable during the last Five years in respect of that property, 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.”

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**28** Section One hundred and twenty-eight of the Principal Act is hereby repealed, and the following section is inserted in lieu thereof:—

Repeal of Section 128 of 57 Vict. No. 11, and substitution of new section.

“**128** The Council shall not take possession of any such property until One month after a notice in writing, setting forth that the 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 under the provisions of this Act, has been served on the owner and occupier thereof, or affixed on the property; and every such notice may be served by post in a prepaid registered letter, addressed to such owner or occupier at the last known place of residence known to the Council, and shall contain a sufficient description of the property to fairly identify the same; but every lease of such property which shall be granted by the Council 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 unpaid rates, interest, and expenses due in respect of such property, including the expenses of the above notice and the service or affixing thereof, are paid within One month after the service or affixing of such notice.”

**29** In Section One hundred and twenty-nine of the Principal Act, after the words ‘at the rate of Eight Pounds per centum per annum,’ occurring in the Fifth and Sixth lines, the words “and all expenses incurred with regard to the same” are hereby inserted.

Amendment of Section 129 of 57 Vict. No. 11.

**30** In Section One hundred and thirty-one of the Principal Act the Six lines from the Eighth to the Thirteenth inclusive are hereby expunged, and the following words inserted in lieu thereof:—

Amendment of Section 131 of 57 Vict. No. 11.

“ii. In payment to the Council of all unpaid rates and expenses incurred and other payments due in respect of such property, together with interest on all unpaid rates at the rate of Eight Pounds per centum per annum computed from the dates on which the same first became due and payable respectively, and in payment of all rates and other payments accruing due thereon.”

**31**—(1) The following words are added to the end of Section One hundred and thirty-two of the Principal Act:—“and a statutory declaration by the Mayor, the Treasurer, or the Town Clerk as to the dates of such taking possession and vesting shall be sufficient evidence thereof, provided that such declaration contains a sufficient description of the property to fairly identify the same.”

Amendment of Section 132 of 57 Vict. No. 11.

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(2) For the purposes of "The Registration Acts, 1827-1917," such statutory declaration shall be registered in the office of the Registrar of Deeds, at Hobart, as if it were a conveyance to the Corporation of the property mentioned therein from the person or persons in whom such property was formerly vested. The memorial of such statutory declaration—

- i. Shall be signed by the Mayor and Town Clerk :
- ii. Shall be verified as provided by "The Registration Act, 1917": and
- iii. Shall contain the following particulars :—
  - (a) The name or names, if possible, of the person or persons in whom the property was vested at the time of such taking possession ;
  - (b) A copy of the said declaration.

(3) For the purposes of "The Real Property Act" the application shall be made under the seal of the Corporation to have the Corporation registered as proprietor, and upon such application being lodged, and such statutory declaration being produced, the Recorder of Titles shall issue a certificate of title in the name of the Corporation for the property.

Corporation may repair and insure.

**32** Where any property has been taken possession of by the Council under Section One hundred and twenty-seven of the Principal Act, the Council may from time to time effect such repairs and pay such premiums as may be reasonably necessary or may be thought advisable by the Council to make the property let more readily and to keep such buildings as the Council may think fit insured against loss or damage by fire ; and the amounts paid for such repairs and for such premiums shall be a charge upon the land, and shall bear interest (from the date of payment) at the rate of Eight Pounds per centum per annum, which interest shall also be a charge upon the land ; and thereupon rent and other moneys payable under any such lease as aforesaid shall be applicable in repayment to the Council of such amounts and interest before the residue of any such moneys shall belong to any person under Section One hundred and thirty-one of the Principal Act, and no release shall be executed under the provisions of Section One hundred and twenty-nine of the Principal Act until such amounts and interest have been paid to the Council.

Annual value to be not less than 5 per cent. of capital value.

**33** Notwithstanding anything contained in "The Annual Values Assessment Act, 1911," or any amendment thereof, no ratable property which consists of land without buildings thereon shall for the purpose of any rate levied, collected, or made, or to be levied, collected, or made, by the Council, be computed as of an annual value of less than Five Pounds per centum upon the capital value of the fee simple thereof; and where the capital value of any such property is shown by any valuation roll for the time being in force under "The Land Valuation Act, 1909," or any amendment thereof, such capital value

9 Edw. VII. No. 7.

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shall be used for the purposes of this section, unless the capital value shall be considerably decreased in any manner since the valuation was made for the purposes of that valuation roll. A.D. 1919.

**34** If any person shall become the owner of any property at any date within Six months after the time appointed for payment of any rate payable in respect of such property, and such property shall at that date or thereafter be occupied, such person shall be liable to pay, and shall pay, so much of the said rate as shall bear the same proportion to the whole amount thereof as the period of time from such date (or the date when such property is thereafter first occupied, if unoccupied at the former date) to the end of the period for which such rate is payable shall bear to the whole of such period, and that whether such property was occupied or unoccupied at the time appointed for payment of such rate: Provided that nothing contained in this section shall relieve the owner of such property at the time when such rate was appointed to be paid from his liability to pay the same, and such rate shall be recoverable from such lastmentioned owner, subject to the deduction of any portion thereof which may have been paid by, or recovered from, any other person. Proportionate part of rate payable by new owner.

**35** It shall not be necessary to make any complaint before the distress warrant is issued under Section One hundred and eighteen of the Principal Act, and the words "complaint has been made before me that" will therefore be omitted from the form of distress warrant. Complaint not necessary before distress.

**36** Notwithstanding anything to the contrary contained in any Act, it shall be lawful for the Council, from and after the First day of January, One thousand nine hundred and twenty, to make and levy a rate for the general expenditure of the city not exceeding Five Shillings in the Pound in any One year upon the assessed annual value of the lands and buildings within the city, which rate shall be designated the "city rate," and shall be in substitution for, and to consolidate into One rate, the general rate, sewerage rate, recreation ground rate, tramway rate, and sanitary service charge, or any other rate or charge, except water rates and charges, at present levied by the Council under the authority of the Principal Act and of all other Acts and powers enabling it in that behalf. Consolidation of rates.

Provided that nothing in this section shall be deemed to affect the making, levying, collecting, and recovery of any rate or charge made under "The Hobart Water Act, 1893," or any amendment thereof.

**37** The owners of all assessed lands and buildings within the city shall be entitled to an abatement of the city rate in respect of the sewerage and sanitary services if their respective lands and buildings are not actually served by such sewerage and sanitary services, and a notice signed by the Mayor and not less than Five aldermen specifying the amount in the pound to be allowed on the assessed annual value of all lands and buildings within the city as an abatement on each of Abatement of rates.

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the before mentioned services shall be published in the "Gazette," together with the notice specifying the amount of the city rate and the period for which the same is made.

Levying and  
collection of rates.

**38** All or any of the provisions of "The Hobart Corporation Act, 1893," or any other Act relating to the making, levying, collection, and recovery by the Council of rates and charges other than water rates and charges, shall apply to any city rate made and levied under this Act.

Houses to be  
provided with  
baths.

**39** Every house erected after the commencement of this Act within an area which is at the date of the commencement of this Act declared a sewerage area, and every house erected within an area which is declared a sewerage area after the commencement of this Act, and is erected after such area is so declared a sewerage area, shall be provided with a bath connected with the sewerage system, in accordance with the provisions of "The Hobart Sewerage Acts, 1898 to 1916," and the by-laws made thereunder.

## PART II.

## PRIVATE STREETS.

Streets may be  
constructed on  
application of  
majority of  
owners at their  
expense.

**40** On the application of Two-thirds in number of the owners of the lands abutting on any street, whether the same is or is not a public highway at the time when this Act comes into operation, the Council may, if such street has not theretofore been well and sufficiently laid out and constructed, cause such street or parts thereof to be laid out and constructed in such manner as the Council thinks fit, and the expenses incurred by the Council in respect thereof (or such proportion thereof as the Council may determine) shall be repaid to the Council by all the owners abutting on such street, by contributions from such owners proportionately to the frontage of their respective lands on such street, by Twenty equal yearly instalments in the manner prescribed by "The Hobart Corporation Act, 1893."

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**SCHEDULE.**

FORM 9A.

Section 14.

Tasmania to wit.

To and all constables in the State of Tasmania.

Whereas of street, in the City of Hobart (hereinafter called "the debtor"), has not paid the sum of payable by by virtue of "The City Rate," and the rate for the said city called "The Water Rate," made—

As to the sum of on or about the day of 19  
 And as to the sum of on or about the day of 19

although the said sums have, and each of them has, been duly demanded of These are therefore to command you forthwith to make distress of the goods and chattels of the debtor wheresoever the same may be found, and also all goods and chattels whatsoever found upon the property in respect of which such rates are due and payable, to whomsoever the same may belong (except appliances the property of the Hobart Gas Company), and that (unless at any time before the sale of the goods and chattels so by you distrained, the said sum, together with all costs, charges, and expenses attendant upon such distress, be paid to you) you cause the said goods and chattels so by you distrained to be sold, and out of the money arising by such sale that you detain the said sum, and also all costs, charges, and expenses attendant upon such distress and sale, rendering to the debtor the overplus, if any, on demand; and the said sum you are hereby commanded to pay to the Mayor of the City of Hobart; and if no sufficient distress can be made of such goods and chattels, that then you certify the same to the said Mayor, together with this warrant.

Given under my hand, this day of 19

Mayor of the City of Hobart  
 or  
 An Alderman of the City of Hobart

FORM B.

**CITY OF HOBART.**

NOTICE.

Whereas there is now due and unpaid the sum of £ for rates, interest, and expenses [or as the case may be] in respect of and charged by virtue of "The Hobart Corporation Act, 1919," upon the property situate [here describe property shortly, but sufficiently to fairly identify the same], of which property it is believed that the owner is [here insert name and residence, if known, of owner, or "not traceable," as the case may be]: The Mayor, aldermen, and citizens of the City of Hobart hereby give notice that after the expiration of One month from the date of this notice application will be made under the provisions of the said Act for a sale of the said property, unless the abovementioned sum, and all other rates, interest, and expenses with regard to the said property, are sooner paid.

Dated this day of 19

, Town Clerk.

