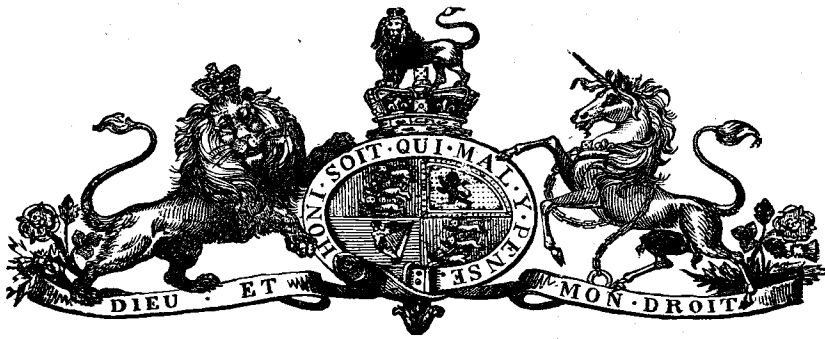


T A S M A N I A.



1891.

ANNO QUINQUAGESIMO-QUINTO

VICTORIÆ REGINÆ,

No. 41.

Rep. by 60 Viet. No. 31

AN ACT to consolidate and amend the Law A.D. 1891.
relating to Town Boards.

[23 December, 1891.]

WHEREAS it is desirable to consolidate and amend the Law PREAMBLE.
relating to Town Boards :

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 :—

Preliminary.

1 This Act may be cited as "The Town Boards Act, 1891." Short title.

2 This Act shall come into operation and take effect on the First Date of operation.
day of *January*, 1892.

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shall be and are hereby repealed : Provided that such repeal shall Schedule (1.).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

- i. Anything duly done under any Act hereby repealed before the date on which this Act comes into operation :
- ii. Any liability accruing under any such repealed Act before the date on which this Act comes into operation.

And, excepting so far as there is anything in this Act inconsistent Application of
therewith, this Act shall apply to all matters and things done under Act to matters
any repealed Act, and of any force or effect at the date on which this and things done.

Town Boards.

A.D. 1891.

Act comes into operation by virtue of any Act hereby repealed, as if made or done hereunder.

And whenever in any Act the Acts hereby repealed or any of them are mentioned, such mention shall hereafter be held and construed to mean and to refer to this Act.

Interpretation.

4 In this Act, unless the context otherwise determines—

“Board” means a Board elected under this Act or any Act hereby repealed, and shall also mean and include the Board of the Town of *Devonport* :

“Town” means a duly proclaimed Town under this Act or any Act hereby repealed :

“Elector” shall mean and include every person, whether male or female, of the age of 21 years, whose name is on the Assessment Roll as the owner or occupier of any property situate within any such Town :

“Minister” means the Responsible Minister of the Crown for the time being administering this Act :

“Assessment Roll” shall mean and include every Assessment Roll in force for the time being in any Town, and made under the authority of this Act, in which any property situate within the Town is comprised.

Existing Towns,
Boards, and
property, &c.
continued.

5 All Towns heretofore proclaimed under any Act hereby repealed shall hereafter be subject to the provisions of this Act in the same manner as if such Towns had been proclaimed under this Act ; and every Board elected under the provisions of any Act hereby repealed as the Board of any such Town as aforesaid shall continue to be the Board of such Town under this Act in all respects as if such Board had been elected under the provisions of this Act ; and all property, rights, privileges, and liabilities vested in and accrued or accruing to the Board of such Town previous to the date on which this Act comes into operation shall continue to be vested in and shall accrue to such Board in the same manner as if this Act had not been passed.

Town to be a
Town under
29 Vict. No. 10.

6 Every Town proclaimed under this Act, or under any Act hereby repealed, shall be a Town within the meaning and for the purposes of *The Police Act, 1865*.

Division of Act.

7 This Act is divided into Ten Parts, as follows :—

Part I.—Town Boards.

Part II.—Rates.

Part III.—Assessment Roll.

Part IV.—Loans.

Part V.—Officers and Accounts.

Part VI.—Powers and Duties.

Part VII.—Purchase and taking of Land and Materials.

Part VIII.—By-laws.

Part IX.—Miscellaneous.

Part X.—Legal Proceedings.

*Town Boards.***PART I.**

A.D. 1891.

TOWN BOARDS.

8 Upon receipt of a petition signed by not less than Fifteen Electors praying that any area described in such petition, containing a rateable property capable of yielding, upon a rate of One Shilling in the Pound, an annual revenue of Two hundred Pounds, and within which such Electors are resident, may be proclaimed a Town under this Act, the Minister shall cause the prayer and substance of such petition to be published in Three consecutive numbers of the *Gazette*; and unless a counter petition signed by other Electors resident in the same area and having a greater number of votes under the provisions of "The Rural Voting Act, 1884," than the Electors signing such first-mentioned petition is received by the Minister within Thirty days from the date of the first publication of such first-mentioned petition, the Governor may, by Proclamation, declare the area described in such petition to be a Town for the purposes of this Act: Provided, that no area situate within a Rural Municipality shall be declared a Town under this Act unless the petition be signed by a majority of the Electors of such Rural Municipality.

Towns may be proclaimed.

48 Vict. No. 26.

9—(1.) When any Town is proclaimed by the Governor for the purposes of this Act, the Governor shall in the same Proclamation direct that, upon a date and at a time and place therein named, there shall be held within the said Town a meeting of the Electors thereof for the purpose of electing from amongst the male Electors either Five or Seven persons, as such Proclamation shall direct, to be the Board of such Town for the purposes of this Act.

Proclamation of Town to direct when first meeting for election of Board to be held.

(2.) Every such Proclamation shall be published in Three consecutive numbers of the *Gazette*, and shall direct that the election to be held thereunder shall be held before such person as shall be appointed therein and thereby; and nominations of persons for election as Members of the Board shall be forwarded to and be received by such person Seven clear days before the day appointed for holding the election pursuant to such Proclamation, and such person shall thereupon provide and do all things necessary for holding such election pursuant to this Act.

Election to be before person appointed.

(3.) The date fixed by such Proclamation for holding the election therein directed to be held shall not be less than Fifteen nor more than Thirty days after the date of the first publication of the Proclamation.

Period within which election to be held.

(4.) All expenses of and incidental to the proclaiming of any Town under this Act, and the first election of the Board thereof, shall be certified under the hand of the person before whom such first election was held, and shall be paid in the first instance out of the Consolidated Revenue Fund by Warrant under the hand of the Governor directed to the Treasurer, and shall be repaid by the Board of such Town to the Treasurer out of the moneys at the disposal of the Board within Six months after the election of such Board.

Expenses of first election to be paid out of Consolidated Revenue and repaid by Board.

10—(1.) At every Meeting of Electors held in pursuance of any such Proclamation as aforesaid, the person therein appointed to hold the election to be held thereunder shall preside as Chairman, and shall have a casting vote in addition to his vote as an Elector; and such Chairman shall, within Three days after the close of meeting, prepare, or cause to be prepared, and sign, and forward to the Minister a notifi-

Chairman to notify result to Minister.

Town Boards.

A.D. 1891.

cation in writing of the names and places of residence of every person elected at such meeting as a Member of the Board of the Town described in such Proclamation.

(2.) The Minister upon receipt of such notification shall cause to be published in the *Gazette* the names of the persons elected at such meeting as Members of the Board of such Town, and shall also cause written notice of his election, and of the time and place of the first meeting of the Board, to be served personally upon every person so elected, or to be left at his usual place of abode, or transmitted to him by post.

Matters to be decided by majority of votes.

11—(1.) All matters by virtue of this Act to be done and decided by the Electors at any Meeting held under this Act shall be done and decided by the majority of the votes of the Electors present at the Meeting; and every Elector shall have a number of votes proportioned to the annual value as ascertained by the Assessment Roll, of the property within the Town owned or occupied by him, according to the scale mentioned and set forth in "The Rural Voting Act, 1884;" and the word "Elector" as used in the said Act shall hereafter include an Elector under this Act.

48 Vict. No. 26.

(2.) At any meeting of Electors held under this Act, Seven or any larger number of Electors shall constitute a Meeting for all or any of the purposes of this Act.

Votes tendered may be objected to at Meetings.

12 Any vote tendered at any Meeting of Electors may be objected to before the closing of the Poll, and not afterwards, by any Elector present, on the ground that the person tendering the same is not an Elector within the meaning of this Act or not entitled to the number of votes tendered, and not otherwise; and every such objection shall be decided by the Chairman presiding at the Meeting, whose decision shall be final.

Members to hold office for Two years.

13 Subject to the provisions hereinafter contained, every Member of a Board of any Town shall hold office for a period of Two years, and the Members of every Board shall retire in rotation as hereinafter provided.

Annual Meeting to be held in each Town.

14 A Meeting of the Electors of every Town shall be held in the month of *April* in every year for the purpose of electing the requisite number of persons to fill the vacancies caused in the Board of such Town by the retirement of Members thereof in accordance with the provisions of this Act, and the Board of every Town shall fix a day in the month of *April* in every year, and shall also fix an hour of the day between Ten of the clock in the forenoon and Four of the clock in the afternoon, and a place within such Town, for holding such Annual Meeting of Electors for the election of Members of the Board, and shall publish once in the *Gazette* and at least twice in a public newspaper published or circulating in the Town in which such Meeting is to be held, and also affix on or near to the door of every Police Office, Police Station, and Post Office in such Town, Ten clear days at least before the day of holding the Meeting, notice of the date and time and place of such Meeting.

Retirement of Members.

15—(1.) On the day fixed for holding the first Annual Meeting of Electors of any Town after the First election of the Board of such Town, Three Members of the Board when the whole number of the Members

Town Boards.

thereof is Seven, and Two Members of the Board when the whole number of the Members thereof is Five, shall retire from office; and on the day fixed for holding the second Annual Meeting of the Electors of such Town, Four Members of the Board when the whole number of the Members thereof is Seven, and Three Members of the Board when the whole number of the Members thereof is Five, shall retire from office; and on the day fixed for holding the Annual Meeting of Electors of such Town in every subsequent year, every Member of the Board who was elected at the Annual Meeting of Electors held in the Second preceding year shall retire from office.

A.D. 1891.

(2.) The persons elected as the first Members of the Board of any Town shall decide by lot among themselves which of them shall retire from office on the day fixed for the first Annual Meeting of the Electors of such Town after the first election of the Board thereof.

(3.) The retiring Members of the Board of any Town shall hold office until their successors are duly elected.

16 Every election of Members of the Board of any Town shall be by ballot; and every Member retiring from office shall if qualified, be eligible for re-election.

Retiring Members eligible.

17 If the Board of any Town shall fail or refuse or neglect in any year to appoint as hereinbefore directed a place or to fix an hour for holding the Annual Meeting of Electors for the election of Members of the Board of any Town, or if from any other cause the Annual Meeting of Electors for the election of Members of the Board of any Town is not held in any Town during the month of *April* in any year in pursuance of this Act, it shall be lawful for the Minister from time to time, by notice in the *Gazette*, to appoint a place and fix a day and hour for holding a Meeting of the Electors of such Town for the purpose of electing Members of the Board of such Town.

Time prescribed for election may be extended.

18 At every Annual Meeting of the Electors of any Town the Chairman of the Board, if present, shall preside, unless he is a candidate for election at such Meeting, in which case, or, in case it is known that he will not be present, the Board shall appoint another Member of the Board who is not a candidate for election at such Meeting to preside as Chairman of such Meeting; and in default of any such appointment by the Board the Meeting shall elect a Chairman from among the Electors present at such Meeting who are not candidates for election at such Meeting.

Chairman of Annual Meeting.

19 The Board shall, in and by the notice hereinbefore required to be published of the time and place fixed for the Annual Election of Members of the Board, appoint a day for the reception of nominations of Electors as candidates at such election, which day shall be not less than Five days nor more than Seven days before the day fixed for the Annual Election, and the Chairman of the Board shall, during the Three days immediately preceding the day so appointed for the reception of such nominations, and up to Four of the clock in the afternoon of such day, receive all nominations of Electors qualified to be elected as Members of the Board.

Nomination of candidates for election.

20 The Chairman of the Board shall, Three clear days at least before the Annual Election of Members of the Board, cause a list of

List of candidates to be published.

Town Boards.

A.D. 1891.

the duly nominated candidates at such election to be published in Two or more consecutive numbers of a public newspaper published or circulating in the Town in which such Annual Election is to be held, and shall also cause such list to be posted up in the Office of the Board and at every Police Office, Police Station, and Post Office in the Town, not less than Three clear days before the day fixed for such Annual Election; and none but persons so nominated shall be capable of being elected.

Form of nomination. Schedule (2.)

21 Every nomination of a candidate for election as a Member of any Board shall be in writing, in the form in the Schedule (2.) or to the like effect, and shall be signed by at least Two Electors entitled to vote at such election, and no such nomination shall contain the names of more candidates than the number of Members to be elected. And with such nomination there shall be delivered to the Chairman a statement in writing under the hand of the candidate or candidates so nominated declaring his or their consent to become a candidate or candidates at such election; and the Chairman shall not recognise any nomination of any candidate in the absence of such declaration of consent; and every such nomination and consent may be in writing or printed, or partly written or partly printed.

Mode of proceeding if more persons nominated than Members to be elected.

22 If at any election of Members of a Board no greater number of persons are nominated, as provided in this Act, than the number of Members to be elected at such election, the Chairman shall, at the Meeting for such election, without any Poll being had, declare the persons so nominated to be elected as Members of the Board; and the persons so declared to be elected shall thenceforth be Members of the Board.

Election of Members.

23 The Chairman of every Meeting for the election of Members of the Board shall fix a time for commencing and closing the Poll, if any, for such election; and every such Poll shall remain open for Three hours at least; and every Elector is hereby empowered to give, and shall, if he votes, give the number of votes to which he is entitled to any number of persons not exceeding the number of Members then to be elected; and every such election of Members shall be finished in One day without any adjournment whatsoever.

Board may appoint officers for election.

24 It shall be lawful for the Board to appoint any officers requisite for conducting the Annual Election of Members of the Board, and to do all other necessary things preliminary or incidental to every such Annual Election.

Elections may be held to fill up vacancies if Electors so desire.

25 Whenever a vacancy occurs in the Board of any Town from any of the causes hereinafter mentioned, the Chairman of the Board shall forthwith give notice thereof in Two consecutive numbers of a public newspaper published or circulating in such Town; and if before the expiration of a period of Fourteen days after the last publication of such notice as aforesaid a requisition in writing, signed by any number of Electors of the Town, not less than Seven, is presented to the Board requiring an election to be held to supply such vacancy, an Election shall be held to supply the vacancy; and every such Election shall be conducted in the same manner in every respect as the Annual Election of Members of the Board; and every Member appointed or elected to

Town Boards.

fill any such vacancy shall retain his office so long only as the vacating Member would have retained the same if no vacancy had occurred.

A.D. 1891.

26 If any Member of a Board is absent from Three consecutive Meetings of the Board extending over a period not less than Two months after having had notice of the intention to hold such Meetings, and without leave of absence granted to him by the Board, he shall cease to be a Member of the Board, unless his absence was caused by sickness, and the Board shall declare his place to be vacant, and the same shall become vacant accordingly.

Member absent from Three consecutive Meetings to vacate office.

27 If at any time during the period for which he was elected any Member of a Board dies, departs from *Tasmania* and remains absent therefrom for the space of Three months, or resigns, or refuses, or from any cause whatsoever becomes incapable or unfit to act as a Member of the Board, or if his office is declared vacant, it shall be lawful for the surviving or continuing Members of the Board, and they are hereby required, in the absence of any such petition as is hereinbefore mentioned praying that an Election may be held to fill the vacancy created by any of the causes aforesaid, to appoint some fit and proper person, being an Elector of the Town, to act as a Member of the Board in conjunction with such surviving or continuing Members in the place and stead of such first-mentioned Member for the remainder of the period for which he was elected.

Provides for death, &c. of Members during period of office.

28 Forthwith after every annual election of Members of a Board the Chairman presiding at the Meeting at which such election took place shall cause to be published in the *Gazette* the name and place of residence of every Member elected; and the Chairman of the Board shall cause to be published in the *Gazette* the name and place of residence of every Member appointed, as hereinbefore provided, and shall also cause notice in writing of his election or appointment to be served personally on, or left at the usual place of abode of, or transmitted by post to, every person so elected or appointed.

Election and appointment of Members to be published.

29 Every person duly qualified, and duly elected or appointed a Member of a Board, shall if he accepts such office make and subscribe before a Justice of the Peace a Declaration in the form in the Schedule (3.) within One month after notice of his election or appointment has been served on him personally, or left at his usual place of abode, or been transmitted to him by post: and every declaration shall be delivered by the Member who has made the same, at the first meeting of the Board thereafter at which he is present, to the Chairman of the Board.

How Members to accept office.

Schedule (3.)

30 If any person elected or appointed a Member of a Board under this Act refuses or fails to accept such office or to make such Declaration as aforesaid, such office shall thereupon be deemed vacant, and shall be filled up by a fresh election or appointment.

Refusal or failure to accept office.

31 All acts and proceedings relating to this Act which are directed to be had or done by the Board, and all the powers and authorities vested in them generally, shall and may be had, done, and exercised by the major part of the Members thereof present at any Meeting of the Board, the whole number present not being less than a majority of all the Members of the said Board; and any such majority of Members shall form a quorum.

Quorum.

Town Boards.

A.D. 1891.

Election of
Chairman of
Board.

32—(1.) The Members of the Board shall, at their first Meeting held after the first Election of a Board, and at their first Meeting held after each Annual Election of Members, by the majority of votes of the Members present elect one of their body to be Chairman for the ensuing year; and if at any such Meeting there is an equality of votes in the election of Chairman, it shall be decided by lot which of the Members having an equal number of votes shall be the Chairman; and such Chairman shall preside at all Meetings of the Board at which he is present; and if at any such Meeting the Chairman is not present, one of the Members present shall be elected Chairman of such Meeting by the majority of votes of the Members present thereat.

How vacancy in
office of Chair-
man filled.

(2.) In case the Chairman shall die, or by writing under his hand delivered by him to the Board at any Meeting of the Board, or to the Secretary of the Board, resign his office, or cease to be a Member, the Members present at the Meeting next after the occurrence of such vacancy shall choose one of their body to be Chairman, and the Chairman so chosen shall continue in office until the next Annual Meeting for the election of Members of the Board.

Salary of
Chairman.

(3.) The Board may from time to time grant to the Chairman out of the moneys at its disposal such annual salary or allowance for his services as the Board thinks fit.

Equal division of
votes.

33 At all Meetings of the Board all the Members present shall vote, save where it is herein otherwise provided, and the questions there considered shall be decided by open voting and by the majority present; and if there is an equal division of votes upon any question, it shall be considered lost.

Member not to
vote where he
is pecuniarily
interested.

34 No Member of a Board shall vote upon any matter in which such Member directly, by himself or his partners, has any pecuniary interest; and any Member who knowingly offends against this Section shall, on conviction, forfeit and pay for every such offence a sum not exceeding Fifty Pounds.

Orders and pro-
ceedings of Board
to be recorded.

35 All orders and proceedings of the Board, together with the names of the Members present at every Meeting, shall be entered in a Book to be kept by the Board for that purpose, and be signed by the Chairman of the Meetings at which such orders or proceedings are, from time to time, confirmed; and such orders and proceedings so entered and signed by the Chairman of such Meetings shall be deemed to be original orders and proceedings.

Electors to be
Bodies Corporate
and be capable of
being sued, and
hold land, &c.

36 The Electors of every Town proclaimed under this Act or under the provisions of any Act hereby repealed shall be Bodies Corporate and Politic, and shall respectively have perpetual succession, and be capable in Law to sue and be sued in all Courts by the corporate name of "The Board and Electors of the Town of _____"; and shall by such corporate name be capable 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 or notice thereof upon either the Chairman or Secretary for the time being shall be taken as good and sufficient service upon or notice to the Corporation: Provided that it shall not be

Town Boards.

lawful for any such Corporation to sell and dispose of, or to convey any real estate without the consent in writing of the Governor in Council previously obtained, or to demise any such real estate for any term exceeding Twenty-one years in possession. A.D. 1891.

37 The Common Seal, and all Deeds, Muniments, and Records of every such Corporation, or relating to the property thereof, shall be kept in such place as the Board from time to time directs; and the Secretary for the time being shall have the charge and custody thereof, and be responsible for the same. Custody of the Seal and Corporate Records.

PART II.**RATES.**

38 It shall be lawful for the Board at yearly, half-yearly, or such other periods as to them may seem necessary, to make and levy a Rate, to be called the Town Rate, upon the Annual Value or Capital Value of the property of the Electors within the Town for the purpose of raising the necessary funds for carrying out in the Town the several objects of this Act; and every such Rate, when received, shall form part of the moneys at the disposal of the Board for the purposes of this Act: Provided that such Rate so to be made and levied shall not in any case exceed, in any one year, the sum of One Shilling and Sixpence in the Pound upon the Annual Value, or the sum of One Penny in the Pound on the Capital Value of the property within the Town. Board may make and levy Rate.

39 It shall be lawful for the Board, at yearly, half-yearly, or such other periods as to them may seem necessary, to make and levy a Rate, to be called a Road Rate, upon the Annual Value or Capital Value of the property of the electors within the Town for the purpose of raising the necessary funds for making, forming, and repairing the Streets of the Town: Provided that such Road Rate so to be made and levied shall not in any case exceed in any one year the sum of One Shilling in the Pound upon the Annual Value, or the sum of One Penny in the Pound on the Capital Value of the property within the Town. Board may make and levy Road Rate.

40 Upon the making of any Rate which the Board of any Town is by Law empowered to make, a Notice signed by the Chairman and not less than Three Members of the Board, 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 persons liable to pay the same, according to the Annual Value or Capital Value, as the case may be, of the property within the Town as shown by the Assessment Roll; 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 herebefore in that behalf mentioned. Upon making a Rate, notice of same to be given.

Town Boards.

A.D. 1891.

Occupiers liable
for Rates in first
instance.Tenant may
recover One-half
from landlord.

41 All such Rates shall be payable in the first instance by the Occupier of the property at the time of demand or levy, as the case may be; but every Occupier, if Tenant, shall be entitled to recover from his Landlord One-half of the amount of any such Rate paid by or recovered from him, as money paid to the use of the Landlord, or the same may be deducted from, or set-off against, the rent then due or thereafter to become due: Provided that nothing herein contained shall affect the liability of a Tenant to his Landlord under any agreement for the payment of Rates by the Tenant.

If no Occupier,
Owner liable
in first instance.

42 In case there is no Occupier of any property, or the Occupier cannot be found or is not known, the Rates in respect of such property shall be payable by and recoverable from the Owner in the first instance, who shall be entitled to recover One half thereof from the Tenant, if any, as money paid to his use, or, if not paid on demand, by distress as for rent in arrear.

How Rates
recoverable.

43 All such Rates shall be paid by the persons liable to pay the same to the Board; and in case any such person neglects or refuses to pay the amount of any such Rate for which he is liable 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 any Justice of the Peace, and he is hereby authorised and empowered, to summon the defaulter to appear before him, or any other Justice of the Peace, at a time and place to be mentioned in the summons, to show cause why the Rates in arrear should not be paid; and in case the defaulter fails to appear according to the exigency of the summons, and no sufficient cause for non-payment be shown, the Justice of the Peace may, and he is hereby authorised and required to grant a warrant under his hand authorising and directing any Collector of Rates as aforesaid, or some other fit person, to distrain the goods and chattels of such person, whether the same are on the property in respect of which the Rate is payable 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 obtaining such summons and warrant and 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 the person whose goods and chattels have been so distrained and sold as aforesaid on demand.

On payment or
tender of Rate
and costs pro-
ceedings to cease.
12 Vict. Cap. 14,
Sect. 6.

44 In all cases where any proceedings have been or shall be taken to compel payment by any person of any such Rates, if at any time such person shall pay or tender to any person authorised to collect or receive such Rate the sum so sought to be recovered, together with the amount of all costs and expenses up to that time incurred in the proceedings so taken to compel payment thereof as aforesaid, then and in every such case the person to whom such Rate and costs shall be so paid or tendered shall receive the same, and thereupon no further proceedings for the recovery of the same shall be had or taken. Provided, that the Chairman for the time being of the Board to which such Rates are payable shall have a discretionary power to remit the above-mentioned costs and expenses.

All goods found
on property
liable for Rates.

45 All goods and chattels whatsoever found upon the property in respect of which any such Rate is payable, to whomsoever the same

Town Boards.

may belong, shall be liable to be taken under the Warrant of Distress issued for the recovery of such Rate. A.D. 1891.

46 In case sufficient goods and chattels of the Occupier of any property cannot be found to satisfy any such Rate, the half of the same, or any portion thereof left unrecovered, shall be recoverable from the Owner of the property, in the same manner as the same was originally recoverable from the Occupier. If Occupier's goods insufficient, Rate may be recovered from owner.

47 The Warrant of Distress for the recovery of any such Rate may be in the form contained in the Schedule (4.); and in all cases where a distress is by this Act authorised to be made, all constables shall upon being required by a Collector of Rates, aid in making a distress or sale, and any constable who refuses so to do shall be liable to a penalty not exceeding Five Pounds. Form of Distress Warrant.
Schedule (4.)
Constables to aid in making distress.

48 Every Collector of Rates shall preserve all Warrants of Distress for recovery of Rates, and shall enter in a book to be kept for that purpose the names of the parties proceeded against, whether by Warrant of Distress or otherwise, the Rates due, the expense of the proceedings, and the true proceeds of each sale, which book shall be open to the inspection (without fee) of all parties interested for Three months after the date of each sale respectively. Collectors of Rates to preserve Warrants of Distress, and to enter particulars of distresses in a book.

49 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 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. Further distress in case first one insufficient.

50 No person acting under any Warrant of Distress shall 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. Irregularities by person acting under Warrant of Distress.

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

52 Notwithstanding anything contained in this Act, no summons or warrant shall be issued for the recovery of any Rate or instalment Rates not recoverable after Two years.

Town Boards.

A.D. 1891.

of Rate at any period after the expiration of Two years from the time when such Rate or instalment of Rate is made payable by such Notice as in this Act is mentioned.

Rates may be remitted on account of poverty.

53 It shall be lawful for the Board of any Town, upon the application 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.

Occupiers of Crown Land to pay Half Rate. Crown to pay no Rate.

54 The Occupiers of Crown Land under Lease or Licence shall be liable to pay only One-half of any Rates made under the authority of this Act in respect of the Crown Land occupied by them ; and no such Rate, or any proportion thereof, shall be payable by the Crown, whether as Owner or otherwise.

Certain property exempted from Rates.

55 Unless specially empowered so to do by any Act, the Board of any Town shall not levy or raise any Rate whatever on any property belonging to and occupied by or on behalf of Her Majesty, nor on any property hired or used by the Government for any public purpose, nor on any property hired or used by the Minister of Education, or Board of Advice, as School premises or as a dwelling for any Master, 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, nor on any Mechanics' Institute, Literary or Scientific Institution.

Application of 22 Vict. No. 27.

56 The provisions of "An Act to facilitate the Collection and Recovery of Rates," and every Amendment thereof, shall be applicable to the collection and recovery of Rates under this Act.

Power to take and lease Land for Arrears of Rates.

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

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

Notice to be given before taking possession.

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

Town Boards.

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

A.D. 1891.

Release of property after demand and payment of arrears.

60 Every such lease shall be for such term not exceeding Twenty-one years as to the Board may seem fit, and shall reserve the best rent which can be reasonably obtained for such property, and shall contain and be subject to such other reservations and such exceptions, covenants, and conditions as to the Board may seem fit.

Lease.

61 All rent and other moneys payable under any such lease shall, until the execution of a release as hereinbefore mentioned, or the expiration of Twenty-one years from the Board's taking possession, which shall first happen, be received by the Treasurer of the Board, and shall be applicable—

Application of rents.

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

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

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

After Thirty years property to vest in Board.

Town Boards.

A.D. 1891.

Notice to be affixed on taking possession.

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

Separate Local Rate.

Boards may levy Separate Local Rate.

64 It shall be lawful for the Board of any Town to make and levy a Separate Local Rate upon the annual value or capital value of the property of the electors within any defined portion of such Town for the purpose of defraying the cost or the interest upon the cost of any public work or improvement by which, in the judgment of the Town Board, special advantages may accrue to such defined portion.

Separate Local Rate how recoverable.

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

Separate entries to be made.

66 The Town Board shall cause separate entries to be made in the books mentioned in Part V. of this Act, of all moneys received and disbursed in respect of every such Separate Local Rate.

Notice of Separate Local Rate to be given.

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

Chairman to call meeting to consider question, if required by Electors.

68—(1.) If a requisition in writing signed by Fifteen or more Electors shall be presented to the Chairman not less than Seven days before the time when such notice is to take effect, requiring him to call a Public Meeting of the Electors within the portion of the Town defined by such notice, to consider the question of making such separate Local Rate, the Chairman shall, within Five days after the receipt by him of such requisition, convene a Public Meeting of the Electors within such defined portion accordingly.

(2.) The Electors present at any such Meeting may by a majority of votes alter but not extend the boundaries of the portion of the Town in respect of which such Separate Local Rate shall be payable, or may agree to the boundaries as specified by the Board in such notice as aforesaid; and any such Rate made and levied by the Board shall, if any such Public Meeting is held as aforesaid, be made and levied only on

Town Boards.

the annual value or capital value of the property within the portion of the Town the boundaries of which have been agreed to at such Meeting : Provided, that if it shall be decided at such Meeting by a majority of the votes of the Electors present thereat that no Separate Local Rate shall be made as aforesaid, it shall not be lawful for the Council to make and levy such Rate.

A.D. 1891.

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

Not to affect other Rates.

46 Vict. No. 14.

PART III.

ASSESSMENT ROLL.

70 The Board of every Town shall, on or before the First day of *June* in every year, prepare or cause to be prepared an Assessment Roll of all the properties situate within the Town; and every such Assessment Roll shall be in the form and shall contain the particulars given in Schedule (5.); and the "capital value" therein set opposite each property shall be the cash capital value of such property as shown by the Assessment Book prepared and in force for the time being under "The Assessment Act, 1887"; and the "annual value" therein set opposite to each property shall be an amount equal to Five Pounds per centum of such capital value of such property.

An Assessment to be made annually.

Schedule (5.)

51 Vict. No. 20.

71 Where any building is occupied in apartments or portions by more persons than One, the Board shall assess the capital and annual value of such apartments or portions separately.

Portions of buildings separately occupied to be separately assessed.

72 Upon any such Assessment Roll being made the Board shall cause a copy thereof to be published in the *Gazette*; and the Board shall cause copies of such *Gazette* to be posted up in the offices of the Board, and at every Police Office, Police Station, and Post Office within the Town.

Notice of Assessment to be published.

73 If at the time of making any Assessment Roll under this Act any property is unoccupied, or the name of the owner of any property is unknown to the Board, the Board shall nevertheless include such property in such Assessment Roll, 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 Board, the Board shall insert in the Assessment Roll the name of such occupier or owner, as the case may be.

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

Town Boards.

A.D. 1891.

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

74 When and as often as any change takes place in the ownership or occupation of any assessed property, the Board 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 property, and inserting instead thereof the name of the person who becomes the owner or occupier of such property.

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

75 If it at any time appears to the Board 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 property not included in the Assessment Roll ought to be included therein, or that any property included therein ought to be excluded therefrom, or that any other alteration, amendment, or addition is necessary in or to such Assessment Roll, the Board shall cause to be added to or inserted therein the name of any person so omitted, together with the value at which the property 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 shall erase the name of any person and the description of any property improperly inserted therein; and the Board 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.

Amendments of Assessment Roll to be valid.

76 Every such insertion, addition, alteration, erasure, 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 thereof is given to all persons thereby affected, and an opportunity afforded to such persons to appeal against any such insertion, addition, alteration, erasure, or amendment in the manner hereinafter provided: Provided also, that no such notice shall be required in the case of any person who has left the Colony, or who cannot, upon reasonable search being made, be found.

Persons affected by Assessment Roll may appeal.

77 It shall be lawful for any person affected by anything contained in such Assessment Roll, or his attorney or agent, after having given notice to the Board as hereinafter provided, to appeal, to any Two or more Justices of the Peace assembled and acting together in Petty Sessions within the town or at the nearest place where Sittings of Petty Sessions of the Peace are usually held, against anything contained in such Assessment Roll whereby he is affected; and any two such Justices of the Peace may hear and determine all such Appeals.

Ground of appeal to be given.

78 It shall be lawful for any person affected by any such Assessment Roll to give notice to the Board, at any time within Fourteen days after publication thereof in the *Gazette*, or service on him of a notice of any insertion, amendment, addition, or alteration to or in such Roll, that he intends to appeal against the insertion of his name therein, or against the annual value therein placed on any property owned or occupied by

Town Boards.

him, or against any other particular in such Roll whereby he is affected, and to apply to the Clerk of Petty Sessions to fix a day for the hearing of such appeal.

A.D. 1891.

79 Notice of the hearing of every such appeal shall be given in writing to the Chairman or Secretary of the Board by the Clerk of Petty Sessions not less than Four nor more than Ten days before the day fixed for the hearing of the appeal; and, in case it appears to the Justices hearing the appeal that such appeal is frivolous or vexatious, they may award such costs not exceeding Five Pounds as they shall think fit against the person appealing, and such costs shall be recoverable in a summary way.

Notice of appeal.

Provided that, if on the day fixed for the hearing of any such appeal, Two Justices of the Peace shall not attend at the appointed place to hear such appeal, the Clerk of Petty Sessions shall adjourn the hearing of such appeal to a future day not more than Seven days later than the day previously fixed for the hearing of such appeal, and so from time to time until such appeal shall be heard.

80 The Justices who have heard and determined any such appeal against anything contained in any such Assessment Roll shall, at the request of the appellant, or the Chairman or Secretary of the Board, give a Certificate under their hands of their decision and determination in the matter of such appeal; and in every case in which the decision and determination of the Justices shall be against anything contained in any such Assessment Roll, the Board shall make such alteration, addition, amendment, omission, or erasure in such Assessment Roll as shall be requisite to give effect to such decision or determination.

Justices to give Certificate of decision, and Roll to be altered accordingly.

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

If Assessment Roll not completed, Rates may be levied on the Roll of previous year.

82 No error or informality in the mode of making the Assessment in the Town shall vitiate or render invalid any Assessment Roll, or any rate duly made thereunder, provided that the requirements of this Act as to the publication of Notice of such Assessment have been complied with.

Errors or informalities not to invalidate Assessment Roll.

83 The Assessment Roll so made by the Secretary as aforesaid, and all entries made therein in manner hereinbefore 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.

Assessment Roll and amendments evidence.

84 Whenever any Area shall hereafter be declared to be a Town under this Act, then, and until an Assessment Roll is made for such Town under the provisions of this Act, the Valuation Roll in force in the Municipal or Police District in which such Area is situated shall be deemed to be and shall be the Assessment Roll of such Town.

Valuation Roll to be in force until Assessment Roll made.

Town Boards.

A.D. 1891.

PART IV.

LOANS.

Loans may be raised by Debentures. 45 Vict. No. 16.

85 It shall be lawful for the Board of any Town to raise by the sale of Debentures under the provisions of "The Local Bodies Loans Act," any sum or sums of money not exceeding Two thousand Pounds for the purposes of this Act; and such Debentures shall be charged upon the revenues of such Board.

But the Board of any Town whose average income for the Three years immediately preceding the *Gazette* Notice of such loan in accordance with the provisions of the said Act exceeds Two hundred Pounds per annum, may borrow any sum or sums of money not exceeding Ten times the average annual income of such Board as aforesaid.

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

Meaning of certain terms in 45 Vict. No. 16.

86 For the purposes of this Act the term "Local Body" used in "The Local Bodies Loans Act" shall include the Board of every such Town; and the terms "Trustees" and "District" also used therein respectively shall mean such Board and Town respectively.

Governor in Council may guarantee interest on the loan.

87 In order to facilitate the raising by the Board of any such Town of any sum of money which such Board is authorised to raise as aforesaid, it shall be lawful for the Governor in Council to guarantee the payment of interest upon the same or any part thereof to the lender: Provided always, that in every such case, and so far as the Governor in Council in consequence of such guarantee advances and pays any sum of money to any such lender, all moneys so paid shall be and the same are hereby declared to be a first or primary charge upon the rates and charges to be received by the Board under the authority of this Act: Provided also, that a return of all loans upon which the Governor in Council has, during the preceding year, guaranteed the payment of the interest shall be laid upon the Table of both Houses of Parliament within Fourteen days after the First Meeting of Parliament in every year.

Town Rate to be made to provide for interest on loan, &c.

88 Every such Board shall, before raising any sum of money upon which the payment of interest is guaranteed by the Governor in Council as authorised by this Act, make and levy a Town Rate under this Act, and every such Rate shall, without any further proceeding by the Board or otherwise, be and continue to be an annual recurring Rate upon all rateable property situated within the area of the Town, until all moneys owing in respect of the moneys raised under the authority of this Act shall have been paid off and discharged; and it shall not be lawful for the Board to diminish such Rate at any time so as to render the annual produce thereof insufficient to provide the interest and sinking fund on account of the loan.

Governor in Council may appoint person to collect Rate in default of Board so doing.

89 In the event of any such Board failing or refusing to collect such Rate for One month after the day upon which the same becomes payable, it shall be lawful for the Governor in Council, by notice in the *Gazette*, to appoint some person to receive and recover the same; and such Rate shall thereupon be payable to and shall be recoverable by such person, who shall be deemed to be a Collector appointed by such Board.

Town Boards.

PART V.

A. D. 1891.

OFFICERS AND ACCOUNTS.

Officers.

90—(1.) The Board shall, from time to time, appoint a Treasurer, who may be one of the Members of the Board, and may, from time to time, appoint and employ a Solicitor, Secretary, and such Surveyors, Collectors, and other Officers as the Board thinks necessary and proper; 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 moneys at the disposal of the Board under this Act, pay such salaries and allowances to the said Officers respectively as the Board thinks reasonable.

Power to appoint Officers.

(2.) 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 Board so thinks fit, but it shall not be lawful for the Board to appoint the same person to be a Collector and also Treasurer of the Board.

91 Before any person, whether Treasurer, Clerk, Collector, or other Officer, who is entrusted by the Board with the custody or control of moneys by virtue of his office, enters upon such office, the Chairman of the Board shall take sufficient security for the faithful execution thereof.

Security from Officers.

92 Every Officer or person employed by the Board 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 of all acts done by him by direction of the Board; and such books shall at all times be open to the inspection of any Member of the Board.

Officers to keep account books.

93 Every Collector or other Officer appointed or employed by the Board to collect money shall, within Seven days after he has received any moneys on behalf of the Board, pay over the same to the Treasurer of the Board, 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 Board directs, deliver to the Board 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 moneys owing by them, with a statement of the moneys due from them respectively.

Payment over of moneys by Officers.

94 Every Collector and other Officer appointed or employed by the Board shall, from time to time when required by the Board, make out and deliver to the Board, or to any person appointed by the Board for that purpose, a true and perfect account in writing under his hand of all moneys received by him on behalf of the Board; 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 Board, or to any person appointed by the Board to receive the same, all moneys which appear to be owing from him upon the balance of such accounts.

Officers to account.

Town Boards.

A.D. 1891.

Summary proceedings against Officers failing to account.

95 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 Board, or to any person appointed by the Board 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 Board, 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 Board are in the hands of such Officer, or owing by him to the Board, such Justices may order such Officer to pay the same; and if he fails to pay the amount it shall be lawful for such Justices to grant a Warrant to levy the same by distress, and in default of sufficient distress to commit the offender to gaol, there to remain without bail for a period not exceeding Three months, unless the same is sooner paid.

Officers refusing to make out accounts, &c., may be committed.

96 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 Board, 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 Board.

If Officer about to abscond, Warrant may be issued.

97 If any Member of the Board or other person acting on behalf of the Board 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 Board.

Proceedings against Officers not to discharge sureties.

98 No such proceeding against or dealing with any such Officer as aforesaid shall deprive the Board of any remedy which they would otherwise have had against such Officer or any surety of such Officer.

Members of Board not to be Officers.

99 Every person holding any office or place of profit in the gift or disposal of the Board, other than that of Treasurer, shall be dis-

Town Boards.

qualified from being a Member of the Board, and if any Member of the Board is appointed to any such office or place of profit he shall thereupon cease to be a Member of the Board: Provided, that any Member of the Board who is appointed Treasurer shall be liable to all the provisions of this Act relating to such Officer in the same manner as if he were not a Member of the Board.

A.D. 1891.

Accounts.

100 The Board 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 under the authority of this Act, and of the several purposes for which such sums of money have been received and paid, which book shall at all reasonable times be open to the inspection of any Member of the Board or any holder of any Debenture issued by the Board under "The Local Bodies Loans Act," or any amendment thereof, or any Mortgagee or Transferee in security of any Rate, or other Creditor of the Board, 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 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, for every such offence, incur a penalty not exceeding Five Pounds.

Board to keep accounts of receipts and disbursements.

45 Vict. No. 16.

101 As soon as the moneys at any time in the hands of the Treasurer of any Board shall amount to Five Pounds, he shall forthwith pay the same into some public bank in *Tasmania* to the account of the Board; and no part of such moneys shall be drawn out of such Bank except by cheque signed by the Treasurer and countersigned by One of the Members of such Board.

Moneys received to be paid into Bank.

102 The Board shall, on or before the Thirty-first day of *January* in each year, cause the accounts of the Board up to and including the last 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 Rates made and 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 Board, and such statement and account shall be signed by the Chairman and not less than Two Members of such Board.

Statement of accounts to be annually prepared.

103 The statement and account mentioned in the last preceding Section shall be published in the *Gazette* by the Auditor General as soon as may be after such accounts have been audited.

Publication of accounts.

104 The accounts of every Board shall be subject and liable to all the provisions of "The Audit Act, 1888," in the same manner in all respects as if such accounts had been specifically mentioned therein.

Accounts to be subject to 52 Vict. No. 43.

105 The Board of every Town shall, by their Chairman, before the last day of *February* in every year, forward to the Auditor-General the statement and account hereinbefore mentioned, accompanied with proper vouchers in support of the same, and all such books, papers, and writings in the custody or power of the Board relating thereto as the said Auditor-

Accounts to be forwarded to Auditor-General.

Town Boards.

A.D. 1891.

General requires to be furnished to him; and the Auditor-General shall make and deliver to the said Chairman a special report upon such accounts, or if the said accounts are found correct the Auditor-General shall simply confirm and sign the same in token of his allowance thereof.

Officers to be amenable to provisions of 52 Vict. No. 43.

106 Every officer appointed or employed by the Board of every Town in the receipt or disbursement of moneys or other property shall be amenable to all the provisions of "The Audit Act, 1888," in the same manner in all respects as if such officer had been an officer in the Public Service.

PART VI.

POWERS AND DUTIES OF BOARDS.

(1.) *Powers under The Police Act, 1865.*

Powers of Board.
29 Vict. No. 10.

107 The Board of every Town is hereby empowered to exercise in such Town all the powers and authorities which by the provisions of Part III. of *The Police Act, 1865*, are conferred upon, vested in, or made exercisable by the Municipal Council of a Municipality (except the powers conferred by Sections Two hundred and fifty-nine and Two hundred and sixty of the said Act), in as full and ample a manner as if such Board were a Municipal Council as defined by the last-mentioned Act. And every power and duty vested in or imposed upon the "Mayor" or "Town Clerk" by the said Part of the said Act is hereby vested in and imposed upon the Chairman of the Board of every Town.

(2.) *Wharves and Jetties.*

Board may construct wharves and jetties.

108 In any Town which is bounded on any side by the sea, or includes or is bounded by the waters of any port, inlet, or arm of the sea, or includes or is bounded by any river or lake, or any part of any river or lake, the Board of such Town may, with the consent of the Governor in Council—

- I. Construct and maintain wharves and jetties upon the shore, and to such distance above or below high-water mark, and with such approaches and other works in connection with such wharfs and jetties, as the Board may think necessary:
- II. Construct embankments, sea-walls, and any other works, to prevent the encroachment of the sea or of any tidal or other river or creek, and the wasting of any shore or bank.

Property in wharves and jetties.

109 All such wharves, jetties, approaches, and works constructed under the authority of this Act shall vest in and be under the control and management of the Board of the Town by which they have been constructed.

Limitation of Board's power to construct wharves and jetties.

110 Nothing in this Act contained shall authorise the Board to erect any wharf, jetty, or other work on private property without the consent of the owner thereof, or on any Crown Lands leased or under licence to any person under any Act relating to Fisheries or Oyster culture, or on any Crown Land below mean high-water mark, without

Town Boards.

the consent of the Governor in Council; and the Governor in Council shall in no case give such consent unless he shall be satisfied that the advantages offered to the public by the Board in the construction of such wharf, jetty, or work below mean high-water mark, or upon any Crown Lands above such mark, more than counterbalance any obstruction to navigation or other public injury likely to be caused by such construction. A.D. 1891.

111 It shall be lawful for the Board from time to time to make regulations for all or any of the purposes following (that is to say): Regulations.

For limiting the time during which goods shall be suffered to remain upon such wharf, jetty, or pier, according to the nature of such goods:

For fixing the rates and tolls to be paid in respect of goods landed, shipped, or deposited upon or from such wharf, pier, or jetty, or deposited in any shed thereon:

For appointing the parts and the extent of such wharf, pier, or jetty on which it shall be lawful to deposit goods:

And every person who shall place or keep any goods contrary to any such regulation shall, on conviction, forfeit a sum not exceeding Five Pounds for such offence, and a further sum not exceeding Forty Shillings for every day after such conviction during which such goods or any of them shall so remain.

All rates and tolls levied under this Section shall form part of the Funds of the Board levying the same.

112 If any master or person in charge of any ship shall not, on being thereto required by the proper officer of the Board, remove his ship from any such wharf, pier, or jetty, or from one part to another part thereof, or if any such master or person, or the owner of any ship, shall cause or suffer such wharf, pier, or jetty to be damaged by contact of such ship therewith or otherwise, every such master, owner, or person shall forfeit a sum not exceeding Ten Pounds, and such further sum by way of compensation to the Board for any such damage as the convicting Justices shall on the hearing order. Offences by Masters, &c. of ships.

113 The provisions hereinbefore contained relating to wharves, jetties, and piers shall apply only to such wharves, jetties, and piers as belong solely to and are under the sole management or control of the Board in accordance with the provisions of this Act, and as are not within the operation of any Act relating to ports or harbours. Application of this Part.

(3.) Markets.

114 The Board of every Town shall have the power to do the following things, or any of them, within the Town:— Power of Board to provide markets.

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

To provide houses and places for weighing carts:

To make convenient approaches to such markets:

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

115 It shall be lawful for the Board to demand, receive, and have of and from every person exposing or offering for sale Markets, &c. tolls.

Town Boards.

A.D. 1891.

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

Interpretations in this Part.

116 The following words and expressions in this Part of this Act shall have the meanings hereby assigned to them, unless there be something in the subject or context repugnant to such construction (that is to say) :—

“The market.”

The expression “the market” shall mean a market and the works connected therewith provided by the Board of the Town :

“Cart.”

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

“Driver.”

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

“Collector.”

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

“Cattle.”

“Cattle” shall include live stock of every description.

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

117 Before any market is opened for public use the Board shall give not less than Ten days’ notice of the time when the same will be opened ; and such notice shall be given by the publication thereof in some newspaper generally circulated in the Town, and by printed handbills posted upon some conspicuous places within the Town.

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

118 After the market is opened for public use, every person, other than a licensed hawker, who shall sell, offer, or expose for sale in any place within the Town, except in his own dwelling-place, shop, place of business, or any private property, or except in the market, or in yards or premises licensed by the Board under a market By-law, any articles or any cattle in respect of which tolls are by this Act authorized to be taken in the market, shall for every such offence be liable to a penalty not exceeding Forty Shillings.

Licensed hawkers not exempted from paying tolls.

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

6 Will. IV., No. 7.

Letting of tolls.

120 It shall be lawful for the Board to demise or let, for any term not exceeding Twelve months, all or any of the stallages, rents, and tolls from time to time payable in respect of any market

Town Boards.

provided by the Board, and also to demise or let, for any term not exceeding Twelve months, any stall or standing in such market

A.D. 1891.

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

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

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

Recovery of tolls.

19 Vict. No. 8.

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

Disputes respecting tolls how to be settled.

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

List of tolls, &c. to be set up and placed in conspicuous places.

125 The Board may from time to time make such Market By-laws as they think fit for all or any of the following purposes (that is to say):—

By-laws relating to markets.

For regulating the market-place and the buildings, stalls, pens, and standings therein, and for preventing nuisances or obstructions therein or in the immediate approaches thereto:

For fixing the days and the hours during each day on which the market shall be held:

For licensing yards and premises for the sale of cattle within the Town, and for fixing (subject to the limitation hereinbefore mentioned) the dues to be paid for such licences:

For regulating the carriers resorting to the market, and fixing the rates for carrying articles carried therefrom within the limits of the Town:

For regulating the use of the weighing machines provided by the Board, and for preventing the use of false or defective weights, scales, or measures:

For preventing the sale or exposure for sale of unwholesome provisions in the market:

Town Boards.

A.D. 1891.

For regulating the amount, and the time and manner of payment, of all stallages, rents, tolls, and dues authorised by this Act to be charged under any of the preceding sections relating to markets.

(4.) *Water Supply.*

Board to provide for supply of water.

126 The Board shall cause all existing public reservoirs, tanks, cisterns, pumps, well, conduits, and other waterworks used for the gratuitous supply of water to the inhabitants within the Town to be continued, maintained, and supplied with water as heretofore, or they shall substitute other such works equally convenient, and shall cause them to be maintained and supplied with a quantity of water not less than the quantity which has heretofore been supplied by such existing reservoirs, tanks, cisterns, pumps, wells, conduits, and waterworks as aforesaid.

Board may take water.

127 The Board may, with the consent of the Governor in Council, and subject to the provisions of this Act and the provisions of any Law now in force or that may hereinafter be in force determining the rights of the Crown and of riparian proprietors in the waters and bed of any lake, river or stream or creek or watercourse, from time to time take and divert from any lake or from any river, stream, creek, or watercourse flowing through the Town or along any of the boundary lines thereof, a sufficient quantity of water for supplying the whole or any portion of the inhabitants of the Town with water for domestic purposes, and for supplying with water any public baths or wash-houses, or any fountains or pumps within the Town, and for the purpose of providing a supply of water for the extinguishment of fires in the Town, or for motive power, or for supplying ships.

Board may lay down pipes.

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

Board to do as little damage as may be.

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

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

130 The Board shall make compensation, in manner hereinafter provided, to all parties lawfully interested in the water of any stream taken or used under the authority of this Act, or in any land, other than land purchased by the Board, in or upon which any waterworks

Town Boards.

may be constructed, or which may be injuriously affected by the construction and maintenance of the waterworks under this Act, other than any now existing waterworks, or otherwise by the execution by the Board of the powers hereby conferred, for all damage sustained by reason of the exercise as to such stream or land of the powers vested in the Board by this Act. A.D. 1891.

131 Any person claiming such compensation shall prefer his claim by notice in writing addressed to the Board, in which notice shall be specified the place of abode of the claimant, the particular act occasioning the damage for which compensation is claimed, the nature and amount of such damage, and the nature of the title or interest of such claimant in or to the water or land in respect of which the claim is preferred; and if any such person and the Board do not agree as to the amount of such compensation, the same, and the application thereof, shall, except in the cases hereinafter mentioned, be determined by arbitration in the manner provided by *The Lands Clauses Act* in cases of disputed compensation. Persons damaged to make claim for compensation.
Compensation how to be ascertained.
21 Vict. No. 11.

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

133 If the Board, by notice in writing, requires any person to make claim for compensation for any damage occasioned by the exercise previously to the service of such notice of any of the powers conferred on the Board by this Act, such person shall not be entitled to compensation for any damage sustained by reason of the exercise of any such powers previously to the service of such notice, unless he prefers his claim, in manner aforesaid, within Three months after service of such notice. Persons not making claim required to be barred.

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

135 Every such action shall be commenced within Three months after the service on the claimant of such notice as aforesaid that his right is disputed, and not afterwards. Such actions to be commenced within Three months.

136 The Board shall, from time to time, and at all times for ever hereafter, pay and make good to the owners and occupiers of all lands and buildings, and to every person whomsoever, all loss, costs and charges, sums of money, damages, and expenses whatsoever, and for all injury, of what nature or kind soever, as well immediate as consequential, which such owners or occupiers, or other persons, may suffer, incur, pay, expend, or be put to by reason or in consequence of the failure or giving way of any of the waterworks of the Board under this Act. Compensation for damage done by failure of the works.

Town Boards.

A.D. 1891.

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

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

Supply of water for domestic use within the Town.

138 The Board shall, at the request of the owner or occupier of any property within the Town, the outer boundary of which is within Fifty feet of any main or other water-pipe laid down by the Board, furnish to such owner or occupier a sufficient supply of water for domestic purposes, including a supply for any private water-closet and fixed bath in any dwelling-house on such property; but all pipes and other apparatus required for conveying such water from the outer boundary of such property to the place or places thereon where such water shall be used, shall be provided, laid down, and maintained by and at the cost of such owner or occupier.

Board to lay down service pipes without private property.

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

Board may determine the description of service pipes to be used.

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

Provision for water supply.

141 For the purpose of constructing and maintaining waterworks, and ensuring a supply of pure water to the inhabitants of any Town under the powers conferred by this Part of this Act, the Board may, in addition to the rates herebefore in this Act mentioned, make special water rates, and may levy the same upon the owners and occupiers of all properties within the Town which are within a distance of Fifty feet from any main or other water-pipe laid down by the Board for the purpose of supplying water as aforesaid. Such special water rates may be assessed on such property according to the capital or annual rateable value thereof, or on any other scale or principle of calculation which the Board may determine.

Board may contract for water supply.

142 The Board may contract for any period not exceeding Three years at one time with the owners of any water works or any other person for such supply of water as the Board think necessary for the purposes of this Act, or, with the consent of the Governor in Council, may purchase any water works.

Town Boards.(5.) *Prevention of Fire.*

A.D. 1891.

143 The Board may cause all necessary works, machinery, and assistance for securing an efficient supply of water in cases of fire to be provided and maintained, and for this purpose they may enter into any agreement with any water company or other party; and they shall paint or mark, on the buildings and walls within the streets, words or marks near any fire-plugs so provided to denote the situation thereof, and do such other things for the purposes aforesaid as they may from time to time deem expedient.

Works for supply of water in case of fire.

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

Remuneration, &c. of persons for extinguishing fire.

145 It shall be lawful for the Governor in Council, upon the receipt of a petition signed by the majority of the proprietors of any portion or section of land within a Town, or at the request of the Board of the Town, by Proclamation to declare such portion or section to be of the First class for the purposes of this Act, and upon the like petition or request to rescind any such Proclamation. And in any portion or section of the First class it shall not be lawful to construct the external walls of any building, or any part of the framework of such walls, of any material other than brick, stone, iron, or other incombustible material, or to roof or cover any building with wooden shingles or other inflammable material, or to repair or add to the walls or roof of any existing wooden or other buildings, otherwise than by substituting incombustible materials as aforesaid.

Erection, addition, or repairs of inflammable buildings to be prohibited in certain cases.

146 If any building shall, contrary to the provisions of the last preceding Section, be erected or commenced to be erected in such portion or section of the First class, it shall be lawful for the Board of the Town in which it is situated to give notice to the builder or proprietor thereof to remove the same; and in the event of any such builder or proprietor neglecting or refusing to remove such building, such building or commencement of building shall be deemed to be a nuisance, and it shall be the duty of the Board, and they are hereby empowered and required, to summon the proprietor or builder of such building before any Two Justices, who may issue a warrant to compel such proprietor or builder to appear before them, and thereupon such proprietor or builder shall be required to enter into a recognizance in such sum as the said Justices shall appoint for abating and removing the same within a specified time; and if such proprietor or builder shall fail to enter into such recognizance, the said Justices shall commit him to gaol, there to remain without bail until he shall have entered into such recognizance as aforesaid, or until such nuisance shall have been abated, by order of such Justices, who may make such order forthwith, and cause the removal of such nuisance at the cost of the proprietors thereof.

Mode of enforcing provisions of previous Section.

Provided, that nothing in this Act contained shall affect the powers

Town Boards.

A.D. 1891.

of any Board when acting as the Local Board of Health under "The Public Health Act, 1882," or any Amendment thereof.

(6.) Lighting.

Board may contract for lighting streets.

147 The Board may contract for any period not exceeding Seven years at any one time with the owners of any gasworks, or with any other person, for the supply of gas or oil or electricity or other material for the purpose of lighting any streets or public places within the Town, or may construct or purchase any gasworks or other such means of lighting, and may provide such lamps, lamp-posts, and other works as the Board think necessary for lighting the streets or public places within the Town, or any part or parts thereof; and all such lamps, posts, works, and the fittings thereof shall be vested in the Board.

(7.) Pounds and Abattoirs.

The Board may construct pounds and abattoirs.

148 The Board may from time to time construct and erect such buildings, fences, and appliances as may be necessary for the purposes of all pounds appointed within the Town and all abattoirs that the Board are, under any law now or hereafter to be in force, empowered to provide, and may lease or purchase such land as may be necessary for such purposes.

(8.) Baths, &c.

Board may provide baths, &c.

149 The Board may from time to time purchase, erect, rent, or otherwise provide, either within the limits of the Town, or at a reasonable distance therefrom, suitable and convenient land and buildings, in a situation and according to plans to be approved of by the Governor in Council, to be used for public baths and wash-houses, and may fit up the same respectively with all requisite and proper conveniences, and from time to time enlarge, renew, and repair the same respectively, and afford the use thereof respectively to the inhabitants of the Town, under and subject to such By-laws as the Board may make in that behalf and either without charge or at such reasonable charges as the Board may order by any such By-law.

Copy of By-laws to be posted.

150 A printed copy or sufficient abstract of the By-laws made by the Board relating to the use of such baths, so far as regards every such bath or washhouse, shall be put up in such bath and washhouse.

(9.) Places of Recreation, &c.

Board may provide places of recreation, Libraries, &c.

151 The Board may from time to time purchase, rent, or otherwise provide lands, grounds, buildings, or other places, either within the Town or at a reasonable distance therefrom, not exceeding ten miles from the chief post office, to be used as pleasure grounds, libraries, museums, gymnasiums, gardens, or places of public resort or recreation; and the Board may from time to time level, drain, plant, and otherwise lay out and may repair and improve any such public lands, grounds, or buildings for the more convenient use and enjoyment thereof, and may afford the use and enjoyment thereof to the inhabitants, subject to such By-laws as the Board may make in that behalf as hereinafter provided.

Town Boards.(10.) *Planting Trees and Shrubs.*

A.D. 1891.

152 The Governor in Council, at the request of the Board of any Town, may, by Proclamation, to be published in the *Gazette*, direct that any portion of a street or road in the Town shall be a Tree Reserve, so that the portion of such street or road remaining available for traffic upon both sides of such Tree Reserve, including foot-paths, shall in no place be reduced by any such Tree Reserve to less than Forty-six feet, and so that no such Reserve be a greater length than Ten chains; and the Governor in Council may revoke any such Order; and the Board of the Town shall have charge of such Reserve, and may fence and plant the same with trees, and tend and cultivate the same.

Power to make Tree Reserves in streets or roads.

153 The Board of any Town may plant trees in any street or road in the Town, and erect tree-guards to protect the same so that the thoroughfares be not thereby unduly obstructed.

Power to plant trees in streets and roads.

(11.) *Charitable Institutions.*

154 The Board of every Town may from time to time, on such terms and conditions as may appear expedient, appropriate such portion of the funds of the Board as they may see fit to erecting, establishing, and maintaining, or otherwise aiding any hospital or asylum for the treatment of sick or disabled persons.

Board may establish, aid, &c. charitable and other institutions.

PART VII:

PURCHASE AND TAKING OF LAND AND MATERIALS.

155 Every Board is hereby empowered to purchase and take, in the mode prescribed by *The Lands Clauses Act*, such land within the Town as the Board may deem necessary for the purpose of executing any work which the Board is by this Act authorised to undertake; and, subject to the provisions of this Act, *The Lands Clauses Act* shall be incorporated with this Act, and for the purposes of such incorporation the Board shall be deemed to be the Promoters of the undertaking.

Purchase and taking of land.

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

Land may be given up if compensation excessive.

157 Notwithstanding anything in *The Land Clauses Act* contained, in estimating the amount of compensation to be paid to any person for land taken for improving, widening, diverting, altering, or making any street, the arbitrators or umpire shall take into consideration the benefit that is likely to accrue to the person whose land is about

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

Town Boards.

A.D. 1891.

to be so taken for such street, and the arbitrators or umpire, in awarding compensation to be paid for taking such land, shall make such deduction for such benefit as shall be deemed just; and in case it appears to the arbitrators or umpire that the benefit likely to accrue to the person through whose land such street is about to be taken is equal to or greater than the loss he will sustain by reason of the taking of his land for such street, the arbitrators or umpire may award that no compensation is to be paid, and thereupon the same rights shall accrue as if compensation had been awarded and duly paid.

Entry upon land.

158 Whenever it is intended to take any land for any of the purposes of this Act, it shall be lawful for the Board, after Seven days' notice served upon the occupier, to enter upon any land and to stake out the same in such manner as the Board think necessary or expedient; and if any person wilfully pulls up, removes, or destroys the stakes or other marks used for the purposes aforesaid, every person so offending shall, for every such offence, incur a penalty not exceeding Fifty Pounds.

Renting land.

159 It shall also be lawful for any Board to contract and agree with the persons interested in any land for the demise of such land for the purpose of obtaining materials from such land for the repair or construction of any street, or for any other of the purposes of this Act.

Uncultivated land may be used for temporary street.

160 Every Board is hereby empowered to make use of any uncultivated land within the Town for the purpose of constructing a temporary street whilst any street is being made, diverted, altered, or repaired, without making compensation for the same: Provided, that the temporary street shall be fenced in or otherwise so secured as to afford to the person through whose land such temporary street may pass an equal protection against trespass as was possessed by such person previously to the construction of such temporary street: Provided also, that on the completion of such repairs any damage done to the lands through which such temporary street may pass shall in all respects, as far as practicable, be made good by the Board.

Crown land may be taken for purposes of the Act.

161 It shall be lawful for any Board to take and use for any of the purposes of this Act which are respectively applicable to such Board, any Crown Land which the Governor may authorise to be taken and used for such purpose.

Timber may be taken from uncultivated land upon making compensation.

162 It shall be lawful for any Board, after Seven days' notice to the Owner and Occupier, to enter upon any uncultivated land, and to cut down and carry away all such indigenous timber as may be required for making, repairing, or fencing any street, or any other of the purposes of this Act, upon making full compensation for such timber to the Owner of the land: Provided, that it shall not be lawful for the Board to cut down any such indigenous timber where it is made to appear to their satisfaction that the same has been, and is intended to be, reserved and used by the Owner or Occupier of the land for the purpose of ornament or shelter.

Materials may be taken from lands upon making compensation.

163 Where it is deemed necessary to obtain materials from any land for making, repairing, or constructing any street or any other of the purposes of this Act, it shall be lawful for any Board, from time to

Town Boards.

time, after Seven days' notice to the Owner and Occupier, to enter upon such land at any time within Three months after the expiration of such notice, and to dig, quarry, and carry away all such materials as may be required for any such purpose, making full compensation to all parties interested for the damage thereby sustained: Provided that no such notice shall be available for any entry on any land under the authority of this Section after the expiration of One year from the date of the notice.

A.D. 1891.

164 The compensation for taking indigenous timber from uncultivated land, or materials from any land, for the purposes of this Act, shall be settled by arbitration in the mode prescribed by *The Lands Clauses Act* in cases of disputed compensation.

Compensation for timber and materials how to be ascertained.

165 It shall be lawful for any Board to sell and dispose of, in the manner prescribed by *The Lands Clauses Act*, any land purchased or taken by them respectively for the purposes of this Act which is not required for any such purpose, and the purchase-money arising from any such sale shall be applied by such Board to the purposes of this Act; and in the application of the provisions of *The Lands Clauses Act* to the purposes of this Act the enactment contained in this Section shall be substituted for Section Seventy-eight of that Act.

Lands not required may be sold.

166—(1.) It shall be lawful for any Board to enter upon any land adjoining any street of which the Board has the care, control, and management, for the purpose of maintaining such street.

Entry upon adjoining lands for executing works.

(2.) Any land entered upon under this Section shall be fenced in or otherwise so secured by the Board as to afford to the owner or occupier of such land an equal protection against trespass as was possessed by such owner or occupier previously to the entering upon such land.

167 Every Board shall have power respectively to make, cleanse, and keep open all drains or watercourses which they may deem necessary in and through any land adjoining or near to any street of which such Board has the care, control and management.

Power to make drains on adjoining lands.

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

Timber growing near any street may be cut down.

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

Quarries to be fenced in or otherwise secured.

Town Boards.

A.D. 1891.

PART VIII.

BY-LAWS.

- 170** By-laws may be made by the Board of any Town for the following purposes:—
- | | |
|-------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| By-laws generally. | i. Regulating the proceedings of the Board and the duties of their officers and servants, and preserving order at Meetings of the Board. |
| Proceedings. | ii. Regulating the aligning, curbing, paving, guttering, graveling, and cleansing of roads and streets. |
| Streets. | iii. Regulating the construction, elevation, materials, and form of buildings in any specified part of the Town. |
| Buildings. | iv. Opening and regulating the width of new public streets, roads, and ways. |
| Roads. | v. Regulating sewerage and drainage. |
| Drainage. | vi. Regulating the lighting of public streets or other public places with gas or otherwise. |
| Lighting. | vii. Preventing any injury or obstruction to public streets. |
| Obstructions. | viii. Preventing and extinguishing fires. |
| Fires. | ix. Compelling owners or occupiers to keep their premises free from offensive or unwholesome matters. |
| Cleansing. | x. Regulating the killing of cattle and sale of butchers' meat, and the establishment and locality of slaughter-houses or abattoirs. |
| Slaughter-houses. | xi. Preventing the fouling or obstruction of any river, rivulet, or other stream of water flowing through any Town. |
| Fouling water, &c. | xii. Providing for the emptying and cleansing of privies and cesspits. |
| Cesspits. | xiii. Providing for the cleansing of stables, pig-styes, fowl-houses, and other places where any animals may be kept. |
| Stables, &c. | xiv. Preventing or regulating the bathing or washing the person in any public water or near a public thoroughfare. |
| Bathing. | xv. Preserving public decency. |
| Public decency. | xvi. Providing for the health of the Town and against the spreading of contagious or infectious diseases. |
| Health. | xvii. Suppressing or restraining noisome and offensive trades. |
| Offensive trades. | xviii. Regulating public places of amusement and public exhibitions or performances of any kind. |
| Amusements. | xix. Regulating and licensing porters, public carriers, carters, water-drawers, and vehicles plying for hire. |
| Carriers. | xx. Regulating the supply and distribution of water in cases where the works for the storage of water have been formed at the expense of the Board or have been placed under their control in due course of law. |
| Water. | xxi. Causing vacant building lots in towns to be enclosed where public safety is likely to be endangered. |
| Vacant lands. | xxii. Generally controlling and managing public reserves under the control of the Board. |
| Reserves. | xxiii. Suppressing nuisances, houses of ill-fame, and gaming-houses. |
| Nuisances. | xxiv. Collecting and managing tolls, rates, and dues upon roads, bridges, wharves, jetties, and markets under the control of the Board. |
| Tolls. | xxv. Regulating traffic and processions. |
| Traffic. | xxvi. Establishing, maintaining, and regulating public libraries, schools of art, museum, botanical gardens, or other public places of recreation or improvement. |
| Libraries, gardens, &c. | |

Town Boards.

- xxvii. Regulating the rights and privileges to be enjoyed by the inhabitants of any Town over any common or reserve already or hereafter set apart or dedicated for the use of such inhabitants and under the control of the Board. A.D. 1891.
Commonage rights.
- xxviii. To prevent the storage or the keeping in any place of any animal or thing in the opinion of the Board offensive, injurious to health, or dangerous, within the Town or any part thereof specified in the By-law, or within a distance of any habitation specified in the By-law. Prohibiting keeping of offensive or dangerous things.
- xxix. For regulating and controlling quarrying and blasting operations. Quarrying.
- xxx. For prescribing the width of tires of vehicles with respect to the weight of load to be carried on such vehicles. Width of tires.
- xxxi. Generally maintaining the good rule and government of the Town. General.
- But no such By-law shall contain matter contrary to this Act or any other law in force in Tasmania. By-law not to be contrary to law.
- 171** Every By-law must be passed by the Board of the Town, and sealed with the common seal of the Town. Passing of By-laws.
- 172** After any resolution for passing any By-law has been agreed to by the Board, and not less than Seven days before the same is confirmed, a copy of such By-law shall be deposited at the office of the Board, and shall be there open to the inspection of any person at all reasonable times; and a notice shall be published in some newspaper generally circulating in the neighborhood setting forth the general purport of the proposed By-law and stating that a copy is open to inspection as aforesaid. Publication of notice of proposed By-law.
- 173** After any By-law has been sealed it shall be submitted for the approval of the Attorney-General, and if approved shall be published in the *Gazette*, and thereupon such By-law shall have the force of law in the Town. Approval of By-laws.
- 174** Any By-law made under this Act shall, if Parliament is sitting at the time of the approval of the Attorney-General of such By-law, be laid upon the Table of both Houses of Parliament within Fourteen days of the date of such approval, and if Parliament is not sitting at the date of such approval then within Fourteen days after the commencement of the next Session of Parliament; and it shall be lawful for either House of Parliament, within Fourteen days after such By-law has been laid upon the Table as aforesaid, to disallow such By-law or any part thereof; and upon such disallowance thereof being notified in the *Gazette* such By-law, or the part thereof so disallowed, shall thereupon cease to be of any force or effect whatsoever. By-laws to be laid before Parliament.
- 175** Every By-law or ordinance in the nature of a By-law in force in any Town may be repealed by the Governor in Council. Repeal of By-laws by Governor in Council.
- 176** Any By-law made under this Act may impose a penalty for any breach thereof, and may also impose different penalties in case of successive breaches. But no such penalty shall exceed Ten Pounds. By-laws may be enforced by penalty.
- And any such By-law may provide that in addition to any such penalty any expense incurred by the Board in consequence of any breach of

Town Boards.

- A.D. 1891. — such By-law, or in the execution of any work directed by any such By-law to be executed by any person and not executed by him, shall be paid by the person committing such breach or failing to execute such work.
- Proof of By-laws. **177** A copy of the *Gazette* containing any By-law of any Town shall be conclusive evidence of the due making of such By-law and of the contents thereof.
- Mode of testing the validity of By-law. **178** If any elector of any Town desires to dispute the validity of any By-law, or part of a By-law, and shall pay to the Registrar of the Supreme Court the sum of Twenty Pounds as security for the costs of the proceedings hereinafter mentioned, it shall be lawful for such elector to apply to the said Court or a Judge for a Rule calling upon the Board to show cause why such By-law or part of a By-law should not be quashed for the illegality thereof, and upon the hearing of the matter the Court or Judge may quash or amend the By-law, or make such other Order, with or without costs, as to the Court or Judge shall seem meet.

PART IX.

MISCELLANEOUS.

- Area proclaimed Town cease to be portion of a District. **179** Every Town proclaimed under this Act or under any Act hereby repealed, and which is situate within any Road District existing under "The Roads Act, 1884," at the date of the Proclamation of such Town shall cease to be a portion of such Road District; and the residue of the area of such Road District shall, if the Governor in Council sees fit, cease to be a separate Road District and shall form part of such adjoining Road District as he sees fit.
- Board to be Main Road Board in certain cases. **180** In every case in which a Main Road under "The Roads Act, 1884," or any portion of any such Main Road, passes through any Town proclaimed under this Act or any Act hereby repealed, and not situate within a Municipality, such Town shall be a Main Road District under "The Roads Act, 1884," and the Board of such Town shall be a Main Road District Board for such Main Road District, and the Chairman of the Board shall be the Chairman of such Main Road District Board.
- Number of Board may be extended to Seven upon petition. **181**—(1.) Upon the receipt of a petition to the Governor signed by all the Members of the Board of any Town consisting of Five Members, or by Fifty of the Electors of any Town, praying that the number of the Members of the Board of such Town shall be increased to Seven, the Minister shall cause the prayer and substance of such petition to be published in the *Gazette*; and unless a counter petition signed by Fifty or more Electors is received by the Governor within Thirty days from the date of such publication, the Governor shall, by Proclamation, increase the number of the Members of the Board of such Town to Seven, and by such Proclamation shall fix a day and hour and place for holding a Meeting of Electors for the purpose of electing Seven persons as and to be the Board of such Town; and on the day fixed by such Proclamation the Five Members of the Board

Town Boards.

of such Town shall retire from office, but shall be eligible for re-election. A.D. 1891.

(2.) All the proceedings at the Election held in pursuance of such Proclamation shall be the same as at the First Election of a Board of any Town under this Act; and the Seven persons elected in pursuance of such Proclamation shall retire in accordance with the provisions hereinbefore contained for regulating the retirement of the Seven persons who may be elected as Members of the Board of any Town at a First Election of a Board.

(3.) All property, rights, liabilities, and privileges vested in and accrued or accruing to the Board of such Town previous to the publication of such Proclamation shall survive to and become vested in the Members of the Board elected pursuant to such Proclamation.

182 Upon the receipt of a petition to the Governor signed by all the Members of the Board of any Town, or by Fifty of the Electors of any Town, praying that the name of such Town be altered, the Minister shall cause the prayer and substance of such petition to be published in two consecutive numbers of the *Gazette*; and unless a counter petition, signed by at least Fifty other Electors, is received by the Governor within Thirty days from the date of such publication, the Governor shall, by Proclamation, alter the name of such Town in accordance with the prayer of such petition. Governor, upon petition, to alter name of Town.

183 The Governor may from time to time, upon the request of the Board of any Town proclaimed under this Act or any Act hereby repealed, by Proclamation published in the *Gazette* and in one or more newspapers circulating in the locality, alter and redefine the boundaries of such Town: Provided always, that every such Proclamation shall be published in three successive numbers of the *Gazette*, and shall not take effect until Seven days after the date of the last publication thereof; and if, before the day on which any such Proclamation would otherwise take effect, a majority of the Electors of the Town, or a majority of the Electors resident within any area which would be included within or excluded from the boundaries of the Town if the Proclamation takes effect, shall sign and forward to the Minister a petition praying that the proposed alteration in the boundaries of the Town shall not be made, the Minister shall publish such Petition in the *Gazette*, and the Proclamation shall not have any effect. Governor, upon petition, may alter and re-define boundary of Town.

184—(1.) Whenever it shall be made to appear to the Governor in Council that it is expedient to proclaim any area to be a Town for the purposes of this Act, it shall be lawful for the Minister to publish a notice in the *Gazette* stating the intention of the Governor in Council to proclaim such area as shall be described in such notice to be a Town for the purposes of this Act. Exercise of powers without petition.

(2.) Every such notice shall be published in three consecutive numbers of the *Gazette* and in some newspaper or newspapers circulating in the Municipality or Municipal District in which such area is situate, and the last day on which such notice is published shall be deemed to be the day of the publication thereof.

(3.) If within Thirty days after the publication of such notice as is mentioned in this Section no sufficient cause shall be shown to the Governor in Council why such area should not be proclaimed a Town as aforesaid, it shall be lawful for the Governor in Council to proclaim If no cause shown notice to take effect.

Town Boards.

A.D. 1891.

such area a Town as aforesaid in the same manner as if a petition signed as hereinbefore provided, praying that such area be proclaimed a Town, had been presented and no counter-petition had been presented.

(4.) No Town shall be proclaimed under the authority of this Section without petition unless there shall be One hundred owners and occupiers of property in the area which it is proposed to proclaim a Town.

Two or more Boards may combine for certain works.

185 The Boards of any Two or more Towns may combine for the purpose of executing and maintaining any works that may be for the joint benefit of their respective Towns, and each such Board may borrow money for the purpose of contributing to the cost of any such work, in the same manner and to the same amount as if such money was borrowed for the execution or maintenance of any work undertaken by such Board solely.

When Boards combine each liable for proportion of costs of work.

186 In the case of the combination of the Boards of any Two or more Towns for any of the purposes set forth in Part VI. of this Act, each such Board shall be liable for the cost of executing or maintaining such work to an amount proportionate to the rateable value of the property in such Town as compared with the rateable value of the property in the other Town or Towns for the benefit whereof such work has been executed or maintained, and the proportion of such cost for which each Board shall be liable shall be recoverable from such Board in the same manner as if it were a debt or liability incurred solely by such Board.

Board and Municipal Council may combine for certain works.

187 The Board of any Town may combine with the Municipal Council of any City or Rural Municipality for the purpose of executing and maintaining any works that may be for the joint benefit of such Town and City or Municipality, as the case may be, and such Board may borrow money for the purpose of contributing to the cost of any such work, in the same manner and to the same amount as if such money was borrowed for the execution or maintenance of any work undertaken by such Board solely, and whether such work is or is not within the boundaries of the Town the Board whereof is contributing to the cost thereof.

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

188 Whenever the Board of any Town or the Municipal Council of any City or Rural Municipality are of opinion that any bridge should be constructed, or any repairs or work should be done to or on any street, road, or bridge under the care, control, and management of such Board or Municipal Council, and that such bridge or repairs or work will be a benefit to any adjoining Town or City or Municipality, as well as to their own Town or City or Municipality, it shall be lawful for such Board or Municipal Council to give to the Board or to the Municipal Council of the adjoining Town or City or Municipality notice in writing requiring the said last-mentioned Board or Municipal Council to concur in constructing such bridge or in executing such repairs or work; and if an agreement shall not be entered into for constructing such bridge or for executing such repairs or work within One month after service of such notice, the Board or the Municipal Council giving such notice may construct such bridge or execute such work at their own costs and charges; and it shall be lawful for the Minister to decide, upon such

Town Boards.

evidence as he may deem sufficient, as to the manner in which the cost of constructing such bridge or of executing such repairs or work shall be borne, and the Treasurer is hereby empowered to pay to the Board or Municipal Council constructing such bridge or executing such repairs or work as aforesaid, out of any moneys which the defaulting Board or Municipal Council may at any time thereafter be entitled to receive out of the Consolidated Revenue Fund, such portion, if any, as the Minister may certify of the said costs and charges; and in the event of the said defaulting Board or Municipal Council not being entitled to receive any money out of the Consolidated Revenue Fund, such portion of the said costs and charges as the Minister certifies as aforesaid shall be recoverable by the Board or Municipal Council constructing such bridge or executing such repairs or work from the defaulting Board or Municipal Council as for money paid to the use of the last-mentioned Board or Municipal Council.

A.D. 1891.

189 The Governor in Council may from time to time make, alter, and rescind Rules prescribing—

Governor in Council may make Rules.

i. The mode in which the Town Boards of any two Towns, or the Municipal Council of any City or Rural Municipality, and the Board of any Town, as the case may be, shall construct and maintain any street, road, or bridge which may now or hereafter form a portion or the whole of the boundary between such Towns, or between such Town and City or Rural Municipality, as the case may be:

Mode of constructing and maintaining boundary streets, &c.

ii. The amount for which every officer employed by any Board, and having the custody or control of moneys, shall give security:

Security given by officer.

iii. The manner in which the accounts of each and every Board shall be kept, and the periods at which, and the form and manner in which, such accounts shall be furnished to the Auditor-General:

Manner of keeping accounts.

190 All moneys payable to and received by the Board of any Town under this Act and not otherwise specifically appropriated, and all fees received by the Board of any Town by virtue of this Act, shall, unless in any case otherwise specifically directed, be paid to the Treasurer of the Board and form part of the moneys at the disposal of the Board for the purposes of this Act, and shall be applied by the Board in carrying out the objects of this Act.

Appropriation of moneys.

191 All property, rights, liabilities, and privileges vested in and accrued or accruing to the Trustees of any Road District in respect of any portion of such Road District which is proclaimed a Town under and for the purposes of this Act, or which is included in any such Town, shall, upon the election of a Town Board of such Town, survive to and vest in such Board.

Property in Town to vest in first Board on election.

192 Where any Town proclaimed under this Act forms, at the date of such Proclamation, any part of any Road District or any Municipality, the moneys in the hands of the Trustees of such Road District or of the Municipal Council of such Municipality at such date shall be divided between the Trustees of such Road District or such Municipal

Division of money belonging to Road Trust when Board formed.

Town Boards.

A.D. 1891.

Council and the Board of such Town in such proportions as the Auditor-General shall certify in writing.

Towns within Municipality beyond jurisdiction of Council.

193 Every Town which is proclaimed under this Act, and which is situate in a Municipality, shall, upon being proclaimed under this Act, cease, except as hereinafter provided, to be subject to the jurisdiction of the Municipal Council of such Municipality.

Property in Town liable to be rated by Council.

194 The property within every Town proclaimed under this Act which is situate within a Municipality shall remain liable to be rated by the Municipal Council of such Municipality for the payment of the interest accruing due after the proclamation of such Town upon any money borrowed by such Municipality before such Town was proclaimed under this Act, in the same manner and to the same extent as if such Town had remained a portion of such Municipality, and shall, notwithstanding anything contained in this Act, remain liable for and be charged with such proportion of the lawful debts and liabilities of such Municipality on the day when such Town is proclaimed under this Act as the total amount of the annual value of the property within such Town as shown by the Assessment Roll then in force in such Municipality bears to the whole amount of the annual value of the property within such Municipality as shown by the said Assessment Roll, until such proportion of the said debts and liabilities shall be assumed by the Board of such Town as hereinafter provided.

Debts and liabilities of Municipality to be apportioned.

Debts to be assumed by Board one year after election,

195 The Board of every Town proclaimed under this Act which is situate within a Municipality shall, within one year after its election, assume such proportion of the lawful debts and liabilities of such Municipality on the day when such Town was proclaimed under this Act as the total amount of the annual value of the property within such Town, as shown by the Assessment Roll then in force in such Municipality, bears to the whole amount of the annual value of the property within such Municipality as such by the said Assessment Roll; and the said Board and the Municipal Council of such Municipality shall mutually adjust the respective proportions of the debts and liabilities to which they are to be respectively liable; and the terms and particulars of every such adjustment shall be reduced into writing, and shall be enforceable by either of the parties against the other by Mandamus.

and adjusted between Municipality and Board.

In the event of dispute the Supreme Court to decide.

196 In the event of the Board of any Town which is situate within a Municipality, and the Municipal Council of such Municipality, refusing or not being able to agree upon the apportionment between them of the debts and liabilities of such Municipality at the date of the proclamation of such Town, the Supreme Court shall, upon the application of either party, apportion such debts and liabilities between the Municipal Council and the Board.

Town to be a Police District. 29 Vict. No. 10.

197 The Governor may, from time to time, by Proclamation published in the *Gazette*, declare that any Town proclaimed under this Act or any Act hereby repealed shall be deemed to be a Police District within the meaning of *The Police Act*, 1865, or a portion of any other such Police District.

In what newspapers certain

198 In all cases in which any matter or thing is hereby required to be published, advertised, or inserted in a newspaper circulating

Town Boards.

in any Town, the said newspaper shall be such newspaper as the Board of such Town has for the time being appointed in that behalf; and whenever any day provided or appointed by or under this Act for any purpose in any year happens on a *Sunday* or a day which is a public or bank holiday throughout *Tasmania*, then such provision and appointment shall take effect as for the next following day which is not a *Sunday* or such public or bank holiday.

A.D. 1891.

advertisements shall be published. *Sundays, &c.*

PART X.

LEGAL PROCEEDINGS.

199 Any summons or notice, or any writ or other proceeding, at law or in equity, requiring to be served upon any Board, may be served by being given personally to the Chairman or Secretary of the Board.

Service of notices and legal proceedings.

200 All notices by this Act required to be given to the owner or occupier of any property or any other person may be served personally upon such owner, occupier, or person, or left with some inmate of his place of abode, or by forwarding the same by post addressed to the usual or last known place of abode of such owner, occupier, or person.

Service of notices.

201 Every order, summons, notice, or other such document requiring authentication by the Board, may be sufficiently authenticated without the Common Seal of the Board if signed by Two Members or by the Secretary.

Certain documents how authenticated by the Board.

202 No fee shall be payable on any summons issued on the complaint of any Board to enforce payment of any Rates.

Summons for Rates without fee.

203 If any person against whom the Board of any Town has any claim or demand takes the benefit of any Act for the relief of insolvent debtors, the Secretary or Treasurer of the Board, in all proceedings against the estate of such bankrupt, or under any adjudication or act of bankruptcy against such bankrupt, may represent the Board of such Town, and act in their behalf in all respects as if such claim or demand had been the claim or demand of such Secretary or Treasurer.

Proceedings in estates of insolvents, &c.

204 In all proceedings in any Court of Petty Sessions, or before any Justice, the Secretary of any Board, or any other officer of the Board, appointed by the Chairman of the Board in writing under his hand, may represent the Town or the Board in all respects as though he had been the party concerned.

Proceedings in Petty Sessions.

205 The Secretary, Treasurer, or other officer appointed as last aforesaid, shall be reimbursed out of the funds of the Board all damages, costs, charges, and expenses to which he may be put, or with which he may become chargeable, by reason of anything contained in either of the two last preceding Sections.

Reimbursement of officers.

206 All offences against this Act, or against any By-law made hereunder, and all penalties and sums of money imposed or made payable by this Act, or by any such By-law, shall, where no other mode of proceeding is by Law provided, be heard, determined, and recovered in

Offences to be dealt with summarily.

Town Boards.

A.D. 1891.
19 Vict. No. 8.

a summary way by and before any Two or more Justices of the Peace in the mode prescribed by *The Magistrates Summary Procedure Act*.

This Act to apply to offences under Part III. of 29 Vict. No. 10.

207 All the provisions hereinbefore contained relating to offences against this Act and to the recovery of penalties and sums of money imposed or made payable by this Act shall apply to all offences which may be committed in any Town proclaimed under this Act, or under any Act hereby repealed, against any of the provisions of Part III. of *The Police Act, 1865*, and to all penalties and sums of money imposed or made payable by that Part of that Act.

Persons not to be imprisoned for more than Three months.

208 No person shall, unless otherwise expressly provided, be imprisoned for non-payment of any penalty under this Act, 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.

One conviction only for same offence.

209 No persons convicted under this Act, or under any By-law made hereunder, shall be liable to be convicted under any other Act for the same offence.

Penalties to be paid to Treasurer.

210 All penalties received by virtue of this Act, or of any By-law made hereunder, shall, if not otherwise specifically directed, be paid to the Treasurer of the Board, and shall form part of the moneys at the disposal of such Board.

Persons acting under Acts relating to any Town entitled to notice of action, &c.

211 Unless otherwise expressly provided, no action shall lie against any person for anything done in pursuance of this or any other Act relating to any Town unless notice in writing of such action, and of the cause thereof, is given to the Defendant One calendar 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.

Limitation of actions against Town Board.

212 Whenever any part of a road, street, or highway under the control of the Board of any Town shall have been made and formed to a width of not less than Fifteen feet for the public use, the Board of such Town shall not be liable at law or otherwise for any damage, claim, or demand whatsoever in consequence of any injury or damage sustained by any person through or in consequence of any accident occurring to such person, or to any cattle, or to any goods or chattels whatsoever upon the part of such road, street, or highway not so made and formed as afore-

Town Boards.

said, provided such Board shall cause all such cross drains to be protected to the full width of the formation hereinbefore mentioned, or shall not have made any hole upon such road, street, or highway by which any accident shall be caused; and all persons travelling or passing over and along such road, street, or highway, either with or without cattle, or with any goods or chattels whatsoever, shall do so at their own risk, save as aforesaid, and such Board shall not be liable in damages or otherwise for any damage any such person may sustain while travelling or passing over and along such unmade part of such road, street, or highway, save as aforesaid.

A.D. 1891.

SCHEDULE.

(1.)

ACTS TO BE REPEALED.

Sect. 3.

<i>Date and Number of Act.</i>	<i>Title of Act.</i>	<i>Extent of Repeal.</i>
48 Vict. No. 30.	"The Town Boards Act, 1884."	The whole Act.
49 Vict. No. 37.	"The Town Boards Amendment Act, 1885."	The whole Act.
53 Vict. No. 22.	"The Town Boards Amendment Act, 1889."	The whole Act.
54 Vict. No. 49.	"The Devonport Corporation Act, 1890."	Section 16.

(2.)

FORM OF NOMINATION.

Sect. 21.

WE, the undersigned Electors of the Town of _____ do hereby
 nominate [*stating Christian and Surname*] of _____ as a Candidate
 [or Candidates] for the office of a Member [or Members] of the Board of the said
 Town.

Dated this _____ day of _____ 18

I, the above-named _____ consent to become a Candidate at the
 election of a Member [or Members] of the Board of the Town of _____

(Signed) A.B.

(3.)

DECLARATION OF MEMBER OF BOARD.

Sect. 29.

I, A.B., having been elected a Member of the Board of the Town of _____
 do solemnly declare that I will faithfully and impartially, according to
 the best of my skill, judgment, and ability, execute all the powers and authorities
 reposed in me as the holder of such office by virtue of "The Town Boards Act,
 1890," and that I have not fraudulently or collusively obtained the said office to which
 I have been elected.

(Signed) A.B.

Taken before me, &c.

J.P.

(4.)

DISTRESS WARRANT FOR RATE.

Sect. 47.

TASMANIA }
 TO WIT. } To X.Y. [a Collector of Rates for the Town of

 or some other fit person.]

WHEREAS complaint has been made before [me], a Justice of the Peace, that A.B.
 of _____ has not paid the sum of _____ payable by him in respect of

Town Boards.

A.D. 1891.

certain property situate [*describe property fully*] by virtue of the Rate for the Town of _____ made on or about the _____ day of _____ 18 _____, although the same has been duly demanded of him: And whereas it appears to me upon the oath of [the said X.Y.] a Collector of Rates for the said Town, that the said sum of _____ has been duly demanded by him from the said A.B. and that the said A.B. has failed to pay the same for the space of _____ days after such demand made and has not paid the same: And whereas the said A.B. having appeared before me in pursuance of a Summons issued by [me] 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] or such other Justice of the Peace as might now be here to show cause why the said sum of _____ should not be paid, and 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 also of all Goods and Chattels found by you upon the said property to whomsoever the same may belong; and unless at any time within the space of [Five] days after such Distress by you made 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. or other person whose Goods and Chattels are so distrained by you, as the case may be, the overplus, if any, on demand; [*in case the Warrant is directed to some other person than the Collector, and the said sum of _____ you are hereby commanded to pay to (the said X.Y.) the said Collector;*] and if no sufficient Distress can be made of the Goods and Chattels of the said A.B. or otherwise as aforesaid, that then you certify the same to me together with this Warrant.

Given under my hand, this _____ day of _____ 18 _____.

J.P.
Justice of the Peace.

(5.)

Sect. 70.

ASSESSMENT ROLL for the Town of _____

Description of Property.	Name or Situation of the Property.	Name and Residence of the Occupier of the Property.	Name and Residence of the Proprietor of the Property.	Area of the Property.	Cash Capital Value		Annual Value.	
					£	s.	£	s.
Farm called Newlands, [or part of the Property called Newlands]	Near Longford	John Rawlings, on the property	William Moore, No. 12, Elizabeth-street, Launceston	ACRES. 1000	1000	0	50	0
Sheep-run	Ditto	James Reid, No. 22, Davey-street, Longford	The said James Reid	3000	800	0	40	0
Ditto	Ditto	Ditto	The Queen	1000	400	0	20	0
House, garden, and grounds	Byron-street, Longford	William Hooper, on the property	The said William Hooper	under 1	900	0	45	0
House and shop	No. 20, Davey-street, Longford	Robert Lambert, on the property	Thomas Wright, Longford	ditto	500	0	25	0
Shop and store	Longford	Empty	William Burman, No. 13, Brisbane-street, Launceston	ditto	200	0	10	0
Cottage	Ditto	James Wilson	Thomas Dennis	ditto	100	0	5	0