

T A S M A N I A.

Repealed by 57 Vic 11.



See English Acts collected in Statute's Tables 1857. 2nd Ed. Vol 1 - p 2 - p. 806 et seq.

ANNO VICESIMO-PRIMO

VICTORIÆ REGINÆ.

See 30th 1857 No. 14.

*Ann. 60 22 C. 24
26 " " 8
27 " " 27
127 " " 34
31 " " 39
33 " " 28
36 " " 12
40 " " 10*

AN ACT to incorporate the Citizens of the City of Hobart Town. [22 December, 1857.]

WHEREAS it is expedient to incorporate the Citizens of the City of Hobart Town, and to make provision for the better protection, care, and management of the local interests of such City : 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 :—

Incorporation of City.

See 14th 1857
1 The Citizens of the City of Hobart Town for the time being are hereby constituted a Body Corporate and Politic, by the name of "The Mayor, Aldermen, and Citizens of the City of Hobart Town;" 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 Body Corporate 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 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.

Incorporation of City.

Citizens of the City of Hobart Town incorporated.

Power to hold land, &c.

Common Seal.

Consent of Governor requisite to sale of real estate.

Custody of Common Seal and Records.

2 The Common Seal, and all Deeds, Muniments, and Records of the Corporation, or relating to the property thereof, shall be kept in such

Custody of Common Seal, &c.

Custody of the

As to carrying land in Garden Chesters see 36 C. 24

Custody of Common Seal, &c.

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.

Seal and Corporate Records. City Boundaries.

City Boundaries.

Boundaries of the City.

3 The boundaries of the City shall be those described in the Schedule, and shall so remain until altered by Legislative authority.

Boundary marks.

4 It shall be lawful for the Municipal Council 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 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.

5 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.

Rep. Citizens. Persons qualified to be Citizens.

6 Every male of the full age of twenty-one years, named in the Assessment Roll for the time being in force for the City as the occupier of any land or building, or any portion of any building, of the annual value of Ten Pounds or upwards, shall be a Citizen; and until an Assessment Roll is made out under this Act the present Assessment Roll shall continue in force: Provided that no person being an alien shall be a Citizen unless he has received Letters of Denization.

Provides for joint occupancy of property.

7 Where any land or building within the City is jointly occupied by more persons than one, each of such joint occupants, if 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 would entitle such person to be a Citizen if he occupied separately, shall, subject to the conditions hereinbefore contained, be a Citizen, and entitled to vote as such in respect of the land or building so jointly occupied; 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 shall be a Citizen, and entitled to vote as such in respect of the said land or building so jointly occupied as is for that purpose deputed in writing by the other or others of such joint occupants; 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 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 conditions hereinbefore contained, be a Citizen, and entitled to vote as such in respect of such apartment or portion of such building so occupied by him.

Municipal Council.

Municipal Council.

Aldermen. Mayor. Municipal Council.

8 There shall be nine Aldermen of the City, one of whom shall be Mayor; and the Mayor and Aldermen together shall be and be called "The Municipal Council of the City of Hobart Town."

Present Municipal Council to be the first under this Act.

9 The present Mayor and Aldermen shall, without a fresh Election, be the first Municipal Council under this Act.

Election of Aldermen.

Election of Aldermen.

10 On the Thirty-first day of *December*, 1857, an Election of Aldermen shall be held, at which the Citizens shall elect Nine persons, who are duly qualified under this Act, as and to be the Aldermen of the City, who shall enter on office on the First day of *January*, 1858, on which day the present Mayor and Aldermen shall go out of office.

First Election of Aldermen.

11 On the last ~~Friday~~ *Dep by 26 to 11.08* in *December*, 1858, and on the like day in every succeeding year, three Aldermen 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 on their predecessors going out of office.

Three Aldermen to go out of office every year.

12 The Aldermen so elected shall go out of office in the following order; that is to say, the three Aldermen who had the smallest number of votes at their election shall be the first three to go out of office; the three Aldermen who had the next smallest number of votes at their election shall be the next three to go out of office; and afterwards the Aldermen to go out of office shall always be the three who have been longest in office without re-election.

Rotation in which Aldermen to retire.

13 In case at the First Election of Aldermen any Two or more Aldermen are elected by an equality of Votes, or the Election is had without a Poll, it shall be determined by lot within One week after the election, and published in the *Gazette*, in what rotation, as between themselves, such Aldermen having an equality of votes shall retire, or in what rotation the whole body of Aldermen shall retire by Threes as aforesaid, as the case may be; and in any such case the Aldermen shall retire according to the rotation so determined.

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

14 All Citizens whose names are on the Assessment Roll in force for the time being on the Twentieth day before the day of holding any Election of Aldermen under this Act; and who have paid all Municipal Rates payable 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 entitled to vote at Elections of Aldermen.

15 Each Citizen shall have a number of votes according to the scale following; that is to say, every Citizen assessed as the occupier of lands or buildings of the annual value of Ten Pounds and under Fifty Pounds shall have One Vote; every Citizen assessed as the occupier of lands or buildings of the annual value of Fifty Pounds and under One hundred Pounds shall have Two Votes; every Citizen assessed as the occupier of lands or buildings of the annual value of One hundred Pounds and under One hundred and fifty Pounds shall have Three Votes; every Citizen assessed as the occupier of lands or buildings of the annual value of One hundred and fifty Pounds and under Two hundred Pounds shall have Four Votes; every Citizen assessed as the occupier of lands or buildings of the annual value of Two hundred Pounds and under Two hundred and fifty Pounds shall have Five Votes; every Citizen assessed as the occupier of lands or buildings of the annual value of Two hundred and fifty Pounds and under Three hundred Pounds shall have Six Votes; and every Citizen assessed as the occupier of lands or buildings of the annual value of Three hundred Pounds or upwards shall have Seven Votes; and every Citizen entitled to such vote or votes as aforesaid is hereby empowered to give, and shall if he votes give, the number of votes to which he is so entitled to any number of persons not exceeding the number of Aldermen to be elected.

Dep & re-elected by 330.11.28

Number of votes to which each Citizen is entitled.

Election of Aldermen.

Nomination of persons for Election as Aldermen.

16 On and after the seventh, and until the hour of twelve o'clock at noon of the third day next before any Election of Aldermen, any two Citizens qualified to vote at such Election may, by writing stating their respective residences, nominate to the Mayor for election any number of other Citizens, qualified to be elected as Aldermen, not exceeding the number to be elected; and on the two days next before the Election, and on the day of Election, there shall be published under the hand of the Mayor a list of the names and residences of all citizens so nominated, specifying the names and residences of their proposers respectively; and none but persons so nominated shall be capable of being elected at such Election.

Rep. by 22^d 11th c. 5
Mode of proceeding if no more persons nominated than Aldermen to be elected.

17 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, declare the persons so nominated to be elected as Aldermen; and the persons so declared to be elected shall be Aldermen of the City.

Scrutineers.

18 Every person so nominated 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 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; 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.

19 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 four o'clock in the afternoon of the same day, unless adjourned by reason of riot or interruption as hereinafter provided.

Polling Lists.

20 The Mayor, before and in time for every such Election, shall cause a List, to be called the Polling List, to be made out in alphabetical order of the names of all Citizens named on the Assessment Roll for the time being 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 assessed, the position of such property, and where possible its number in the street, and the number of votes to which each Citizen is entitled; 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.

21 At every such Election the Mayor shall cause such booths to be erected, or rooms to be hired or otherwise obtained at the polling-place, as occasion may require, and the same shall 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.

Election of Aldermen.

Rec 64 25 C. No 14 P. 5
22 The Mayor before and in time for every such Election shall provide printed Ballot-papers containing the number of votes to which the Citizen is entitled, the Christian and surname of every person nominated for election, written or printed in alphabetical order and numbered in figures in regular succession, and no other matter or thing, according to the form in the Schedule; and such Ballot-papers shall be signed on the back by the Mayor in full or by his initials as he may think proper.

Mayor to provide Ballot-papers.

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

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

24 The Mayor shall also provide as many papers containing the printed Declaration set forth in the Schedule 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.

25 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 the day after the Election as hereinafter provided.

Ballot-boxes to be locked prior to Election.

26 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 such person or persons, 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 such Citizen has so placed his ballot-paper in the ballot-box he shall leave the room, and shall not re-enter during the same Election; and no two persons shall remain in an inner room or compartment at the same

Mode of Election of Aldermen.

Rec 33 C. No 28 P. 5.

Election of Aldermen.

Persons contravening any provision contained herein guilty of a misdemeanor.

Any person making the Declaration to be entitled to vote.

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

Declaration only required of persons voting. False Declaration perjury.

Adjournment of Elections in case proceedings are interrupted by riot.

Mayor to secure ballot-boxes, &c. at the close of Elections.

Mayor to declare result of Elections.

Where numbers equal, Mayor to have a casting vote.

time, nor shall a Citizen take any such ballot-paper out of the room in which the ballot-box is placed excepting 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 herein contained shall be deemed guilty of a misdemeanor.

27 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.

28 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 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.

29 No inquiry 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 and be deemed guilty of perjury, and be liable to be dealt with accordingly.

30 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 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 the poll.

Rep. 184
22 V. 10. 214 p. 5
31 At the close of the Poll the ballot-boxes shall be sealed up or otherwise secured by the Mayor, in the presence of such Scrutineers as choose to attend, so as to prevent any ballot-papers being taken therefrom or inserted therein, and the Mayor shall take charge of the ballot-boxes and of the copies of the Polling List used at the Election, and the remainder of the ballot-papers and printed Declarations not used, and all Declarations so made as aforesaid, and shall deposit the same in a secure place to which no person shall have access.

32 The Mayor shall at Ten o'clock of the forenoon of the day following the Election, at the Polling-place, in the presence of such of the Scrutineers 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, openly declare 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 shall at the same time and place declare 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.

Election of Aldermen.

33 All ballot-papers taken at the 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 Mayor 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.

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

Election of Mayor.

Election of Mayor

34 The present Mayor shall without a fresh election be the first Mayor under this Act, and shall go out of office as Mayor on the said First day of *January*, 1858, on the election of his successor; and on that day the Aldermen shall assemble, at noon if the result of the Election of Aldermen on the preceding day has been then declared, and if not upon the result of such Election being declared, at the Town Clerk's Office, the doors of the same being closed against all other persons except the Town Clerk, and 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 last *Friday* in *December*, 1858; 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.

Present Mayor to be the first Mayor under this Act.

Mayor to retire annually.

recd 26. 11. 58
P. 2

35 Before proceeding to the Election of the Mayor, the Aldermen shall by a majority of their voices appoint one of their own body to preside at such Election, and two others of their own body to be Scrutineers at the same; and the Aldermen so chosen to preside shall first deposit in a box, to be provided for the purpose, a Voting-paper signed by himself containing the name of the Alderman (such name not being his own) for whom he votes, and shall then receive from each Alderman a similar Voting-paper and deposit the same 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 the Mayor of the City; 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 declared to be elected as Mayor.

Mode of proceeding at Elections of Mayor.

Election of Auditors.

Election of Auditors.

36 On the first *Friday* in *March*, 1858, and on the like day in every succeeding year, the Citizens shall elect two fit and proper persons qualified to be, but not actually 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.

*Election of
Auditors.*

Nomination of
persons for
Election as
Auditors.

37 On and after the seventh, and until the hour of twelve at noon of the third day next before any Election of Auditors, any Two Citizens qualified to vote may, by writing stating their respective residences, nominate to the Mayor for election any number of other Citizens qualified to be elected as Auditors, not exceeding the number of Auditors to be elected; and on the two days next before the Election, and on the day of Election, there shall be published under the hand of the Mayor the names and residences of all Citizens so nominated and of their proposers respectively, and no person not so nominated shall be elected as Auditor.

Mode of pro-
ceeding at Elec-
tions of Auditors.

38 In every election of Auditors the course of proceeding shall be the same, as nearly as may be, as at the election of Aldermen; and the Mayor shall declare the result of every such Election within two days after the holding thereof.

*Extraordinary
Vacancies.*

Extraordinary
vacancy in office
of Alderman or
Auditor.

Extraordinary Vacancies of Mayor, Aldermen, and Auditors.

39 If any extraordinary vacancy occurs in the office of Aldermen or Auditor, the Citizens shall, upon a day to be fixed by the Mayor, such day to be not later than fourteen days from the occurrence of such vacancy, and of which day the Mayor shall give due public notice not less than Seven days before the day of Election, elect another qualified Citizen to supply such vacancy.

Extraordinary
vacancy in office
of Mayor.

40 In case any extraordinary vacancy occurs in the office of Mayor, the Aldermen shall, within fourteen days from the occurrence of such vacancy, 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.

41 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.

*Qualification of
Mayor, &c.*

Qualification of
Aldermen.

Qualification of Mayor, Aldermen, and Auditors.

42 Every 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, shall be qualified to be elected an Alderman and not otherwise.

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

Disqualification of
Aldermen.

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

44 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.

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

Qualification of Mayor, &c.

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

Rep. 69, 22 10 11 24 p. 5
46 If any person holding the office of Mayor, Alderman, or Auditor is declared insolvent, or compounds by deed or otherwise with his creditors, or is absent from the City for more than three months at one time (unless in case of 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 through illness as aforesaid) shall be liable to the same fine as if he had refused to accept such office; and the Municipal 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 obtaining a release from his creditors, be capable, if otherwise qualified, of being re-elected; and any person becoming so disqualified on account of absence as aforesaid shall on his return to the City, if otherwise qualified, be capable of being re-elected to any such office.

Mayor, &c., declared insolvent, &c., disqualified and to vacate office.

Declarations by Mayor, Aldermen, and Auditors on Election.

47 No person elected Mayor or Alderman or Auditor under this Act shall be capable of acting as such, except in administering such declaration, until he has made and subscribed a declaration before any two or more Aldermen (who are hereby authorised and required to administer the said declaration), in the form in the Schedule.

Declarations by Mayor, &c.

Declaration to be made by Mayor, &c., before acting.

48 If any person who makes such declaration as aforesaid wilfully declares falsely, 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.

49 If any person acts as Mayor, 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 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 any person so sued by reason of not being so qualified shall prove that he was at the time of so acting as Mayor, Alderman, or Auditor, as the case may be, qualified as aforesaid, or otherwise shall pay the said penalty, without any further evidence being given by the Plaintiff than that such person acted as Mayor, Alderman, or Auditor, as the case may be; and any such penalty so recovered shall, after payment of the costs and expenses attending the recovery thereof, be paid and applied one moiety thereof to the person so suing, and the other moiety thereof in aid of the Municipal Fund; Provided always, that

Penalty for acting as Mayor, &c., without making declaration, or if not qualified.

Declarations by Mayor, &c.

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 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.

Non-acceptance of Office.

Non-acceptance of Office of Mayor, Alderman, or Auditor.

Persons elected to accept office or pay a fine.

50 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 herein before 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.

Certain persons exempted from fine.

51 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 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.

Provision for resigning office.

52 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.

53 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.

General Provisions.

General Provisions.

First Election to be held before Sheriff.

54 Notwithstanding anything to the contrary contained in this Act, the Sheriff of *Tasmania* shall hold the first Election of Aldermen under this Act, and shall for that purpose have the powers and duties by this Act conferred and imposed on the Mayor.

Mayor, &c. eligible for re-election.

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

56 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 Municipal Council shall appoint one of their own body to hold such Election, who shall for such purpose have the powers and duties by this Act conferred and imposed on the Mayor.

General Provisions.

Provides for the Mayor being a candidate for re-election.

57 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.

58 Any Mayor, Alderman, or Auditor elected to supply any extraordinary vacancy shall go out of office at the time when his predecessor would have gone out of office in case no such vacancy had occurred.

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

59 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 any such person, or that any such person was disqualified or had not duly made such declaration as aforesaid, be as valid and effectual as if the said Council or such person had been duly elected or qualified, or had duly made such declaration as aforesaid.

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

60 In case no election is had of the Mayor, or of any Alderman or Auditor, upon the day or within the time provided for such election, or if in case of any such election being had the same is or afterwards becomes 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; but in any such case the election of a Mayor, Alderman, or Auditor shall be had as in case of an extraordinary vacancy; and every act necessary to be done in order to and for the completing such election shall and may be done, and shall be as valid and effectual for all purposes, as if the election were had upon the day or within the time appointed for that purpose.

Provides for irregularity in Elections.

61 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 being made afterwards becomes void, shall and the same are hereby extended to the Supreme Court in all cases in which no election of a Mayor, Alderman, or Auditor is had upon the day or within the time provided for such election, or by virtue of the provisions in the last preceding Section contained, and in cases where any such election being had the same afterwards becomes void; and the said Court is hereby empowered in all such cases 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.

As to Elections to be held under *Mandamus*.

General Provisions.

Limit of time for obtaining *quo warranto*.

62 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.

Judge, &c. may adjudicate although a Member of the Corporation.

63 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.

Invalidity of Election no plea in action.

64 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.

Allowances to Mayor.

65 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.

rec 22 W. M. 24 p. 2

Mayor *ex officio* Justice of the Peace.

66 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.

Precedence of Mayor.

62 to Success with rec 33 W. M. 24

Aldermen may be appointed Justices for the City.

67 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 Town*; 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*.

Mayor, &c. exempted from serving on Juries.

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

Bribery, &c. at Elections.

Bribery and other Offences relating to Elections.

Bribery defined, and penalty.

69 The following persons shall be deemed guilty of bribery under this Act, and shall be punishable accordingly:—

1. Every person who, directly or indirectly, by himself or by any other person on his behalf, gives, lends, or agrees to give or lend, or offers, promises, or promises to procure or to endeavour to procure, any money or valuable consideration to or for

any Citizen, or to or for any person on behalf of any Citizen, or to or for any other person in order to induce any Citizen to vote or to refrain from voting, or corruptly does any such act as aforesaid, on account of such Citizen having voted or refrained from voting at any Election of Aldermen or Auditors under this Act :

*Bribery, &c. at
Elections.*

2. Every person who, directly or indirectly, by himself or by any other person on his behalf, gives or procures, or offers, promises, or promises to procure or to endeavour to procure, any office, place, or employment to or for any Citizen, or to or for any person on behalf of any Citizen, or to or for any other person in order to induce such Citizen to vote, or refrain from voting, or corruptly does any such act as aforesaid, on account of any Citizen having voted or refrained from voting at any Election of Aldermen or Auditors under this Act :
3. Every person who, directly or indirectly, by himself, or by any other person on his behalf, makes any such gift, loan, offer, promise, procurement, or agreement as aforesaid, to or for any person, in order to induce such person to procure or endeavour to procure, the Election of any person as an Alderman or Auditor, or the vote of any Citizen at any such Election :
4. Every person who, upon or in consequence of any such gift, loan, offer, promise, or procurement or agreement, procures or engages, promises, or endeavours to procure, the Election of any person as an Alderman or Auditor, or the vote of any Citizen at any such Election :
5. Every person who advances or pays, or causes to be paid, any money to or to the use of any other person, with the intent that such money, or any part thereof, shall be expended in bribery at any such Election, or who knowingly pays or causes to be paid any money to any person in discharge or repayment of any money wholly or in part expended in bribery at any such Election :

And any person so offending shall be guilty of a misdemeanor, and shall also be liable to forfeit the sum of One hundred Pounds to any person who sues for the same, together with the full costs of suit : Provided always, that the aforesaid enactment shall not extend to or be construed to extend to any money paid or agreed to be paid for or on account of any legal expenses *bonâ fide* incurred at or concerning any such Election.

70 The following persons shall also be deemed guilty of bribery under this Act, and shall be punished accordingly :—

*Bribery further
defined, and
penalty.*

1. Every Citizen who, before or during any Election of Aldermen or Auditors, directly or indirectly, by himself, or by any other person on his behalf, receives, agrees, or contracts for any money, gift, loan, or valuable consideration, office, place, or employment, for himself or for any other person, for voting or agreeing to vote, or for refraining or agreeing to refrain from voting at any such Election :
2. Every person who, after any such Election, directly or indirectly, by himself or by any other person on his behalf, receives any money or valuable consideration on account of any person having voted or refrained from voting, or having induced any other person to vote or to refrain from voting at any Election :

And any person so offending shall be guilty of a misdemeanor, and

Bribery, &c. at Elections shall also be liable to forfeit the sum of One hundred Pounds to any person who sues for the same, together with full costs of suit.

Treating defined, and penalty.

71 Every person nominated as aforesaid for election as an Alderman or Auditor, who by himself, or by or with any person, or by any other ways or means on his behalf, at any time, either before, during, or after any such Election, directly or indirectly gives or provides, or causes to be given or provided, or is accessory to the giving or providing, or pays, wholly or in part, any expenses incurred for any meat, drink, entertainment, or provision to or for any person in order to be elected, or for the purpose of influencing such person or any other person to give or to refrain from giving his vote at such Election, or on account of such person having voted or refrained from voting, or being about to vote or refrain from voting at such Election, shall be deemed guilty of the offence of treating, and shall forfeit the sum of One hundred Pounds to any person who sues for the same, with full costs of suit; and every citizen who accepts or takes any such meat, drink, entertainment, or provision shall be incapable of voting at such Election, and his vote, if given, shall be utterly void and of none effect.

Rep. 64, 220, 221, 222, 223, 224, 225, 226, 227, 228, 229, 230, 231, 232, 233, 234, 235, 236, 237, 238, 239, 240, 241, 242, 243, 244, 245, 246, 247, 248, 249, 250, 251, 252, 253, 254, 255, 256, 257, 258, 259, 260, 261, 262, 263, 264, 265, 266, 267, 268, 269, 270, 271, 272, 273, 274, 275, 276, 277, 278, 279, 280, 281, 282, 283, 284, 285, 286, 287, 288, 289, 290, 291, 292, 293, 294, 295, 296, 297, 298, 299, 300, 301, 302, 303, 304, 305, 306, 307, 308, 309, 310, 311, 312, 313, 314, 315, 316, 317, 318, 319, 320, 321, 322, 323, 324, 325, 326, 327, 328, 329, 330, 331, 332, 333, 334, 335, 336, 337, 338, 339, 340, 341, 342, 343, 344, 345, 346, 347, 348, 349, 350, 351, 352, 353, 354, 355, 356, 357, 358, 359, 360, 361, 362, 363, 364, 365, 366, 367, 368, 369, 370, 371, 372, 373, 374, 375, 376, 377, 378, 379, 380, 381, 382, 383, 384, 385, 386, 387, 388, 389, 390, 391, 392, 393, 394, 395, 396, 397, 398, 399, 400, 401, 402, 403, 404, 405, 406, 407, 408, 409, 410, 411, 412, 413, 414, 415, 416, 417, 418, 419, 420, 421, 422, 423, 424, 425, 426, 427, 428, 429, 430, 431, 432, 433, 434, 435, 436, 437, 438, 439, 440, 441, 442, 443, 444, 445, 446, 447, 448, 449, 450, 451, 452, 453, 454, 455, 456, 457, 458, 459, 460, 461, 462, 463, 464, 465, 466, 467, 468, 469, 470, 471, 472, 473, 474, 475, 476, 477, 478, 479, 480, 481, 482, 483, 484, 485, 486, 487, 488, 489, 490, 491, 492, 493, 494, 495, 496, 497, 498, 499, 500, 501, 502, 503, 504, 505, 506, 507, 508, 509, 510, 511, 512, 513, 514, 515, 516, 517, 518, 519, 520, 521, 522, 523, 524, 525, 526, 527, 528, 529, 530, 531, 532, 533, 534, 535, 536, 537, 538, 539, 540, 541, 542, 543, 544, 545, 546, 547, 548, 549, 550, 551, 552, 553, 554, 555, 556, 557, 558, 559, 560, 561, 562, 563, 564, 565, 566, 567, 568, 569, 570, 571, 572, 573, 574, 575, 576, 577, 578, 579, 580, 581, 582, 583, 584, 585, 586, 587, 588, 589, 590, 591, 592, 593, 594, 595, 596, 597, 598, 599, 600, 601, 602, 603, 604, 605, 606, 607, 608, 609, 610, 611, 612, 613, 614, 615, 616, 617, 618, 619, 620, 621, 622, 623, 624, 625, 626, 627, 628, 629, 630, 631, 632, 633, 634, 635, 636, 637, 638, 639, 640, 641, 642, 643, 644, 645, 646, 647, 648, 649, 650, 651, 652, 653, 654, 655, 656, 657, 658, 659, 660, 661, 662, 663, 664, 665, 666, 667, 668, 669, 670, 671, 672, 673, 674, 675, 676, 677, 678, 679, 680, 681, 682, 683, 684, 685, 686, 687, 688, 689, 690, 691, 692, 693, 694, 695, 696, 697, 698, 699, 700, 701, 702, 703, 704, 705, 706, 707, 708, 709, 710, 711, 712, 713, 714, 715, 716, 717, 718, 719, 720, 721, 722, 723, 724, 725, 726, 727, 728, 729, 730, 731, 732, 733, 734, 735, 736, 737, 738, 739, 740, 741, 742, 743, 744, 745, 746, 747, 748, 749, 750, 751, 752, 753, 754, 755, 756, 757, 758, 759, 760, 761, 762, 763, 764, 765, 766, 767, 768, 769, 770, 771, 772, 773, 774, 775, 776, 777, 778, 779, 780, 781, 782, 783, 784, 785, 786, 787, 788, 789, 790, 791, 792, 793, 794, 795, 796, 797, 798, 799, 800, 801, 802, 803, 804, 805, 806, 807, 808, 809, 810, 811, 812, 813, 814, 815, 816, 817, 818, 819, 820, 821, 822, 823, 824, 825, 826, 827, 828, 829, 830, 831, 832, 833, 834, 835, 836, 837, 838, 839, 840, 841, 842, 843, 844, 845, 846, 847, 848, 849, 850, 851, 852, 853, 854, 855, 856, 857, 858, 859, 860, 861, 862, 863, 864, 865, 866, 867, 868, 869, 870, 871, 872, 873, 874, 875, 876, 877, 878, 879, 880, 881, 882, 883, 884, 885, 886, 887, 888, 889, 890, 891, 892, 893, 894, 895, 896, 897, 898, 899, 900, 901, 902, 903, 904, 905, 906, 907, 908, 909, 910, 911, 912, 913, 914, 915, 916, 917, 918, 919, 920, 921, 922, 923, 924, 925, 926, 927, 928, 929, 930, 931, 932, 933, 934, 935, 936, 937, 938, 939, 940, 941, 942, 943, 944, 945, 946, 947, 948, 949, 950, 951, 952, 953, 954, 955, 956, 957, 958, 959, 960, 961, 962, 963, 964, 965, 966, 967, 968, 969, 970, 971, 972, 973, 974, 975, 976, 977, 978, 979, 980, 981, 982, 983, 984, 985, 986, 987, 988, 989, 990, 991, 992, 993, 994, 995, 996, 997, 998, 999, 1000
Refreshments given to Citizens on the day of polling illegal.

72 The giving or causing to be given to any Citizen on the day of polling, any meat, drink, or entertainment by way of refreshment, or any money or ticket to enable such Citizen to obtain refreshment, shall be deemed an illegal act; and the person so offending shall forfeit the sum of Fifty Pounds for each offence to any person who sues for the same, together with full costs of suit.

Undue influence defined, and penalty.

73 Every person who, directly or indirectly, by himself, or by any other person on his behalf, makes use of, or threatens to make use of, any force, violence, or restraint, or inflicts or threatens the infliction, by himself or by or through any other person, of any injury, damage, harm or loss, or in any other manner practises intimidation upon or against any person in order to induce or compel such person to vote or to refrain from voting, or on account of such person having voted or refrained from voting, at any such Election, or who, by abduction, duress, or any fraudulent device or contrivance, impedes, prevents, or otherwise interferes with the free exercise of the right to vote of any Citizen, or thereby compels, induces, or prevails upon any Citizen either to give or to refrain from giving his vote at any such Election, shall be deemed to have committed the offence of undue influence, and shall be guilty of a misdemeanor, and shall also be liable to forfeit the sum of One hundred Pounds to any person who sues for the same, together with full costs of suit.

Rep. 64, 220, 221, 222, 223, 224, 225, 226, 227, 228, 229, 230, 231, 232, 233, 234, 235, 236, 237, 238, 239, 240, 241, 242, 243, 244, 245, 246, 247, 248, 249, 250, 251, 252, 253, 254, 255, 256, 257, 258, 259, 260, 261, 262, 263, 264, 265, 266, 267, 268, 269, 270, 271, 272, 273, 274, 275, 276, 277, 278, 279, 280, 281, 282, 283, 284, 285, 286, 287, 288, 289, 290, 291, 292, 293, 294, 295, 296, 297, 298, 299, 300, 301, 302, 303, 304, 305, 306, 307, 308, 309, 310, 311, 312, 313, 314, 315, 316, 317, 318, 319, 320, 321, 322, 323, 324, 325, 326, 327, 328, 329, 330, 331, 332, 333, 334, 335, 336, 337, 338, 339, 340, 341, 342, 343, 344, 345, 346, 347, 348, 349, 350, 351, 352, 353, 354, 355, 356, 357, 358, 359, 360, 361, 362, 363, 364, 365, 366, 367, 368, 369, 370, 371, 372, 373, 374, 375, 376, 377, 378, 379, 380, 381, 382, 383, 384, 385, 386, 387, 388, 389, 390, 391, 392, 393, 394, 395, 396, 397, 398, 399, 400, 401, 402, 403, 404, 405, 406, 407, 408, 409, 410, 411, 412, 413, 414, 415, 416, 417, 418, 419, 420, 421, 422, 423, 424, 425, 426, 427, 428, 429, 430, 431, 432, 433, 434, 435, 436, 437, 438, 439, 440, 441, 442, 443, 444, 445, 446, 447, 448, 449, 450, 451, 452, 453, 454, 455, 456, 457, 458, 459, 460, 461, 462, 463, 464, 465, 466, 467, 468, 469, 470, 471, 472, 473, 474, 475, 476, 477, 478, 479, 480, 481, 482, 483, 484, 485, 486, 487, 488, 489, 490, 491, 492, 493, 494, 495, 496, 497, 498, 499, 500, 501, 502, 503, 504, 505, 506, 507, 508, 509, 510, 511, 512, 513, 514, 515, 516, 517, 518, 519, 520, 521, 522, 523, 524, 525, 526, 527, 528, 529, 530, 531, 532, 533, 534, 535, 536, 537, 538, 539, 540, 541, 542, 543, 544, 545, 546, 547, 548, 549, 550, 551, 552, 553, 554, 555, 556, 557, 558, 559, 560, 561, 562, 563, 564, 565, 566, 567, 568, 569, 570, 571, 572, 573, 574, 575, 576, 577, 578, 579, 580, 581, 582, 583, 584, 585, 586, 587, 588, 589, 590, 591, 592, 593, 594, 595, 596, 597, 598, 599, 600, 601, 602, 603, 604, 605, 606, 607, 608, 609, 610, 611, 612, 613, 614, 615, 616, 617, 618, 619, 620, 621, 622, 623, 624, 625, 626, 627, 628, 629, 630, 631, 632, 633, 634, 635, 636, 637, 638, 639, 640, 641, 642, 643, 644, 645, 646, 647, 648, 649, 650, 651, 652, 653, 654, 655, 656, 657, 658, 659, 660, 661, 662, 663, 664, 665, 666, 667, 668, 669, 670, 671, 672, 673, 674, 675, 676, 677, 678, 679, 680, 681, 682, 683, 684, 685, 686, 687, 688, 689, 690, 691, 692, 693, 694, 695, 696, 697, 698, 699, 700, 701, 702, 703, 704, 705, 706, 707, 708, 709, 710, 711, 712, 713, 714, 715, 716, 717, 718, 719, 720, 721, 722, 723, 724, 725, 726, 727, 728, 729, 730, 731, 732, 733, 734, 735, 736, 737, 738, 739, 740, 741, 742, 743, 744, 745, 746, 747, 748, 749, 750, 751, 752, 753, 754, 755, 756, 757, 758, 759, 760, 761, 762, 763, 764, 765, 766, 767, 768, 769, 770, 771, 772, 773, 774, 775, 776, 777, 778, 779, 780, 781, 782, 783, 784, 785, 786, 787, 788, 789, 790, 791, 792, 793, 794, 795, 796, 797, 798, 799, 800, 801, 802, 803, 804, 805, 806, 807, 808, 809, 810, 811, 812, 813, 814, 815, 816, 817, 818, 819, 820, 821, 822, 823, 824, 825, 826, 827, 828, 829, 830, 831, 832, 833, 834, 835, 836, 837, 838, 839, 840, 841, 842, 843, 844, 845, 846, 847, 848, 849, 850, 851, 852, 853, 854, 855, 856, 857, 858, 859, 860, 861, 862, 863, 864, 865, 866, 867, 868, 869, 870, 871, 872, 873, 874, 875, 876, 877, 878, 879, 880, 881, 882, 883, 884, 885, 886, 887, 888, 889, 890, 891, 892, 893, 894, 895, 896, 897, 898, 899, 900, 901, 902, 903, 904, 905, 906, 907, 908, 909, 910, 911, 912, 913, 914, 915, 916, 917, 918, 919, 920, 921, 922, 923, 924, 925, 926, 927, 928, 929, 930, 931, 932, 933, 934, 935, 936, 937, 938, 939, 940, 941, 942, 943, 944, 945, 946, 947, 948, 949, 950, 951, 952, 953, 954, 955, 956, 957, 958, 959, 960, 961, 962, 963, 964, 965, 966, 967, 968, 969, 970, 971, 972, 973, 974, 975, 976, 977, 978, 979, 980, 981, 982, 983, 984, 985, 986, 987, 988, 989, 990, 991, 992, 993, 994, 995, 996, 997, 998, 999, 1000
No cockades, &c. at Elections, and penalty.

74 No person nominated as aforesaid for election as an Alderman or Auditor before, during, or after any such Election shall in regard to such Election, by himself or agent, directly or indirectly, give or provide to or for any person any cockade ribbon, or other mark of distinction; and every person giving or providing, or receiving or wearing, any such cockade, ribbon, or other mark of distinction, or making any payment for or on account of any such cockade, ribbon, or mark of distinction, or of any chairing, or bands of music, or flags or banners at any such Election shall for every such offence forfeit the sum of Fifty Pounds to any person who sues for the same, together with full costs of suit.

Recovery of penalties for offences against this portion of the Act.

75 The pecuniary penalties imposed by the preceding Sections of this Act for offences relating to Elections shall be recoverable by action in the Supreme Court of *Tasmania*; but any action to be brought for

such penalties shall be brought within three months after the commission of the act in respect of which such action is commenced.

Bribery, &c. at Elections.

76 If any person not entitled to vote by virtue of this Act votes or offers to vote at any such Election, or if any person votes or offers to vote a second time at the same Election, or personates or attempts to personate any other person for the purpose of voting at any such Election, such person shall be guilty of a misdemeanor, and shall, on conviction thereof, be liable to be imprisoned with or without hard labour for any term not exceeding two years at the discretion of the Court; and if at any such Election it appears to the satisfaction of the Mayor or some presiding Officer that any person having voted or offered to vote at such Election has been guilty of any such offence as aforesaid, he may thereupon, without warrant, commit the person so offending or examination before some Justice of the Peace upon such charge; and all Constables are hereby required to take such person into custody upon such committal, and to convey him as soon as may be before some Justice for examination, and in the meantime to confine such person in some watch-house.

Personation, &c. and penalty.

Person attempting may be given in charge.

77 Whenever any Citizen has been convicted of bribery, undue influence, voting or offering to vote a second time, or personation at any such Election, or judgment has been obtained against him for any penal sum hereby made recoverable in respect of the offences of bribery, treating, or undue influence, or either of them, then and in that case the Municipal Council shall thereupon insert the name of such Citizen in a separate list, to be entitled "The List of Citizens disqualified for Bribery and other Offences," which list shall be appended to the Assessment Roll for the time being, and shall be printed and published therewith, whenever the same is, or is required to be, printed or published; and the said list or a copy thereof shall be used with the Assessment Roll and the Polling List, and a copy of the said Roll and Polling List, whenever such Roll or Polling List, or a copy of such Roll or Polling List, is used; and no Citizen whose name is inserted in such list of disqualified Citizens shall be capable of voting at any election under this Act.

Names of Citizens offending against this portion of the Act to be inserted in a list appended to the Assessment Roll and Polling List.

78 It shall be lawful for the Court before which any criminal prosecution is instituted for any such offence to order payment to the prosecutor of such costs and expenses as appear to the said Court to have been reasonably incurred in and about the conduct of such prosecution.

Prosecutor's costs.

79 In case of any information by a private prosecutor for any such offence, if judgment is given for the defendant, he shall be entitled, if the Court so certify, to recover from the prosecutor the costs sustained by the defendant by reason of such information, such costs to be taxed by the proper Officer of the Court in which such judgment is given.

Defendant's costs.

80 It shall not be lawful for any Court to order payment of the costs of a prosecution for any such offence unless the prosecutor, before or upon the granting of the information, enters into a recognizance, with two sufficient sureties, in the sum of Fifty Pounds, with the conditions following; that is to say, that the prosecutor shall conduct the prosecution with effect, and shall pay to the defendant, in case he is acquitted, his costs.

Prosecutor to enter into recognizance to prosecute with effect and pay costs.

81 No information for bribery, undue influence, voting or offering to vote a second time, or personation, shall be triable before any Court of General Sessions of the Peace.

Bribery, &c. not triable at General Sessions.

21° VICTORIÆ No. 14.

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Assessment.

Am. by 31st Dec^r 1834 Assessments.

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82 The Municipal Council shall, on or before the ~~First~~ ^{31st} day of ~~March~~ ^{Dec^r} in every year, assess by a just and equitable Assessment the annual value of all lands and buildings within the City.

Portions of buildings separately occupied to be separately assessed.

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

Valuators may be appointed.

84 The Municipal 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 aforesaid 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 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.

85 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, on oath made before him of such request, and of such refusal or wilful omission or misstatement, 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 such 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 person not exceeding Five Pounds.

Notice of Assessment to be published.

86 Upon any such Assessment being made the Municipal Council shall cause a Notice thereof to be published in the *Gazette*, and every such Notice shall contain the following particulars; that is to say, the description and situation of the lands and buildings so assessed; the annual value at which the same are respectively assessed; and the names of the then owners and occupiers of such lands and buildings; and the Municipal 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.

Unoccupied property to be described in Notice of Assessment as "empty."

87 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 Municipal Council, the said Council shall nevertheless include such property in the notice of such Assessment, describing it in the column appropriated to the name of the occupier as being "empty," or describing the owner of such property 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

88 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 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.

Assessment Roll.

Assessment Roll annually.

89 When and as often as any change takes place in the ownership or occupation of any assessed land or building, the Municipal 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.

90 If it shall at any time appear to the Municipal 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 Municipal 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.

91 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 no such insertion, addition, alteration, or amendment shall be made as aforesaid until notice of the intention so to do is given to all persons thereby affected, and opportunity afforded to such persons to appeal to the then next Court of General Sessions of the Peace holden within 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

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

person who has left the Colony, or who cannot upon reasonable search being made be found.

Assessment Roll and amendments evidence.

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

Appeal.

Sessions to be holden for hearing Appeals against Assessment.

Notice thereof to be given.

Gazette containing Notice of Assessment to be evidence.

Grounds of Appeal.

Court to determine same, and correct Assessment.

Notice of Appeal to be given.

Costs.

Rates.

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

Rates payable by occupiers.

Appeals from Assessments.

93 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 Town*, 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.

94 The *Gazette* containing any such Notice of Assessment shall, by 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.

95 It shall be lawful for any person affected by any such Assessment, or for the Attorney or Agent of such person, to appeal from such Assessment to such Court of Appeal, either on the ground that any land or building of such person is overvalued, or that he 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 person is undervalued, or is omitted altogether from the said Assessment, or on any other ground whatsoever of the inequality or unfairness of such Assessment as respects the land or building of the person so appealing; 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.

96 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 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.

Rates.

97 Upon the making of any Rate which the Municipal Council is by any Law empowered to make, a Notice signed by the Mayor and not less than five Aldermen, specifying the amount in the Pound 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.

Rates.

98 All Rates, unless otherwise specially provided by any Act hereafter passed, shall be payable in advance at such periods as the Municipal Council from time to time appoints.

Rates to be payable in advance.

99 No Rates shall be payable in respect of property reported as empty under Section 87 while such property continues unoccupied.

Rates not payable on unoccupied property.

100 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 be paid by the owner instead of the occupier or occupiers thereof.

Rates on property under £20, &c. payable by owner.

101 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.

Occupiers under existing leases to repay owner.

102 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.

Rates payable by owners may be recovered from occupiers.

103 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 such amount of 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.

Occupiers not liable for more Rate than rent due.

104 Unless specially empowered so to do by any Act, the Municipal Council shall not levy or raise any Rate whatever on any lands or buildings the property of or occupied on behalf of Her Majesty, nor on any building hired by the Government for any public purpose, nor on any hospital, benevolent asylum, or other building used solely for charitable purposes, nor on any church or chapel or other building used solely for public worship.

Certain property exempted from Rates.

Dep. 22/10/10 110 3/4 0.5

Dep. 22/10/10 110 3/4 0.5

Dep. 22/10/10 110 3/4 0.5

Dep. & re-enacted by H.C. 110/10

Rates.

Rates may be remitted on account of poverty.

105 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.

106 All Rates shall be paid by the persons liable to pay the same to the Corporation; and in case any such person neglects or refuses to pay the amount of any such Rate for which he is liable to a Collector of Rates, or to the Treasurer or Town Clerk at the Town Clerk's Office, for the space of Fourteen 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.

Form of Distress Warrant.

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

Distress not unlawful for want of form.

108 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.

Mortgages of Rates.

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

109 Whenever the Municipal Council 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:—

Form of Mortgage of Rates.

110 Every mortgage in security of Rates shall be by Deed under the Common Seal, and may be according to the form in the Schedule 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 monies, or of the dates of any such mortgages.

Mortgages of Rates.

Ann. 22. 18. 24. p. 2
Ann. 33. 18. 28. p. 3.

Rec 33. 18. 28. p. 4

Rep. 64.22 O. 11° 24 p. 5

111 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.

Mortgages of Rates.

Mortgages to be registered and enrolled.

112 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 or to the like effect.

Transfers of mortgages.

Rep. 64.22 O. 11° 24 p. 5

113 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.

Transfers to be registered and enrolled.

114 If the Municipal Council can at any time borrow any sum of money, in order to pay off and discharge any security given by such Council and then in force, at a lower rate of interest than such existing security bears, it shall be lawful for such Council 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.

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

115 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 Municipal Council 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 Municipal Council shall be signed by the Town Clerk, and be given

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

Mortgages of Rates.

either personally to such mortgagee or transferee or left at his residence, or if such mortgagee or transferee be unknown to the Municipal Council, or cannot be found after diligent enquiry, such notice shall be given by advertisement in the *Gazette*.

Interest to cease on expiration of notice to pay off a mortgage debt.

116 If the Municipal Council gives notice of its intention 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 Municipal Council fails to pay the principal and interest due at the expiration of such notice on such mortgage in security.

Mode of paying off mortgages.

117 Whenever the Municipal Council 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 said 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.

During continuance of mortgage, Council to continue to make and levy the Rates mortgage.

118 Until every mortgage in security of any rate or rates is paid off, the Municipal 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 Municipal 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 compellable so to do by the Supreme Court by *Mandamus*.

Mortgagee may enter and receive Rates on default.

119 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 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.

Mortgages of Rates.

120 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.

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

Officers and their Accountability.

Officers and their Accountability.

121 The Municipal Council may from time to time appoint and employ a Treasurer, Town Clerk, and such Surveyors, 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 Municipal Council so thinks fit, and that no Mace-bearer or other Officer merely for parade or show shall be appointed.

Power to appoint Town Clerk and other Officers.

122 It shall be lawful for the Mayor to suspend from office at any time any Officer or Servant of the Municipal 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 Municipal 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 Municipal Council decides whether the person suspended shall be reinstated or dismissed, and, if he is dismissed, until a successor is appointed in his stead.

Mayor may suspend Officers.

123 Every Officer employed by the Municipal Council who exacts or accepts on account of any thing done by virtue of his office, or in relation to the matters to be done under this or any other Act relating to 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.

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

*Officers and their
Accountability.*Security from
Officers.

124 Before any person, whether Treasurer, Town Clerk, Collector, or other Officer, who is entrusted by the Municipal 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.

Officers of the
Corporation to
keep books of
account.

125 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 in the months of *June* and *December* in every year be submitted to the Municipal Council 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.

Collectors, &c. to
pay over moneys
within Seven days
to the Treasurer.

126 Every Collector or other Officer appointed or employed by the Municipal Council to 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.

Officers to
account.

127 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.

Summary
recovery against
parties failing
to account.

128 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 balance thereof when thereunto required, or if for Five days after being thereunto required he fails to deliver up to the Municipal 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 and their
Accountability.*

129 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.

*Officers refusing
to make out
Account and
deliver up docu-
ments, &c. may
be committed to
prison.*

130 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.

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

131 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.

*Proceedings
against Officers
not to discharge
Sureties.*

Accounts.

132 The Municipal 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 and 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.

*Accounts to be
kept of Receipts
and Disburse-
ments.*

Accounts.

Statement of Accounts to be annually prepared.

133 The Municipal 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.

Auditors to inspect Accounts.

134 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 Municipal 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 Municipal 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.

Publication of Accounts.

135 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 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."

Corporate Funds.

136 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.

Appropriation of Corporate Funds.

137 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 Municipal 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 Municipal 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.

Appropriation.

General appropriation of the Municipal Fund.

acc 2/10. R. 27
p. 3.

*Bye-laws.**Bye-laws.*

Bye-laws.

138 It shall be lawful for the Municipal Council from time to time to make, publish, alter, modify, amend, or repeal such Bye-laws as to the said Council seems meet for regulating the proceedings of the said Council,—for conducting the election of the Mayor, Aldermen, or Auditors, in any matter which may not be sufficiently provided for by this Act,—for regulating the conduct of the officers and servants of the Corporation,—for providing for the due management of the affairs of the Corporation—for the good rule and government of the City,—for the prevention and suppression of nuisances,—for regulating bathing in the waters adjoining the City,—for the suppression and restraint of disorderly houses and houses of ill-fame and repute,—for prohibiting every kind of fraudulent device and practice in relation to the sale of marketable commodities,—for suppressing and restraining billiard tables, gambling tables, and gambling of every description,—and for preventing the congregation of idle and disorderly persons in the streets and public places of the City,—and also to appoint by such Bye-laws such penalties as the said Council deems necessary for the prevention and suppression of such offences, nuisances, and annoyances, and for enforcing such Bye-laws; and every such Bye-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 Bye-law shall be made unless a majority in number of the Members of the Municipal Council are present: Provided also that no such Bye-law shall, if the Legislature is sitting at the time of the making thereof, be of any force until the same or a Copy thereof signed by the Mayor has been laid upon the Table of both Houses of the Legislature, and approved by such Legislature, nor until one week after a Copy of the same so approved of has been published in the *Gazette*; and if the Legislature or either House thereof disallows such Bye-law or any part thereof, such Bye-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 Bye-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 Bye-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

Bye-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 Bye-laws to be published in *Gazette* and be in force, but to be laid before Parliament at next Session.

4/16-77

Bye-laws.

Not to be repugnant to general law.

of the Session thereof holden next after the making of such Bye-law as last aforesaid; and if the Legislature or either House thereof disallows any such Bye-law as last aforesaid, or any part thereof, within one month after such Bye-law has been laid upon the Table as aforesaid, such Bye-law or the part thereof so disallowed shall, upon such disallowance thereof being notified in the *Gazette*, thenceforth cease to be of any force or effect whatsoever: Provided also that no Bye-law to be made by the Municipal 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 Municipal Council by any Bye-law to increase such penalty so as to make the whole penalty amount to more than Ten Pounds.

Gazette evidence of Bye-laws.

139 In all proceedings the production of the *Gazette* containing any such Bye-law shall alone be sufficient *prima facie* evidence that all the provisions of this Act relating to the making and confirmation of such Bye-law have been duly complied with, and that such Bye-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 Bye-law.

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

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

Continues existing Bye-laws.

141 All Municipal Bye-laws in force in the City of *Hobart Town* 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.

Meetings and Proceedings.

The Council to act by a majority of the members.

Municipal Council Meetings and Proceedings.

142 All acts, save the making of Bye-laws as herein-before mentioned, by this or any other Act relating to the Corporation authorised or required to be done by the Municipal Council, and all questions which may 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.

Chairman at meetings of Council.

143 The Mayor, if present, shall preside at all Meetings of the Municipal 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.

Mayor or Chairman to have a casting vote.

144 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.

Notices of meetings.

145 Notice of the time and place of every intended Meeting of the

Municipal Council shall be given by the Town Clerk to the Members of the said Council, and such notice shall be signed by the Mayor except as hereinafter mentioned.

Meetings and Proceedings.

Min on 22 Oct 1871. H

146 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.

147 The Mayor shall call a Meeting of the Municipal 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.

148 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.

149 Any Citizen shall be at liberty, at all reasonable times, on payment of the sum of one shilling, to make any copy of or take any extract from the Minute Book of the Municipal 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.

150 The Municipal 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 Municipal Council for approval.

Committees.

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

Committee meetings.

Substitutes.

Substitutes.

152 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;

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

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.

Neglect of Duty.

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

153 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 provision 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 any such penalty so recovered shall be paid and applied one moiety thereof to the person so suing, and the other moiety in aid of the Municipal Fund.

Neglect of Duty.

Obstructing Council, &c.

Penalty for obstructing the Council or its Officers.

Obstructing Municipal Council and its Officers.

154 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.

Recovery, &c. of Penalties.

Offences to be dealt with summarily.

19 Vict. No. 8.

Persons not to be imprisoned for more than Three months.

One conviction only for same offence.

Recovery and Appropriation of Penalties.

155 All offences against this or any other Act relating to the Corporation, or against any Bye-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, 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*.

156 No person shall, unless otherwise expressly provided, be imprisoned for non-payment 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.

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

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

Recovery, &c. of Penalties.

Penalties to be paid to Treasurer.

Appeal from Penalties.

Appeal.

159 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.

Protection of Persons executing Acts relating to the Corporation.

Protection.

160 Unless otherwise expressly provided, no action shall lie against any person for any thing 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.

Transfer to Corporation of Rights, &c. of existing Municipal Council.

Transfer of Rights, &c.

161 All property, rights, and interests whatsoever vested in the present Municipal Council of the City of *Hobart Town* shall, upon the commencement of this Act, become transferred to and vested in the Corporation of the Mayor, Aldermen, and Citizens of the City of *Hobart Town*; and all moneys due and owing to or by the present Municipal Council, and all Rates assessed by the said Council and not paid when this Act takes effect shall be payable and recoverable to, by, or from the Municipal Council established 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 present Municipal Council, or any person on behalf of the said Council shall take effect and may be proceeded on and enforced by, against, and with reference to the Municipal Council established by this Act, as fully in all respects as they might have been by, against, and with reference to the present Municipal Council if this Act had not been passed.

Rights, &c. of present Council vested in the Corporation.

162 Every action, suit, prosecution, or other proceeding whatsoever commenced by or against the present Municipal Council may, without change of parties, suggestion, or other alteration of any pleading or

Suits, &c. already commenced may be continued.

Transfer of Rights, &c.

record or otherwise, be continued, and shall take effect in favour of or against the Municipal Council established by this Act; and all decrees and orders duly made, and all fines and penalties lawfully imposed and incurred, may be enforced, levied, and recovered by the Municipal Council established by this Act in like manner as they could have been enforced, levied, and recovered by the present Municipal Council if this Act had not been passed.

Corporate body established by this Act substituted for present body.

163 Wherever by any Act the Municipal Council, or the Mayor, or the Mayor and Aldermen of the City of *Hobart Town*, or the Municipal Fund of the said City, or any Municipal Officer of the said City is referred to, the Municipal Council, Mayor, Mayor and Aldermen, Municipal Fund, or corresponding Corporate Officer, as the case may be, under this Act shall be deemed to be intended.

Repealed & re-enacted by Construction
33 O.L. No. 28, p. 6

Interpretation. "Owner."

164 In the construction and for the purposes of this Act, and of all proceedings under and by virtue thereof, the word "Owner" used with reference to any lands or buildings shall mean the person for the time being entitled to receive, or who, if such lands or buildings were let to a tenant, would be entitled to receive the rents and profits from the occupier thereof.

Crown Rights saved.

Crown Rights saved.

Act not to affect rights of the Crown.

165 Nothing in this Act contained shall affect or apply to any right, title, or interest of Her Majesty, Her Heirs and Successors, or in any way limit the Royal Prerogative.

Repeal of Acts.

Repeal of existing Municipal Acts.

S. 4, 2 Vict. No. 22, 16 Vict. No. 17, and 17 Vict. No. 21, repealed as respects *Hobart Town*.

166 Upon the first Election of Aldermen under this Act the Fourth Section of the Act of Council of the Second *Victoria*, No. 22, and also the Act of Council of the Sixteenth *Victoria*, No. 17, and also the Act of Council of the Seventeenth *Victoria*, No. 21, so far as the same relate to the City of *Hobart Town*, shall be repealed, excepting always as to all offences committed, and matters and things done, before that time.

Title of Act.

Title of Act.

Short Title.

167 In referring to this Act it shall be sufficient to use the expression *The Hobart Town Corporation Act*.

 SCHEDULE.

 BOUNDARIES OF THE CITY.

Sect. 3.

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 Town* Rivulet immediately opposite the south-east angle of land in the occupation of the *Hobart Town Gas Company*, thence by the eastern and northern boundaries of that land and by a grant to *Charity Eliza Machay Collins* also the property of the said *Gas Company*, thence by a straight line across the entrance to the *Royal Engineer's Yard* to a fence forming the south-west boundary of the *Domain* or *Queen's Park*, by that boundary until opposite the north angle of a grant to *Thomas Yardley Lowes*, thence by a south-westerly line across *Park-street* to the division boundary of the said *Thomas Yardley Lowes'* grant and crown land known as the *Brick-fields*, thence by a continuation of the last line along the north-west boundary of that grant, thence after crossing *Argyle-street* along the south-east boundary of a grant to *James Milne Wilson*, thence after crossing *Commercial-road* through a grant to *John Dunn* and extending across the *New Town Road* to the north angle of a grant to *Janet M'Tavish*, by the north-west boundaries of that grant, crossing *Elphinstone-road*, and by a line from the south angle of the last-mentioned grant across *Mount Stuart-road* to the west angle of a grant to *John Swan*, by that grant and the south-west boundary of a grant to *John Dunn* to the north-west side of *Arthur-street*, thence by *Arthur-street* south-westerly to the south-west side of *Knocklofty-terrace*, and by the south-west side thereof to *Poets-road*, and crossing the same to an allotment granted to *William Harris* now the property of *George King, R.N.*, thence by part of the north-west and by the north-east boundary of that grant and a continued south-easterly line (after crossing *Salvator Rosa's Glen*) along the north-east boundaries of locations to *Joseph Bowden* and *Peter Dudgeon* (crossing *Forest-road*) and extending to the *Hobart Town Rivulet* aforesaid, thence by that rivulet in a south-westerly direction to the south-west boundary of a grant to *Edward Lord* known as *Birch's Estate*, thence by the south-west boundary thereof in a south-easterly direction to *Holebrooke-place* (after crossing *Macquarie-street*), and by the south boundary of the aforesaid grant to *George Frankland* crossing *Holebrooke-place* aforesaid to the point of commencement.

 SCRUTINEER'S DECLARATION.

Sect. 18.

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 Town Corporation Act*.

A.B.

 BALLOT PAPER.

Sect. 22.

One Vote.

[or whatever may be the number of Votes.]

1. Abel, John.
 2. Bolton, Stephen.
 3. Clarke, Henry.
 4. Dodds, Thomas.
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Sect. 24.

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 Town*, 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.

Sect. 47.

DECLARATION BY MAYOR, &c.

I, *A.B.*, having been elected Mayor [*or an Alderman or Auditor*] of the City of *Hobart Town*, 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 Assessment for the City of Hobart Town 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.

Sect. 107.

DISTRESS WARRANT FOR RATES.

TASMANIA } To X.Y.
TO WIT. } WHEREAS complaint has been made before me that *A.B.* of
has not paid the sum of _____ payable by him by virtue of the General Rate for the
City of *Hobart Town* [*or of the Special Rate for the City of Hobart Town called the*
Rate, *naming the Rate*] made on or about the
day of _____ 1857, although the same has been
duly demanded of him: And whereas the said *A.B.* having appeared before me in
pursuance of my summons for that purpose, has not shown sufficient cause why
the said sum of _____ should not be paid, [*or, And*
whereas it has been proved to me upon Oath that the said *A.B.* has been summoned
to appear before me to show cause why the said sum of _____ should not be
paid, and that the said *A.B.* has neglected to appear according to such summons, and has
not shown any sufficient cause why the said sum of _____ should not be paid]:
These are therefore to command you forthwith to make Distress of the Goods and
Chattels of the said *A.B.* wheresoever the same may be found; and (unless at any time
before the sale of the Goods and Chattels so by you distrained the said sum
of _____, together with all costs, charges, and expenses attendant upon such
Distress, be paid to you) that 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 of _____, and also all costs, charges, and expenses attendant
upon such Distress and Sale, rendering to the said *A.B.* the overplus (if any) on
demand; and the said sum of _____ you are hereby commanded to pay to me
the said Mayor; and if no sufficient distress can be made of the Goods and Chattels of
the said *A.B.*, that then you certify the same to me together with this Warrant.

Given under my hand, this _____ day of _____ 1857.

C.D.
Mayor of the City of *Hobart Town*.

see 33 (N. 11) 028
see 41 9 1857

FORM OF MORTGAGE OF RATES.

Sect. 110.

By virtue of *The Hobart Town Corporation Act*, THE MAYOR, ALDERMEN, AND CITIZENS OF THE CITY OF HOBART TOWN, in consideration of the sum of _____ paid to the Corporation of the City of *Hobart Town* by *A.B.* of _____ grant and assign unto the said *A.B.*, his executors, administrators, and assigns, such proportion of the Rates [*here describe the Rates proposed to be mortgaged*] arising or accruing by virtue of the [*here insert title of Act by virtue of which the Rates are made*] as the said sum of _____ bears to the whole sum which is or shall be borrowed upon the credit of the said Rates, to hold to the said *A.B.*, his executors, administrators, and assigns, from this day until the said sum of _____ with interest at _____ per centum per annum for the same is fully paid and satisfied, (the principal sum to be repaid at the end of _____ years from the date hereof [*in case any period is agreed upon for that purpose*])

Given under the Common Seal of the said Corporation, this
day of _____ 1857.

(L.S.)

FORM OF TRANSFER OF MORTGAGE OF RATES.

Sect. 112.

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 TOWN, to _____ bearing date the day of _____ 1857, 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 _____ 1857.

A.B. (L.S.)