

# *The Municipal Institutions Act, 1895.*

(59th Vic., No. 10.)

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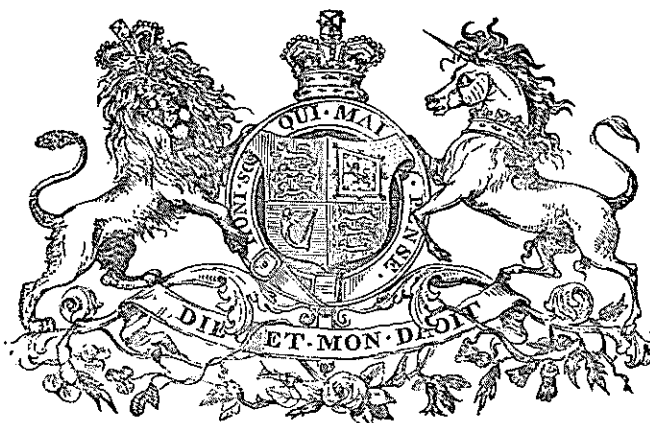
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### SCHEDULE



Western Australia.

ANNO QUINQUAGESIMO NONO

VICTORIÆ REGINÆ.

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No. X.

AN ACT to consolidate and amend the Law  
relating to Municipalities.

[Assented to, 28th August, 1895.]

WHEREAS it is expedient to consolidate and amend the law relating to Municipalities: Be it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of Western Australia, in this present Parliament assembled, and by the authority of the same, as follows:—

Preamble.

1. THIS Act may be cited for all purposes as "The Municipal Institutions Act, 1895," and shall come into force on the passing hereof.

Short Title and commencement.

2. THIS Act is divided into ten parts, as follows:—

Division of Act.

- PART I.—PRELIMINARY, ss. 3–7.
- PART II.—CONSTITUTION OF MUNICIPALITIES, ss. 8–36.
- PART III.—ELECTORS, ss. 37–53.
- PART IV.—QUALIFICATION FOR ELECTION, ss. 54–56.
- PART V.—ELECTION OF COUNCIL, ss. 57–98.
- PART VI.—POWERS AND DUTIES OF COUNCILS, ss. 99–148.
- PART VII.—FINANCIAL, ss. 149–182.
- PART VIII.—LOANS, ss. 183–212.
- PART IX.—ACCOUNTS AND AUDIT, ss. 213–222.
- PART X.—MISCELLANEOUS, ss. 223–239.

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#### PART I.—PRELIMINARY.

#### Interpretation.

3. IN the construction of this Act, except where the subject matter or context or other provisions hereof require a different construction, the following terms in inverted commas shall have the respective meanings hereinafter assigned to them (that is to say):—

“Corporation” shall mean any Municipal Corporation now in existence or hereafter to be created.

“Council” shall mean the Council of a Municipality.

“Governor” shall mean the Officer for the time being administering the Government of the Colony of Western Australia, acting with the advice of the Executive Council.

“Land” shall include, except for the purpose of the valuation of the capital value of land, all houses, buildings, and other structures erected thereon, but shall not include any machinery, whether affixed to the soil or not, for the purpose of the valuation of the annual value or the capital value.

“Mayor” shall include the chairman of a council.

“Municipality” shall mean any locality the citizens or inhabitants of which are already incorporated or become incorporated under this Act.

“Occupier” shall mean the inhabitant occupier of any land, or if there is no inhabitant occupier, the person entitled to the possession thereof, and shall include leaseholder.

“Owner” shall include the person for the time being receiving or entitled to receive the rents and profits of any lands within any Municipality, whether on his own account or as agent, trustee, or attorney for another person.

“Pave, paved and paving” shall mean and include paving with asphalt, flags or other stones, or any other material which the Council deem it expedient to use for such purpose.

“Passenger Vehicle” shall include any carriage, waggonette, cabriolet, cab, public conveyance, coach, omnibus, spring cart, or other vehicle of like nature plying for hire.

“Public Place” shall include every street, lane, footpath, court, and alley which the public are allowed to use, and whether formed on private property or not, within the limits of a Municipality.

“Returning Officer” shall include Deputy Returning Officer.

“Surveyor” shall mean the Surveyor for the Municipality or other Officer authorised to act as such for the time being.

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“Street” shall include every square, place, alley, court, road, way, terrace, and thoroughfare which the public are allowed to use within the limits of a Municipality.

“Town Clerk” shall include the Clerk of the Municipality, or any officer appointed to act as such for the time being.

4. THE Acts specified in the First Schedule hereto are hereby repealed, but such repeal shall in nowise affect the validity of the incorporation of any existing municipality or any proclamation, election, bond, debenture, act, deed, matter, or thing lawfully made, held, issued, executed, validated, or done under or by virtue of the authority of the said repealed Acts or of any of them, or of any by-laws lawfully made in pursuance thereof, nor the name, style, or title of a corporation, or of an officer of a corporation, as prescribed by statute, proclamation, or otherwise, before the passing of this Act, nor any right, privilege, or immunity accrued, any liability, forfeiture, or penalty incurred, any offence committed, or anything done or omitted to be done before the passing of this Act, nor any legal proceedings commenced or hereafter to be commenced with respect to any such right, liability, forfeiture, penalty, offence, or thing.

Repeal of Acts.  
First Schedule.

5. ALL corporations and wards now existing and heretofore constituted, designated, or appointed by or under any of the Acts hereby repealed, shall be and continue corporations and wards under and subject to the provisions of this Act; and all mayors, councillors, auditors, and officers, or other persons appointed, elected, or holding, under or by virtue of any of the Acts hereby repealed, any offices which it would be lawful for such persons to hold under the provisions of this Act, shall continue in and hold such offices under and subject to the provisions of this Act; and all actions, prosecutions, and other proceedings whatsoever instituted before this Act comes into force by or against a corporation may be continued without alteration of any pleading, legal process, or record; and all lands, tenements, hereditaments, and premises, and property of every description whatsoever vested in, belonging to, or under the care, control, or management of any corporation or council, shall be and continue vested in, belonging to, and under the care, control, and management of such corporation or council; and all rates and debts due before this Act comes into force to any corporation may be collected, levied, and recovered in the manner provided by this Act for the recovery of rates and debts; and all the rights, powers, liabilities, contracts, and engagements of any corporation, or of any officer or other person appointed or elected under the provisions of any of the said repealed Acts, or into which any such corporation, officer, or person has entered, or to which any such corporation, officer, or person is entitled or subject under any of the said

Provision for  
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repealed Acts, before this Act comes into force, may be enforced by and against every such corporation, officer, or person in the same manner as if this Act had not been passed.

Corporations to have common seal, power to hold and alienate property, both real and personal.

6. ALL corporations shall have perpetual succession and a common seal, and under the name or style of their corporation may sue and be sued in all Courts, and may accept, take, purchase, and hold real and personal property of what description soever to the use and for the purposes only of the corporation, and may grant, alienate, and convey, sell, assign, or demise any real or personal estate, and generally may exercise, subject to the provisions of this Act, all powers incident to a body corporate: Provided that, except as hereinafter mentioned, no such power shall be exercised in respect of any such estate held upon any specific trust, inconsistent with the exercise of such power.

Reference to Acts repealed.

7. WHERE by any statute, by-law, instrument or other document, reference is made to any Act hereby repealed, or any of the provisions thereof, the statute, by-law, instrument or document shall be construed and have effect as if reference were made therein to this Act or the corresponding provisions hereof.

## PART II.—CONSTITUTION OF MUNICIPALITIES.

Constitution of council.

8. SUBJECT to the provisions of this Act, for the government of every municipality there shall be a council, which shall consist, where the population is declared by the Governor as hereinafter mentioned to be

- (a.) Under one thousand, of a chairman and six councillors;
- (b.) Over one thousand and not exceeding five thousand, of a mayor and nine councillors;
- (c.) Over five thousand, of a mayor and three councillors for each ward.

Provided that where a municipality is divided into wards, the council shall at all times consist of an equal number of members for each ward.

Power of Governor to declare municipalities.

9. (1.) THE Governor may declare and proclaim any town or any locality containing rateable property capable of yielding, upon a rate not exceeding one shilling in the pound on the annual value thereof, calculated under the provisions of this Act, a sum of three hundred pounds, to be a municipality, and may by the same or any subsequent proclamation define the boundaries of such municipality; and upon the publication of such proclamation in the *Government Gazette* the inhabitants of such town or locality and their successors, inhabitants of the same, shall be and the



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same are hereby constituted a body corporate and politic by and under the name, style, and title to be mentioned in such proclamation.

(2.) And the Governor may, by like proclamation published as aforesaid,

(a.) Divide a municipality into wards and define the boundaries of such wards. Declare wards.

(b.) Sever any portion of a municipality therefrom and either declare such portion to be a new municipality or annex the same to any other municipality with which the portion so severed forms one continuous area, and from time to time make any apportionment of property, rights, and liabilities, and give any directions as to any matters and things that may be necessary to do justice as between the municipalities concerned. Sever portion.

(c.) Alter the boundaries of a municipality or ward. Alter boundaries.

(d.) Diminish the number of wards within a municipality. Diminish number of wards.

(e.) Create new wards within a municipality. Create new wards.

(f.) Declare any land adjoining a municipality, but not being part of the same, to be united with the same. Extend limits of municipality.

(g.) Declare the number of the population of a municipality. Declare number of population.

(3.) When, in consequence of the exercise of any of the foregoing powers, any rights, liabilities, or matters require to be adjusted, the Governor may, by order, settle and adjust the same. Rights and liabilities to be settled.

**10.** UPON the application of the council of a municipality the Governor may change the name, style, and title of such council, by proclamation published in the *Government Gazette*, to such name, style, and title as he may think fit, and may alter the name and style of the chairman of such council to the name and style of mayor of such municipality; and from and after the publication of such proclamation such council shall continue to have all and the like rights, privileges, liabilities, and immunities as it had previously to such change; and the mayor of such municipality shall have all the rights, privileges, liabilities, and immunities as such chairman had previously to such change. Governor may change the style of council and chairman.

**11.** A COPY of the *Government Gazette*, purporting to be printed by the Government Printer, containing any such proclamation as aforesaid, shall be received in all places and at all times as evidence of the facts mentioned in such proclamation. Government Gazette to be evidence.

**12.** WHENEVER in any statute, by-law, or other public document or notice, or in any proceedings of what kind or nature soever, reference is made to the chairman of a council or to a council Statutes and documents to be read as if changed.

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name, style, or title  
were therein  
inserted.

by its corporate name, style, or title, and; subsequently to the date when such reference is made, the name and style of such chairman has been changed to that of mayor, or the name, style, or title of such council has been changed under the provisions of this or any other statute, such reference shall be deemed to be made to such mayor or to such council by its name, style, or title so changed as aforesaid.

Appointment and  
remuneration of  
officers.

**13.** THE council shall appoint, from time to time, a treasurer and such other officers and servants as are necessary, and define their duties; and may assign remuneration to such officers and servants; and may remove them for misconduct or neglect, and appoint others in their stead; and may require the treasurer and any other officer to give security, or a bond with two sureties for a reasonable sum, to be respectively approved by the council, for the fair and diligent discharge of his duties.

Auditors to be  
elected in each  
municipality.

**14.** FOR the due examination of the accounts of each council, two auditors shall be elected annually, as hereinafter mentioned.

Council may allow  
remuneration to  
auditor, returning  
officer, and poll  
clerk.

**15.** THE council may determine whether any and what remuneration shall be allowed to any person exercising the office of auditor, returning officer, and poll clerk.

Remuneration on  
resignation or aboli-  
tion of office.

**16.** ON the resignation of any officer or servant, or on the cessation or abolition of the office of any such officer or servant, the council may in its discretion cause to be paid to such officer or servant any gratuity not exceeding the amount of one month's salary for each year of the service of such officer or servant: Provided always, that the payment of any such gratuity shall be disallowed by the auditors, unless such expenditure is confirmed and allowed by a vote taken at the next general annual meeting of the ratepayers.

Custody of seal, &c.

**17.** THE common seal and all deeds and records of the corporation shall be kept in such place and in such custody as the council directs.

General and special  
meetings of rate-  
payers.

**18.** (1.) THE council shall hold two general meetings of ratepayers within each year, namely, on the second Monday in the months of May and November, that held in the month of November being the general annual meeting; and also special meetings upon the requisition of any three or more members of such council.

(2.) The council shall give seven clear days' notice of the day on which such general or special meeting will be held by publishing such notice in some newspaper, if any, circulating in the municipality,

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and by posting such notice in some conspicuous place or places outside the building in which the council usually assembles for the transaction of business.

**19.** THE mayor shall call an ordinary meeting of the council at whatever place the council decides upon, for the transaction of ordinary business, at least once a month; and the mayor may call a special meeting of the council as often as he thinks proper, and shall call such meeting on receiving a requisition for that purpose signed by at least one-third of the number of the councillors; or, if he refuses or delays to call such meeting after receiving such requisition, the councillors signing such requisition may call such meeting: Provided that of every ordinary or special meeting notice of at least twenty-four hours shall be given to each councillor, signed by the person or persons calling the meeting, and stating therein the business to be transacted.

Ordinary and special meetings of council.

**20.** NO business shall be transacted at any meeting of the council unless at least one-third of the members of such council, exclusively of the mayor or councillor chosen to preside in his absence, are present; each member, including the mayor, shall have one vote, and such mayor, or councillor chosen to preside in his absence, shall have a casting vote in addition to his ordinary vote, and all questions at such meeting shall be decided by a majority of the votes of the members present.

Quorum of council to consist of one-third of its members.

Mayor to have casting vote.

**21.** NOTWITHSTANDING any vacancies in the office of councillor, the business of the council may be carried on by the members actually in office, who shall have all the powers of the council.

Business of council may be carried on notwithstanding vacancy.

**22.** IF in consequence of death, absence, or any lawful impediment, it is not possible or is inconvenient for any councillor, or for the town clerk, or any other person, to perform any particular matter or thing which by this Act he is directed to perform, the mayor may appoint any other person to perform the same; and if by reason of death, absence, or any lawful impediment the mayor is prevented from performing any matter or thing which he is by the provisions of this Act required to perform, the council may either perform the same, or by a majority of its votes appoint some other person to perform it.

In cases of inability of office-bearer to perform duties, mayor or council may appoint other person to do so.

**23.** THE council may from time to time appoint a committee of councillors, and may delegate to any such committee such of its powers and duties under this Act as it thinks fit, and may from time to time make such rules as it thinks fit for the guidance of such committee, and may from time to time remove any members

Council may appoint committees.

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thereof and appoint in the stead of them, or any of them, other councillors.

Proceedings need  
not be approved.

24. THE proceedings of such committee shall, unless otherwise ordered by the council, require the approval of the council.

Committee may  
appoint sub-  
committee.

25. A COMMITTEE appointed as aforesaid may appoint a sub-committee of its members to execute and discharge any of the powers and duties of such committee; but the acts of such sub-committee shall, unless the council otherwise directs, be submitted for approval to the committee by which such sub-committee is appointed.

Power of committees  
to be limited.

26. IN no case shall a committee appointed as aforesaid be authorised to borrow any money or to declare any rate; and no expenditure or contract to expend or pay any sum of money exceeding twenty pounds made by such committee shall be lawful or valid unless such committee has been authorised either generally or specially by the council to make such expenditure, payment, or contract, or unless, if not so authorised, such expenditure, payment, or contract is afterwards approved or ratified by the council.

Meetings of  
committee.

27. A COMMITTEE appointed as aforesaid may, subject to the rules made by the council for its guidance, meet from time to time, and adjourn as it thinks fit; but no business shall be transacted at any meeting of such committee unless three members are present.

Chairman of  
committees.

28. AT the first meeting of any committee or sub-committee, one of its members shall be appointed chairman of such committee or sub-committee, and all questions shall be determined by a majority of the votes of the members present; and, in case of an equal division of the votes, the chairman shall have a casting vote in addition to his vote as a member of such committee or sub-committee.

Disqualification to  
vote.

29. NO councillor or member of a committee or sub-committee appointed as aforesaid shall vote or take part in the discussion, in or before the council or such committee or sub-committee, upon or concerning any matter in which such councillor or such member has directly or indirectly, by himself or his partners or fellow shareholders, any pecuniary interest; and any councillor or member as aforesaid who knowingly votes or takes part in such discussion as aforesaid, contrary to the provisions of this section, shall be guilty of an offence against this Act, and shall for every such offence be liable to a penalty not exceeding Fifty pounds.

As to proceedings  
falling on a Sunday,  
Good Friday,  
Christmas Day, or  
holiday.

30. IF the day for any meeting or adjourned meeting by this Act required to be held for the retirement, nomination, election, swearing in, or admission of any officer, or for the transaction of any

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other business of any corporation, or the last day for any act required to be done, falls on a Sunday, Good Friday, Christmas Day, or public holiday, such meeting shall be held or act may be done on the day next ensuing, or within three days next thereafter; and every person whose term of office would, according to the provisions hereof, have expired on any such Sunday, Good Friday, Christmas Day, or holiday, shall, during the interval aforesaid, continue in exercise of all the powers and duties of such office.

**31.** EVERY person who acts as a councillor, being incapacitated under the provisions of this Act to be or continue such, or before he has made and subscribed the declaration hereinafter prescribed, shall, save in the case of incapacity proceeding from unsoundness of mind, be guilty of an offence against this Act, and liable for every such offence to a penalty of Fifty pounds, and such penalty may be recovered by any person, with full costs of suit, in any court of competent jurisdiction; and in every such action the person sued shall prove that at the time of so acting he was qualified under the provisions of this Act to be councillor, and had made and subscribed the declaration aforesaid, or shall be adjudged to pay the said penalty and costs without any other evidence being required from the plaintiff than that such person had acted as a councillor under this Act.

Penalty for acting as councillor, being incapacitated.

**32.** ALL acts and proceedings of any person elected and acting as mayor, councillor, or auditor shall, notwithstanding that any such person has not been or is not duly qualified, be as valid and effectual as if such person had been duly qualified.

Disqualification of mayor, councillor, or auditor not to avoid their acts.

**33.** THE council shall keep a book, to be called the minute-book, in which shall be entered minutes of all proceedings and transactions, and the mayor or presiding councillor shall see that such proceedings are duly entered, and shall subscribe the same with his own hand; and the names of the councillors present at every meeting shall be entered in such minutes.

Council to keep minutes of proceedings.

**34.** THE minute-book of the council containing a statement of the proceedings at meetings thereof, and the business transacted at such meetings, shall be evidence of all such proceedings as purport to be authenticated by the signature of the mayor or presiding councillor, without proof of such meetings having been duly convened or held, or of the signature of the mayor or presiding councillor, or of the fact of his having been the presiding councillor, or of the persons attending such meeting having been members of the council; all of which last matters shall be presumed until the contrary is proved.

Minute-book evidence of proceedings.

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Copies of and extracts from minute-book to be evidence.

**35.** COPIES of or extracts from any such minute-book, certified by the mayor to be true copies of or true extracts from such book, shall be received as sufficient evidence in all courts and before all justices and tribunals of the contents of such minute-book or of so much thereof as any such extract contains.

Mayor to preside.

**36.** THE mayor, if present, shall preside at all meetings of ratepayers and of the council; and in his absence, or if, after being present, he retires, one of the councillors chosen by the councillors present shall preside at all such meetings.

PART III.—ELECTORS.

Qualification of electors of mayor, auditors, and councillors.

**37.** EVERY British subject of full age, being resident within the Colony, and not subject to any legal incapacity, who

- (1.) On the first day of September in any year is, and since the thirtieth day of June next preceding has been, seised of or in occupation of, as owner or occupier, any rateable lands within the limits of any municipality; and
- (2.) Has paid all rates and assessments due and payable by him to the council of the said municipality up to the thirtieth day of June in such year; and
- (3.) Has not been since the first day of January next preceding in receipt of any public relief or alms,

shall be entitled to have his name inserted upon the municipal electoral list for such municipality, and the ward electoral list for each and every ward in which any such lands are situate.

Mayor and auditors to be elected by persons whose names are on municipal electoral list.

Proposed loan to be decided by voters on municipal electoral list.

**38.** THE mayor and auditors shall be elected by the persons whose names are on the municipal electoral list in force for the time being within the municipality; and at any such elections, and also in voting upon the question of any proposed loan as hereinafter mentioned, each person shall have a number of votes proportionate to the annual value of the rateable lands of which such person is seised or possessed within the municipality as owner or occupier set against his name on the said list as hereinafter mentioned, according to the following scale:—

ANNUAL VALUE OF RATEABLE LANDS.			NUMBER OF VOTES.
Twenty-five pounds and under	...	..	One
Over twenty-five pounds and not exceeding fifty pounds	...	...	Two
Exceeding fifty pounds and not exceeding seventy-five pounds	...	...	Three
Exceeding seventy-five pounds	...	...	Four

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The councillors for each ward shall be elected by the persons whose names are on the ward electoral list in force for the time being within such ward, and at any such election each person shall have one or two votes proportionate to the annual value of the rateable lands of which such person is seised or possessed within such ward as owner or occupier set against his name on the said ward electoral list as hereinafter mentioned, according to the following scale:—

Councillors, by persons whose names are on ward list.

ANNUAL VALUE OF RATEABLE LANDS.			NUMBER OF VOTES.
Fifty pounds and under	...	...	One
Exceeding fifty pounds	...	...	Two

**39.** THE said electoral lists shall be thus made up: On or before the twentieth day of September in each year, the council of each municipality shall cause alphabetical lists to be prepared for each ward of all persons entitled to have their names inserted in the ward electoral list as voters at the election of councillors for such ward, and also of all persons entitled to have their names inserted in the municipal electoral list as voters at the election of a mayor and auditors, and shall in such lists against the name of every such person specify the rateable lands of which such person is seised or possessed, as owner or occupier, within such ward or municipality, as the case may be, and the annual value of such lands, and the number of votes to which such person is entitled to give at such election of councillors, or mayor and auditors respectively. The said lists, having been so prepared, shall be signed by the mayor, and a copy thereof shall on the said day be affixed on one or more conspicuous buildings in each ward, and any person on applying for the same at the office of the council shall be entitled to receive one or more copies thereof, on the payment of a reasonable price for each copy. The said lists shall respectively be in the form given in the Second Schedule to this Act.

Electoral list, how made up.

Second Schedule.

For the purpose of the first elections under this Act to be held in the month of November, One thousand eight hundred and ninety-five, the council shall cause to be inserted in the electoral lists of the municipality, prepared under the repealed Act 40 Vic., No. 13. the number of votes to which each person is under this Act entitled to give at an election of mayor, auditors, and councillors respectively.

**40.** IN the case of any newly proclaimed municipality where there is no council, the acts and things by this Act required to be done in and about the preparation, settling, and revision of the said electoral lists shall be done by such person or persons, at such time or times, and at such place or places, as the Governor may appoint in that behalf; and the Governor may also appoint and fix the date on or before which applications and objections under section forty-two of this Act may be lodged in respect of such lists, and may

Where no council, Governor may appoint person to settle and revise lists, and may fix certain dates, &c.

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substitute for the dates respectively mentioned in subsections (1) and (3) of section thirty-seven such other dates as he may think fit to embrace the same periods of time as therein respectively specified, and in the preparation of the said lists subsection (2) of section thirty-seven shall not apply. The person or persons to be appointed under this section for the purposes aforesaid shall perform and do all such matters and things as are by this part of this Act required to be performed and done, or which may be done, by the mayor or the council of a municipality, and such person or persons shall have and exercise all the powers of valuers under this Act, and all the powers and functions of a revision court and of the chairman of such court; and such lists shall be the ward electoral list and the municipal electoral list respectively, for the first elections respectively to be held in such municipality, and shall continue in force and shall not be added to or otherwise altered until new lists have respectively been made for such municipality under the provisions of this Act.

Governor may appoint time for doing anything connected with electoral lists not being done within time prescribed.

41. IF, from any cause, anything connected with the preparation or revision or completion of the electoral lists for a municipality has not been done within the time herein appointed or limited for that purpose, the Governor may, at the request of the council, by an order to be published in the *Government Gazette*, direct the same to be done, and may appoint the several times and intervals of time, or the several remaining times and intervals of time, as the case may require, at or within which the acts hereinbefore required or permitted to be done in connection with the preparation or revision or completion of such lists shall or may be done, and upon such order being published in the *Government Gazette* such omission or non-compliance as aforesaid shall be rectified, and such lists shall be validated according to the tenor of such order.

Persons omitted from or dissatisfied with such lists may claim to have their names inserted.

42. ANY person whose name has been omitted from such electoral lists may, on or before the thirtieth day of September in any year, apply by letter delivered or sent through the post addressed to the mayor to have his name inserted thereon, and in such letter shall give particulars of his claim; and any person whose name has been inserted on such electoral lists as a voter who is dissatisfied with such lists as not specifying the full annual value of the rateable lands of which he is seised or possessed may likewise, on or before the said day, apply in the same manner to the mayor to have the amount of such annual value altered, and shall give particulars of such claim. Any person whose name appears on such electoral lists may, on or before the said day, object to any other person as not being entitled to have his name retained thereon, or may object to the annual value of the rateable lands set against the name of any person on such electoral lists by sending notice through the post addressed to such person, signed by him, of his intention to object, and of the grounds of such objection, and by sending a copy of such notice



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in the same way to the mayor. Any application or objection under this section shall be in the appropriate form given in the Third Schedule to this Act, or to the like effect.

Third Schedule.

**43.** THE mayor shall cause lists to be made showing the names and addresses of the several persons claiming to have their names inserted on such electoral lists, or to have the amount of the annual value of the rateable lands set against their names on such electoral lists altered, and the particulars of such claims; and also of the persons whose names or the annual value of whose rateable lands have been duly objected to as aforesaid; and shall cause a copy of every such list, with appropriate headings to the same showing the contents thereof, to be affixed on one or more conspicuous buildings in each ward on or before the third day of October in each year.

Lists to be published of persons claiming, and of persons objected to.

**44.** THE council of every municipality shall hold an open court within the municipality for the purpose of revising the electoral lists thereof; and such court shall be held on such day or days between the tenth and twentieth days of October (both inclusive) in each year as may be appointed by the mayor; and the mayor shall give six clear days' notice of the holding of such court, and of the time and place thereof, by placing such notice on the outer door of one or more conspicuous buildings within the municipality, and by advertisement in some newspaper generally circulating in the neighbourhood. The court shall consist of the mayor of the municipality, who shall act as chairman, or, in his absence, of a chairman appointed by the councillors, and of not fewer than one-third of the councillors; and every such court may be adjourned, and if at any time for half an hour after the time appointed for holding any such court, or adjourned court, a sufficient number of councillors to form a court is not present, the mayor, or, in his absence, any councillor, may adjourn the court.

Council of every municipality to hold a court for revision of list.

**45.** THE said court shall have power to hear, receive, and examine evidence, and for that purpose to administer an oath or affirmation, and by summons under the hand of the chairman of such court to require all such persons as the court thinks fit to appear personally before such court, at a time and place to be named in such summons, and to produce to such court all such books and papers in their possession or under their control as appear necessary for the purpose of their examination; and the said court shall have the like powers for compelling the attendance of witnesses summoned, and their examination upon and taking of oaths and affirmations, and their answering questions touching the premises, as by any law in force for the time being is vested in justices exercising summary jurisdiction; and the said court shall, upon hearing in open court,

Powers of such court.

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by the decision of a majority, determine as hereinafter mentioned upon the validity of all claims and objections.

Hearing of claims  
and objections, and  
correction of lists.

46. THE said court shall insert in the electoral lists under revision the name of every person who has claimed as aforesaid and is proved to the satisfaction of the court to be entitled to be inserted in such lists; and shall retain on the said lists the names of all persons to whom no objection has been duly made, and the annual value of the rateable lands set against the same unaltered, and shall also retain on the said lists the name of every person who has been objected to by any person, and the annual value of the rateable lands set against the same unaltered, unless the person so objecting appears by himself or by some one on his behalf in support of such objection, and proves the sending of the requisite notices; and when the name of any person inserted in any electoral list or the annual value of the rateable lands set against the same has been duly objected to, and the person objecting appears by himself or by some one on his behalf in support of such objection, the court shall require proof of so much of the qualification of the person so objected to as is embraced in the grounds of objection so to be stated as aforesaid, and no more; and in case such qualification of such person is not proved to the satisfaction of the court, the said court shall expunge the name of every such person from such electoral list, or shall alter and correct the annual value of the rateable lands set against the same (as the case may require); and the said court shall also expunge therefrom the name of every person who is proved to be dead; and shall by means of inspection of the electoral lists and rate book, and valuation and return, correct any mistake or supply any omission which appears to such court to have been made in any of the said electoral lists in respect of the name, place of abode, or trade or occupation, or number of votes of any person who is included therein, or in respect of the local description of the rateable lands, or the annual value or situation thereof. Provided always, that no person's name shall be inserted by the said court in any such electoral list, or shall, except in the case of death, be expunged therefrom, unless notice has been given as is hereinbefore required in each of the said cases.

Costs in cases of  
frivolous, &c., claims  
or objections.

47. IN case it appears to the court that any person has made or attempted to sustain any frivolous or vexatious claim or objection, the court may award such costs, not exceeding one pound, as to it seems meet, to be paid by such person to the person resisting such claim or objection; and the same may in default of payment be recovered in a summary manner before any Justice of the Peace.

Certificate, &c., of  
revision.

48. THE chairman of such Court shall in open court write his initials against the names struck out or inserted as aforesaid, and

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against any part of the electoral lists in which any mistake has been corrected or omission supplied, and shall sign his name to every page of the list so settled, and shall then cause to be written at the foot or end of the lists a certificate that the same have been revised and are correct, with the date thereof, and such chairman and not fewer than two other members of the Court shall severally sign such certificate.

**49.** THE lists so signed and certified shall be forthwith delivered to an officer appointed by the municipality.

Lists to be delivered to officer.

**50.** THE lists so signed as aforesaid shall be the ward electoral list and municipal electoral list respectively for the municipality, and shall continue in force and shall not be added to or otherwise altered until new lists have been made for the municipality under the provisions of this Act, whether the same have been duly made at the time hereby appointed or afterwards.

Lists so signed to be voters' lists.

**51.** THE clerk of every municipality, or other officer appointed by the council, shall from time to time furnish a copy or copies of such electoral lists to any person requiring them, on the payment of a reasonable price for the same, not exceeding the sum of five shillings for each copy.

Clerk to furnish copies of lists.

**52.** ANY copy purporting to be a copy of either of the said electoral lists for any municipality, and signed by the mayor of such municipality, or other person as aforesaid, shall be *primâ facie* evidence of such list, and of the contents thereof.

Copy of lists to be evidence.

**53.** NO omission to affix copies of any such lists as aforesaid, or to keep any list for perusal or inspection, shall be deemed to prevent, invalidate, or render imperfect any of the proceedings hereinbefore provided for with regard to the compilation or completion of any such list.

Omission to publish, &c., not to invalidate proceedings.

### PART IV.—QUALIFICATION FOR ELECTION.

**54.** NO person shall be eligible to be elected as, or to hold the office of mayor, councillor, or auditor, in any municipality, who is a female, or of unsound mind, or who is an uncertificated or undischarged bankrupt, or who holds any office or place of profit in the gift or disposal of the council of such municipality, or who has any interest in any contract with or employment under such council. Provided that no person shall be disqualified from being so elected by reason only of his being a proprietor or shareholder in any public company incorporated by statute, or registered under any Act for the registration of joint stock companies, which contracts with such council for any of the purposes of this Act, but no mayor or

Disqualifications for election.

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councillor, being such proprietor or shareholder, shall take part in any discussion or vote on any question relating to any contract in which such company is interested.

Qualification of  
councillors, mayor,  
and auditors.

Proviso.

**55.** UNLESS disqualified by this Act, any male person whose name is on the municipal electoral list in force for the time being in any municipality shall be eligible for election as a councillor or auditor for such municipality or any ward thereof; and any person qualified to be a councillor in any municipality, shall, if he be also qualified to serve on common juries, be eligible for election as mayor of such municipality; provided always, that no person shall be eligible for election as mayor of any municipality who has held such office for three consecutive years prior to any election. Provided further, that no person exempted from serving on juries by reason of any statute in force in this Colony, or by reason of his being over sixty years of age, shall be disqualified under this section to be such mayor as aforesaid. Provided also, that this section shall not apply to the qualification of councillors, mayors, and auditors in the municipalities of Perth, Fremantle, and Albany.

Qualifications of  
councillors, auditors,  
and mayors of Perth,  
Fremantle, and  
Albany.

**56.** UNLESS disqualified by this Act, any male person whose name is on the municipal list in the municipalities of Perth, Fremantle, and Albany respectively, in respect of land of the annual value of Twenty pounds at least, shall be eligible for election as a councillor or auditor for such municipalities respectively, or any ward thereof; and any person qualified to be councillor in such municipalities shall, if he be also qualified to serve on special juries, be eligible for election as mayor of such municipalities respectively; provided always, that no person shall be eligible for election as such mayor as aforesaid who has held such office for three consecutive years prior to his election. Provided that no person exempted from serving on juries by reason of any statute in force in this Colony, or by reason of his being over sixty years of age, shall be disqualified under this section to be such mayor as aforesaid.

### PART V.—ELECTION OF COUNCIL.

Time of election of  
mayor, auditors,  
and councillors.

**57.** THE election of a mayor, councillors, and auditors for all municipalities shall take place on the third Monday in November in each year, at such place within the municipality as the person entitled as hereinafter mentioned to be the returning officer at such election shall appoint; in any new municipality created by the Governor in pursuance of the provisions of this Act, the first election of mayor, councillors, and auditors shall take place on such day and at such place as the Governor may appoint, and all subsequent elections shall take place on the third Monday in November in each year, at such place within the municipality as the returning officer at such election shall appoint.

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**58.** WHERE under the provisions of this Act a municipality is entitled to elect an additional number of councillors, an election shall forthwith be held, and thereupon the same proceedings shall take place as nearly as may be as at an annual general election of councillors.

Time of election of additional councillors.

**59.** THE returning officer at any first election for the office of mayor, councillor, and auditor of a newly proclaimed municipality shall be nominated by the Governor, and at every succeeding election of such officers of the municipality the mayor or any councillor of the municipality appointed by the council for that purpose shall be the returning officer. Such appointment shall be notified by the council by affixing a written notice to that effect to the outer door of the municipal chamber or other accustomed place of meeting for the council of the municipality, at least five days before the day fixed for such election, and keeping the same there affixed until the day of such election; but no omission to so publish the said notice shall be deemed to invalidate any such appointment. Whenever any returning officer has been appointed as aforesaid, the mayor or clerk of the council shall deliver to such officer all notices which he has received from candidates for election, and also the electoral lists for the municipality and the various wards thereof. Provided always, that no candidate at any such election shall act as presiding or returning officer.

Appointment of returning officer.

**60.** ANY person who is qualified and desirous of being a candidate for election as mayor, councillor, or auditor in any municipality shall, by himself or his agent, give notice in writing of such his desire to the then mayor or clerk of the council, at least seven clear days before the day of such election, by delivering the same to the mayor or leaving it with the clerk of the council; and the returning officer shall give notice of the intention of such person to become such candidate by affixing a notice to that effect on the outer door of the municipal chamber or other accustomed place of meeting for the council of the municipality, at least five days before the day of such election, and keeping the same there affixed until the day of such election. At any such election no one shall be deemed a candidate for the office of mayor or councillor or auditor within the meaning of the next following sections, except those who have given such notice as is herein provided.

Candidate for election to give seven days' notice thereof to the returning officer.

**61.** ON the day of such election the returning officer shall preside at a meeting, to be holden at eleven o'clock in the forenoon at the place appointed for such election, and shall declare the purpose for which such meeting is held; and if it appear at such meeting that there is no more than one candidate proposed to fill any one vacancy, the returning officer shall declare such candidate duly elected; and

Proceedings at elections.

if it appear that there is more than one candidate proposed to fill any one vacancy, the returning officer shall call for a show of hands separately in favour of each candidate, and after such show of hands shall declare the person or persons upon whom the election has fallen, and such person shall be deemed to have been duly elected, unless a poll be demanded by any of the other candidates for such vacancy, or by not less than six persons qualified to vote at such election, whereupon a poll to decide such election shall immediately take place.

Manner of taking poll.

**62.** THE poll at any such election shall be taken by the returning officer, and shall close at seven o'clock in the afternoon of the same day. Every person entitled to vote at the election of councillors or a councillor may, at such election, give as many votes as he is entitled to to each of any number of persons not exceeding the number of persons to be elected; every person entitled to vote at the election of a mayor or auditors, or an auditor, may at the election of a mayor give as many votes as he is entitled to to any one candidate, and at the election of auditors, or an auditor, may give as many votes as he is entitled to to each of as many candidates as there are vacancies to be filled up.

Returning officer may appoint a deputy and poll clerks.

**63.** AT every election for the office of mayor, councillor or auditor, the returning officer may appoint a deputy returning officer and such poll clerks as are required for taking the poll, and may make and enforce all necessary regulations not inconsistent with this Act.

Scrutineers.

**64.** EVERY candidate for such election may appoint one person to be a scrutineer at such election.

Voting to be by ballot.

**65.** (1.) EXCEPT as hereinafter provided, the voting at any such election shall be by ballot, and within the place appointed for holding such election there shall be provided and set apart a separate ballot-room or compartment into or in which no person may enter or remain, except electors, whilst preparing their ballot papers as herein-after provided but no longer; and the returning officer shall cause pencils or pens, ink, and blotting paper to be placed in the said room or compartment.

(2.) Every person otherwise than as aforesaid wilfully entering or remaining in the said room or compartment shall be guilty of an offence against this Act, and be liable to a penalty of not less than Fifty pounds nor more than One hundred pounds.

Ballot papers.

**66.** (1.) BEFORE, and in time for every such election, the returning officer shall cause to be printed or written a sufficient

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number of ballot papers according to the respective forms prescribed in the Fourth Schedule to this Act, and each such ballot paper shall have a number printed or written on the back, and shall have attached a counterfoil, with the same number printed or written on the face, and shall be signed or initialed by such returning officer at the back thereof.

Fourth Schedule.

Provided always, that the signature or initials of such returning officer may be lithographed or stamped by or under his authority.

Voting papers.

(2.) And at the same time, the returning officer shall also cause a sufficient number of papers, hereinafter called voting papers, for the purpose of voting by proxy, as hereinafter mentioned, to be written or printed, and such voting papers shall be in accordance with the respective forms prescribed in the Fifth Schedule to this Act.

Fifth Schedule.

**67.** THE returning officer shall provide a separate ballot-box for the election of mayor, for the election of an auditor or auditors, and for each ward for the election of a councillor or councillors, and on the top of each such ballot box there shall be an opening sufficient to receive the ballot papers and voting papers folded as hereinafter mentioned. And such boxes, being previously locked by the returning officer with a key or keys, which shall be kept by himself, and of which no other person shall possess a counterpart or counterparts, shall be placed on a table before the returning officer.

Ballot-box to be provided.

**68.** (1.) EXCEPT as hereinafter mentioned, every person who is qualified and entitled to vote, and is desirous of voting at any such election, shall present himself to the returning officer or his deputies, and shall state his name and address, and if such returning officer finds that the name of such person is on the electoral lists, he may ask such person the questions hereinafter mentioned, and if such questions are answered satisfactorily, or if such questions are dispensed with, the returning officer shall make a mark against the name of such person on the electoral lists to signify that the ballot papers to which such person is entitled have been duly given to him, and deliver to such person so many ballot papers for the election of mayor, or councillor or councillors, or auditor or auditors respectively, as are equal to the number of votes which such person appears by the electoral lists to be entitled to give at such elections respectively.

Ballot papers to be given to persons applying.

(2.) All the ballot papers to which any person is entitled at such elections shall be demanded and received by him at one and the same time: And no person, having once demanded and received any such ballot paper, and voted by the same, shall at the same elections receive any other such ballot paper, or exercise any further right of voting.

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Manner of voting by ballot.

**69.** EVERY person to whom such ballot papers have been given as aforesaid shall, within the ballot-room or compartment, and without leaving the same, strike through the names of all persons named in such ballot papers except the names of each person for whom he intends to vote, and shall then fold up each paper so as to conceal the interior and disclose the signature or initials of the returning officer so signed, lithographed, or stamped upon the back thereof, as aforesaid, and shall then openly and in the presence of the returning officer, poll clerks, and such scrutineers as are in attendance, deposit such paper in the ballot box. Provided always, that in the case of any person qualified to vote, and who is blind, the returning officer shall, in the presence of such scrutineers as are then in attendance, strike through upon each ballot paper the names of all persons except such as such person declares his intention of voting for.

Questions which may be put to voter at elections by ballot.

**70.** (1.) AT all elections for the office of mayor, councillor or auditor, the returning officer may, if he see fit, or if required so to do by any candidate or scrutineer, shall put to any person voting by ballot the questions following:—

(a.) Are you the person whose name appears as (*here specify the name contained in the electoral list*) in the electoral list now in force in this (*municipality or the ward, as the case may be*) being registered therein for property described to be situate in (*here specify the property described in such electoral list*)?

(b.) Have you already voted at the present election for this (*municipality or ward*)?

(2.) And no other questions shall be put to such person, and no such person who refuses to answer either of such questions, or who does not answer the first of such questions absolutely in the affirmative, and the second of such questions absolutely in the negative, shall receive a ballot paper or be permitted to vote.

Provision with respect to ballot papers inadvertently spoilt.

**71.** A VOTER at any such election who has inadvertently dealt with his ballot paper in such a manner that it cannot conveniently or properly be used as a ballot paper, may on delivering to the returning officer the ballot paper so inadvertently dealt with and proving the fact of the inadvertence to the satisfaction of the returning officer, obtain another ballot paper in the place of the ballot paper so delivered up; and the said ballot paper shall be immediately cancelled and destroyed, and a memorandum of such cancellation and destruction endorsed on the counterfeit thereof.

Voting by proxy in certain cases.

**72.** WHENEVER at any such election a person is qualified and entitled to vote, desirous of voting, and resident in the Colony,



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but more than twenty miles distant from the place of such election on the day of such election such person may authorise a proxy or agent, in accordance with the form prescribed in the Fifth Schedule to this Act, to deliver his vote or votes as declared in the manner prescribed by the said schedule to the returning officer, who shall make a mark on the respective electoral list to signify that such voter has voted, and shall place the voting paper in the proper ballot box.

Provided always, that no vote shall be accepted or taken from any person professing to be a proxy or agent, or placed in any ballot box, until he has answered the questions hereinafter authorised in accordance with the manner prescribed.

**73.** (1.) WHENEVER at any such election votes are tendered by a person professing to be a proxy or agent, the following questions, and no others, shall be asked by the returning officer :—

Returning officer to ask certain questions in case of proxy voting.

- (a.) Is the person who signed this voting paper the person whose name appears as (*here specify the name contained in the electoral list*) in the electoral list now in force in this (*municipality or the ward, as the case may be*) being registered therein for the property described to be situated in (*here specify the property described in such electoral list*)?
- (b.) Is the said person now, to the best of your knowledge and belief, resident within this Colony and more than twenty miles from this place?
- (c.) Is the name signed on the voting paper as the name of the proxy or agent delivering the same your name, and signed by you, and is the address of such person your address?
- (d.) Has the person whose name is signed to this paper, delivered by you as the voter, ever revoked the authority given to you to deliver it?
- (e.) Has the person whose name is signed to this voting paper already voted at this election?

(2.) The proxy or agent tendering such voting paper shall answer the first, second, and third of such questions absolutely in the affirmative, and the fourth and fifth of such questions absolutely in the negative.

**74.** (1.) IF any person, during the time in which any such election is being held, misconducts himself in the place appointed for holding the election, or fails to obey the lawful orders of the returning officer, he may immediately, upon the order of the returning officer, be removed from such place by any member of the police force

Keeping order in polling place.

force or other person authorised by the returning officer in writing to remove him.

(2.) Any person so removed as aforesaid shall not again be allowed to enter such place during the time when such election is being held, without the permission of the returning officer.

(3.) Any person so removed as aforesaid, if charged with the commission in such place of an offence in respect of voting as specified in the eighty-first section of this Act, may be kept in custody until he can be brought before a Justice of the Peace.

(4.) And all police constables and peace officers shall aid the returning officer in the performance of his duties.

Ascertainment of  
the poll.

**75.** (1.) THE returning officer, immediately on the close of the poll at any such election shall, in the presence of such scrutineers as are then in attendance, open the ballot boxes and examine the ballot papers and voting papers, and shall compare the number of votes given by each such voting paper with the number to which the person so voting is entitled on the respective electoral list, and thereby ascertain the result of the election. And in so doing the returning officer may reject as null and void any ballot paper on which is written any matter or thing which is not justified by this Act to be written thereon, or any ballot paper or voting paper by which any voter purports to vote for more candidates than he is authorised to vote for, or to give more votes than he is authorised to give, and any voting paper whereon the name or names of the candidate or candidates, as the case may be, for whom the voter votes is not intelligibly expressed and in a manner to be commonly understood, but no voting paper shall be otherwise rejected for mere want of form, and if any voter entitled to more than one vote omits to specify on his voting paper the number of votes to which he is entitled, such voting paper shall be deemed to have one vote specified thereon. And he shall endorse on any ballot paper or voting paper which he rejects, the word "rejected," and the returning officer shall be the sole judge as to whether any ballot paper or voting paper shall be rejected or not. Provided always, that his decision shall be subject to reversal by the Supreme Court.

Declaration of the  
poll.

(2.) The returning officer, having ascertained the respective results of such poll, shall then and there declare the name or names of the person or persons who have been duly elected to the respective offices for which such election has been held; and in the event of the number of votes being found to be equal for any two or more candidates for such respective offices, such returning officer may, whether his name be or be not on the respective electoral lists as a

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person entitled to vote at such respective elections, by his casting vote or votes decide which of the said candidates shall be elected. Provided, however, that no returning officer shall vote at any election of which he is the returning officer, except in the case of an equality of votes as aforesaid; and provided further, that any deputy returning officer, if entitled to vote at any election, may give his vote or votes in like manner as if he had not been appointed and acted as deputy returning officer.

**76.** THE clerk of the municipality shall, after every election for the office of mayor, councillor or auditor, forthwith make a return to the Colonial Secretary stating the names of the successful candidate or candidates at such election, and their respective offices, for publication in the *Government Gazette*, and the production of a copy of the *Government Gazette* containing any such notice shall be *prima facie* evidence that the person or persons named therein have been duly elected to fill the respective offices therein mentioned.

Publication of result of elections in *Government Gazette*.

**77.** WHEN the proceedings at any such election are interrupted or obstructed by any riot or open violence, the returning officer shall not finally close the poll, but shall adjourn the taking of such poll until the day following, and if necessary the returning officer shall further adjourn such poll until such interruption or obstruction has ceased, when such returning officer shall again proceed with the taking of such poll.

Adjournment of polling in case of riot.

**78.** NO such election shall be deemed to be void in consequence solely of any delay of any of the stages of such election beyond the time appointed, or of any error on the part of the returning officer, which does not affect the result of such election, or of any error or impediment of a merely formal nature; and the Governor may adopt, or cause to be adopted, such measures as are necessary to remove any obstacle by which the due course of any such election is likely to be impeded, and may supply any deficiency that would otherwise affect the same. Provided always, that any measures so adopted shall be forthwith published in the *Government Gazette*.

Errors of form not to vitiate elections.

**79.** THE returning officer shall forthwith, after the declaration of the poll, cause all the ballot and voting papers to be made up into a parcel or bundle, and endorse such parcel or bundle with a description of its contents, affix his seal thereto, and deliver the same to the clerk of the municipality, to be by the said clerk safely and secretly kept for six months after such delivery, but the said clerk shall not inspect or allow the inspection of such ballot and voting papers, or allow them to go out of his custody, except on the order of a Judge, and such clerk shall, after the

Disposal of ballot papers.

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expiration of such period of six months, cause all such ballot and voting papers to be destroyed in the presence of three councillors.

Penalty for  
returning officer, &c.,  
divulging the name  
of candidate for  
whom any person  
voted.

**80.** ANY returning officer, poll clerk, or scrutineer who divulges for what candidate or in what manner any voter has voted at any such election as aforesaid, shall be liable upon conviction to a penalty not exceeding One hundred pounds, nor less than Fifty pounds.

Offences in respect  
of voting.

**81.** (1.) EVERY person who

- (a.) Forges or counterfeits, or fraudulently defaces or fraudulently destroys, any ballot paper or voting paper, or the initials of any returning officer on any ballot paper; or
- (b.) Without due authority supplies a ballot paper or voting paper to any person; or
- (c.) Fraudulently gives to the returning officer for insertion into any ballot box any paper other than the ballot paper or voting paper which he is authorised by law to give for insertion as aforesaid; or
- (d.) Fraudulently takes out of the ballot room or compartment any ballot paper or voting paper; or
- (e.) Without due authority destroys, takes, opens, or otherwise interferes with any ballot box or packet of ballot papers or voting papers then in use for the purposes of any election; or
- (f.) Knowingly and wilfully and unlawfully breaks the seal of, or opens any such sealed parcel or bundle as aforesaid, without the order of a Judge so to do and to produce; or
- (g.) Knowingly and fraudulently makes a false answer to any of the questions authorised by this Act to be put by the returning officer to voters, or proxies, or agents;
- (h.) Personates, or attempts to personate, any voter at any election, or votes more than once at the same election; or
- (i.) Records a larger number of votes than he is entitled to at any election;

shall be guilty of a misdemeanour, and be liable, if he be a returning officer, or poll clerk, or scrutineer, to imprisonment for any term not exceeding two years, with or without hard labour, or to be fined any sum not exceeding Two hundred pounds; and if he is any other

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person, to any term not exceeding six months, with or without hard labour, or to a fine not exceeding Fifty pounds.

(2.) Any attempt to commit an offence under this section shall be punishable in the same manner in which the offence itself is punishable.

(3.) In any information or other prosecutions for an offence in relation to the ballot boxes, ballot papers, voting papers, and other matters or things in use at any such election as aforesaid, the property in such papers, boxes, or other matters or things may be stated to be in the returning officer at such election.

82. (1.) EACH of the following acts shall be deemed and taken to be acts of bribery and corruption on the part of any candidate at any election for the office of mayor, councillor, or auditor, whether such act be committed by such candidate or by any agent authorised to act for him:—

Bribery and  
corruption.

- (a.) Giving money or any article whatsoever to any elector with a view to influence his vote.
- (b.) Making with, or giving to any elector, any agreement or any security for any gift or reward, or holding out to any elector any promise or expectation of profit, advancement, or enrichment to himself or to any of his family or kindred, friends, or dependents in any shape in order to influence his vote.
- (c.) Making use of any threat to any elector, or otherwise intimidating him in any manner, with a view to influence his vote.
- (d.) Treating any elector, or supplying him with meat, drink, lodging, or horse or carriage hire, or conveyance by steam, or otherwise, whilst at such election, or whilst engaged in coming to or going from such election, at the expense of the candidate.
- (e.) Payment to any elector of any sum of money for acting or joining in any procession during such election or before or after the same.
- (f.) Keeping open or allowing to be kept open at the expense of the candidate, or with the view to influence the vote of any elector, any public house, shop, booth, or tent, or place of entertainment, whether liquor or refreshment of any kind be distributed at such place of entertainment or not.
- (g.) Giving any dinner, supper, breakfast, or other entertainment, at any place whatsoever, to any number of electors, with a view of influencing their votes.

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(2.) And no action or suit shall be maintained by any publican or any owner or keeper of any shop, or booth, tent, or other place of entertainment against any candidate or any agent of any such candidate for any liquor, food, or refreshment of any kind whatever for man or beast supplied upon the credit of any such candidate or agent as aforesaid during the progress of any election, the supply of which in any way contributes to render any such candidate guilty of an act of bribery and corruption as aforesaid.

Bribery or corruption disqualifies candidate.

**83.** EVERY act of bribery and corruption on the part of any candidate for election as aforesaid shall render such candidate incapable of holding the office of mayor, councillor, or auditor, for the term of four years from the date of such election.

Punishment for bribery and corruption.

**84.** ANY person committing any such act of bribery and corruption as aforesaid, whether such person is a candidate or not at such election, and whether such act be committed by himself or by any other person employed by him for that purpose, shall be guilty of a misdemeanour, and be punishable, upon conviction, by a fine not exceeding Two hundred pounds, or imprisonment not exceeding six months.

Penalty for receiving or offering reward as to vote.

**85.** EVERY person who, having or claiming any right to vote at any election for the office of mayor, councillor, or auditor, asks or takes any money or other reward by way of gift, loan, or other benefit, or agrees or contracts for any money, gift, office, employment, or other reward, to give or to forbear to give his vote at any such election; and every person who, by himself or by any other person employed by him, by any gift or reward, or by any promise of or any agreement or security for any gift or reward, corrupts or procures, or offers to corrupt or procure, any other person to give or to forbear to give his vote at any such election, shall for every such offence be liable to a penalty of Fifty pounds, to be paid with full costs of suit to the person first suing for the same by action of debt in a Local Court.

Canvassing by candidate.

**86.** AFTER the expiration of five clear days after notice has been given by the returning officer in the manner prescribed by this Act of the intention of any person to become a candidate for the election of mayor, councillor, or auditor, no such person shall solicit personally the vote of any elector, or attend any meeting of electors convened or held for electoral purposes until after such election is decided; and the personal solicitation of the vote of any elector by such person, or the attendance of such person at any such meeting after the day mentioned, shall render void the election of any such person.

Canvassing by salaried officer of corporation.

**87.** NO salaried officer of a corporation shall canvass at any election on behalf of mayor, councillor, or auditor; and any salaried

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officer who canvasses at any such election shall be guilty of an offence against this Act and liable to a fine not exceeding Fifty pounds, nor less than Five pounds for every such offence.

**88.** IF any person declared to be elected to the office of mayor, councillor, or auditor of a municipality is elected, or holds or exercises such office unduly or contrary to the provisions of this Act, or is incapable under the provisions hereof of being or continuing in such office, the Supreme Court may oust such person of such office. Provided that no person shall be ousted under the powers herein contained, as having been elected unduly or contrary to this Act, unless proceedings be taken for that purpose before the expiration of two months from the declaration of such election.

Power to the Supreme Court to oust from office persons unduly claiming to be mayor, councillor, or auditor.

**89.** SUBJECT to any rules of the Supreme Court for the time being in force in that behalf, any such person, as in the last preceding section mentioned, may be ousted of any such office in manner hereinafter appearing, that is to say:—Upon affidavit of the facts, and upon payment into Court of the sum of Twenty pounds as security for costs to abide the event of such application, the Supreme Court, or any Judge thereof, may grant a rule or order calling upon such person to show cause to the Court why he should not be by the said Court ousted of the said office; and where, upon the return of such rule or order, it appears to the Court that such person so elected or holding or exercising such office respectively was elected unduly or contrary to this Act, or was at the time of his election, or while holding or exercising such office respectively, incapable under the provisions hereof of being or continuing such mayor, councillor, or auditor, as the case may be, the Court may make such rule or order absolute, or if the matter do not so appear, may discharge such rule or order, and in either and every such case, with or without the payment of costs to or by either party, as to the Court may seem meet; and the person against whom any rule is made absolute, as aforesaid, shall be deemed thereby to be ousted of such office accordingly.

Procedure for the foregoing purpose.

Disputed elections, &c.

**90.** SUBJECT to any rules of the Supreme Court for the time being in force in that behalf, the Supreme Court or any Judge thereof may, where any proceeding, whether under this Act or not, with respect to any election as having been made unduly or contrary to this Act, or with respect to the unlawful holding or exercise by any person of the office of mayor, councillor, or auditor hereunder is depending in such Court, order any matters of fact which it seems to the said Court or Judge necessary or expedient to ascertain for dealing with the proceedings so depending, to be referred for inquiry and report to any fit person to be named by the said Court or Judge in the order, and the report of such person may be adopted either wholly or in part by the Court,

Supreme Court may direct an inquiry be made.

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and the proceedings upon such reference shall be conducted in like manner as upon a reference made under section twenty of "The Supreme Court Act, 1880."

Mayor, auditors,  
and councillors, when  
to enter on office.

**91.** THE mayor and auditors and councillors so elected shall enter upon their office respectively on the first day of December following their election: Provided always that where the election of such officers is held for the first time such officers, and where an additional number of councillors are elected under the provisions of this Act such councillors, shall enter upon their respective offices as soon as they have respectively taken the oath and made the declaration hereinafter respectively prescribed by this Act. And this proviso shall apply to any such officers already elected under the provisions of any of the Acts hereby repealed, who have not under such provisions taken office at the time of the passing of this Act.

Mayor, auditors,  
and councillors, when  
to resign office.

**92.** THE mayor and auditors shall remain in office until the thirtieth day of the November subsequent to their entering upon such office. except in the case of a mayor and auditors elected on or after the first day of July in any year, in which case they shall remain in office until the thirtieth day of November in the year following their election. The councillors shall go out of office in the following order: that is to say, in case the municipality is not divided into wards, or, if so divided, if the number of councillors for each ward be divisible by three, one-third of the councillors shall go out of office on the thirtieth day of the November following the first election, another third on the thirtieth day of the November succeeding, and the remaining third on the thirtieth day of the November after that. Where under the provisions of this Act, an additional number of councillors have been elected, one of such councillors shall go out of office on the thirtieth day of the November following their election, another on the thirtieth day of the November succeeding, and the other on the thirtieth day of the November after such last mentioned day. After the first election all councillors shall be elected for a term of three years. Where the municipality is divided into wards, and the number of councillors for each ward is not divisible by three, one-half shall go out of office on the thirtieth day of the November following the first election, and the other half on the thirtieth day of the November after that; and after the first election all councillors shall be elected for a term of two years. The councillors to go out of office shall always be they who have been longest in office without re-election; and in cases where two or more councillors are elected on the same day, as between themselves, those having the smaller number of votes at such election shall be deemed the longest in office for this purpose; and as between any councillors who may be elected by an equality



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of votes or without a poll, it shall be determined by lot in what rotation, as between themselves, such councillors shall retire.

**93.** FOR the purposes of this Act an extraordinary vacancy shall be deemed to occur in any of the following cases:—

Provision for extraordinary vacancies.

If a mayor, councillor, or auditor

- (1.) Dies.
- (2.) By notice under his hand, delivered to the clerk of a municipality, or person acting as such, resigns his office.
- (3.) Is declared to be ousted of his office by the Supreme Court.
- (4.) Ceases at any time during the time for which he is elected to be qualified as hereinbefore mentioned to hold his office.
- (5.) Does not take the oath and make and subscribe the declaration hereinafter prescribed, within the time limited by this Act.
- (6.) Becomes incapable from any cause of continuing to act in his respective official capacity.

Or, if a mayor or councillor absents himself from three consecutive ordinary monthly meetings of the council without leave obtained from the council in that behalf, and the council orders such absence to be entered in the minute book.

**94.** IN the case of any extraordinary vacancy occurring, the mayor, or any councillor appointed by the council as returning officer, shall, within ten days after the occurrence of such vacancy, give fourteen days' notice of a day on which an election to supply such vacancy will be held by publishing such notice in some newspaper circulating in the municipality, and also in the *Government Gazette*, and by posting such notice in some conspicuous place outside the building in which the council usually assembles for the transaction of business.

Notice of election to fill extraordinary vacancy.

**95.** AN election to fill such extraordinary vacancy shall be held upon the day mentioned in such notice as aforesaid, and every such election shall be conducted as nearly as possible in the same manner as the annual election of mayor, councillors, or auditors, as the case may be.

Election to fill extraordinary vacancy.

**96.** ANY person elected to fill any such vacancy shall enter upon his office as soon as he has taken the oath and made the declaration hereinafter respectively prescribed by this Act, and shall

Duration of office of person elected.

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go out of office on the day on which the person in place of whom he has been elected would have gone out.

No mayor, councillor, or auditor to enter on office till he has taken oath.

**97.** NO person elected to be mayor, councillor, or auditor under this Act shall be capable of acting as such until he has first taken the oath of allegiance to Her Majesty, Her heirs and successors as follows:—"I, A.B., do sincerely promise and swear that I will be faithful and bear true allegiance to Her Majesty Queen Victoria as lawful Sovereign of the United Kingdom of Great Britain and Ireland, and of this Colony of Western Australia. So help me God." And in like manner has made and subscribed the declaration following (that is to say): "I, A.B., having been elected mayor (or one of the auditors or councillor, for as the case may be). do hereby declare that I take the said office upon myself, and will duly and faithfully fulfil the duties thereof according to the best of my judgment and ability." And in case any person elected as mayor, councillor, or auditor does not within two months after his election take such oath and make and subscribe such declaration, his seat shall become vacant. The said oaths shall be taken by reading the same aloud in the municipal chamber or other place used for the meeting of the council, and subscribing the same, in the case of the mayor, before his predecessor as such mayor, or a Justice of the Peace, and in the case of a councillor or auditor, before the mayor of the municipality. Provided that if the taking of an oath is according to the religious belief of any person so elected unlawful, such person may make and subscribe the following affirmation, which shall be made and subscribed in like manner and in the same place and at the same time as the oath is by this section required to be taken and subscribed:—"I, A.B., do solemnly declare that the taking of an oath is according to my religious belief unlawful, and I do sincerely promise and affirm that I will be faithful and bear true allegiance to Her Majesty Queen Victoria as lawful Sovereign of the United Kingdom of Great Britain and Ireland, and of this Colony of Western Australia." And whensoever the demise of Her present Majesty (whom may God long preserve) or of any of Her successors shall be notified by the Governor to the Council, the members of the Council shall, before they shall be permitted to sit and vote therein, take and subscribe the like oath or affirmation of allegiance to the successor for the time being to the Crown.

Resignation.

**98.** EVERY person elected into any corporate office under this Act may at any time resign such office, and the resignation shall be held to be complete from the date of its being received by the clerk of the municipality, or person acting as such.

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#### PART VI.—POWERS AND DUTIES OF COUNCILS.

99. EVERY council may make, publish, alter, modify, amend, or repeal by-laws for any of the following purposes:—

Power to council to make by-laws.

- (1.) Regulating or prohibiting bathing in any, or in any part of any river, creek, stream, sea, or other open public water, situated within the limits of or abutting on the boundary of the municipality;

Bathing.

Setting apart any place or any portion of any such water, for the sole use of either sex;

Fixing the hours within which persons may bathe, and requiring persons bathing to wear some convenient clothing;

Authorising the erection and use of bathing houses, sheds, or machines, and providing for such other matters as appear expedient for preserving decency or promoting the convenience of the public in connection with bathing;

- (2.) For the general management of public baths, and the conduct of visitors thereat, and for fixing the sums to be paid for the use thereof;

Baths.

For the division of such baths, so as to afford sufficient separate accommodation for the sexes, and private baths for either;

For the regulation in public baths of hot and cold baths and shower baths, vapour and medical baths, the requisites to be supplied, and the sums to be paid therefor.

- (3.) For regulating the licensing, supervision, government, and control of any premises as bazaars or repositories for the sale of horses, horned cattle, carriages, and other vehicles, or any of them; the amount to be paid for licenses, and the maintenance of cleanliness in the licensed premises.

Bazaars.

- (4.) Fixing a tariff of the rates to be paid to chimney sweeps licensed under this Act.

Chimney sweeps.

- (5.) Preventing the contamination of any river, creek, stream, sea, or other public water, place for water, well, or fountain situated within the limits of or abutting on the boundary of any municipality or within the limits of any catchment, water supply, or other area under the control or jurisdiction of the council or the Local Board of Health of the municipality, by any means whatsoever.

Contamination of water.

- (6.) Prescribing the width of, and the mode in which, and the materials whereof, crossing places for vehicles and animals from any street to private residences over any footway shall be constructed.

Crossings.

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| Dairies.                       | (7.) For the annual registration of all persons carrying on the trade of cowkeepers, dairymen, or purveyors of milk ;<br>For securing the cleanliness of milk stores, milk shops, and of milk vessels used for containing milk for sale, and the maintenance of cleanliness in and at every dairy and place used in connection therewith.<br>Prescribing precautions to be taken for protecting milk against infection or contamination ;<br>Prohibiting the adulteration of milk.  |
| Disorderly places and conduct. | (8.) For the suppression and restraint of brothels and houses of ill-fame and repute, of prize fights, dog fights, and cock fights, of gaming tables and gambling of every description.   |
| Elections.                     | (9.) Regulating the conduct of the election of mayor, councillors, and auditors, in any matters which are not sufficiently provided for by this Act, and which are not inconsistent herewith.   |
| Fencing.                       | (10.) Prescribing the manner in which any fence or wall is to be erected in any particular portion of the Municipality by order of the Council, and the description, style, and materials of any such fence or wall.  |
| Fires.                         | (11.) For the prevention, suppression, and speedy extinguishment of fires ;<br>Regulating the duties and reward of firemen, and making provision for them and their families in case of death or accident in the discharge of duty ;<br>For authorising firemen to enter upon premises for the purpose of extinguishing fires ;<br>For the management of fire-plugs, alarm-bells, and fire-engines ;<br>For securing a prompt supply of water in cases of fire.<br>Preventing the stacking, and regulating the storage and keeping of any hay, straw, bark, thatch, reeds, coal, or firewood ;<br>For the proper construction of buildings and premises wherein hay, straw, or thatch may be sold or stored ;<br>Preventing the erection (except by the council on the public lands of the corporation, or by the Government on any Government reserve for temporary purposes only) within the limits of the municipality, of any tent, pavilion, shed or other structure of calico, canvas, or other inflammable material, without obtaining the consent thereto of the council, for such time and on such terms as the council may decide ; |

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- Prescribing the kind and quantity of any inflammable or combustible materials or substances to be kept at any one time in one place ;
- Preventing the placing, stacking, or storing of empty cases, paper, shavings, crates packed with straw, or any dangerous or inflammable substances in the open air.
- (12.) Prescribing the manner and mode of keeping and depasturing goats, and also the driving of the same to pasture through or over any streets. Goats.
- (13.) For regulating the hawking of fruit, fish, meat, poultry, game, or vegetables. Hawking licenses.
- (14.) To restrict the breaking in of horses in the streets, either by leading, riding, or driving, and also the driving of cattle along the streets ; Horses.
- Preventing entire horses being led or exhibited through or in the streets or public places at inexpedient hours ;
- Preventing mares being covered, except in yards, buildings, or premises sufficiently enclosed or screened from public view.
- (15.) Regulating the taking of the votes of the electors for the municipality upon any proposal to borrow money, as hereinafter stated. Loans.
- (16.) For the general regulation of all markets and fairs for cattle, horses, sheep and other live stock, wares, merchandise, and provisions, the tolls, dues, and fees to be received thereat, and the maintenance of good order therein ; Markets
- Prohibiting every kind of fraudulent device and practice in relation to the sale of marketable commodities.
- (17.) Regulating the publication of notices. Notices.
- (18.) Defining the functions and regulating and enforcing the due performance of the duties of officers and servants appointed by the council ; Officers.
- For the punishment of persons falsely representing themselves to be officers of the corporation.
- (19.) For the management and conservation of the park lands and reserves ; Park lands and reserves.
- For the appointment and guidance of keepers or servants employed therein ;
- Prescribing the time at which any such park lands and reserves shall be opened and closed ;
- For the conduct of persons frequenting any such park lands and reserves ;

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Prescribing the days on and the bounds or limits within which games and gymnastics may be permitted on any park lands and reserves, and otherwise regulating or prohibiting such games and gymnastics ;

Preventing or regulating the admission of vehicles, horses, asses, mules, and cattle to any park lands and reserves ;

Regulating shooting over, on, or in any park lands and reserves ;

Regulating matches, or training for racing with horses, dogs, or otherwise upon any park lands and reserves ;

Enabling corporation servants, police constables, or special constables to remove persons who are guilty of any breach of any by-law made by the corporation from any park lands and reserves ;

Regulating or preventing the selling or exposing for sale goods, wares, or merchandise on the park lands, public reserves, or places ;

Prohibiting damage or injury to and destruction of trees, shrubs, and plants in the park lands, public places, reserves, and plantations ;

Prescribing the fees to be charged the public for admission to any of the park lands and reserves, and the occasions when such fees shall be payable, and prohibiting admission therein on such occasions.

Passenger and other  
vehicles plying for  
hire.

(20.) Regulating the licensing of drivers of passenger vehicles, wagons, drays, carts, or other vehicles for the carrying of goods and merchandise, plying, kept, or let for hire within the municipality ; and prescribing a limit to the number of such licenses to be granted, and for registering the names of the owners, drivers, and conductors of all passenger and other vehicles ;

Regulating the width of tires on wagons, drays, carts, or other vehicles used for carrying goods or merchandise ;

For the distinction of vehicles in respect of fares to be taken ;

Fixing the rates and fares to be taken, and the mode of computation, of time, or of distances ;

Appointing stands for all or any of the above-named vehicles, and prescribing the regulations to be observed thereat ;

Enforcing the obligation of owners and drivers to convey passengers on demand ;

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Limiting the number of such passengers (inside and outside), their baggage and goods, and regulating fares for children, and as to taking up and setting down passengers;

For the maintenance of passenger vehicles in proper condition and order, and regulating how the same shall be furnished, provided, and kept.

Providing for the delivery over and disposal of articles left in passenger vehicles.

Compelling the licensed driver to be in charge of such passenger vehicles, and preventing the same from being driven by others, and preventing persons not hiring the same from riding with the driver.

For the prevention of smoking in any passenger vehicle, or by the driver thereof.

Prohibiting coffins, containing the corpses of any deceased persons above the age of two years, or any child who dies of an infectious disease, from being conveyed in any passenger vehicle.

For the punishment of the misconduct of the drivers and conductors, and persons attending any of the aforesaid vehicles, in carelessly or furiously driving or racing, or in demanding or receiving more than the legal fare, or in using any threatening, abusive, indecent, or insulting language; and also for punishing persons hiring such vehicles and evading, or attempting to evade, the payment of fares.

Regulating the routes to be observed by the licensed drivers of omnibuses or passenger vehicles plying as omnibuses.

Requiring and regulating the carrying of a lighted lamp or lamps by all vehicles after sunset, and inside passenger vehicles after sunset.

Preventing licensed drivers or others loitering with vehicles in the streets, or plying for hire in the streets, except on a stand.

Preventing any person, not being of the full age of seventeen years, acting as driver, and of the full age of thirteen years acting as conductor of any vehicle.

Preventing licensed drivers from being or standing away from the vehicle and horses in their charge whilst on the stand, or regulating the distance at which such drivers may be allowed to be away from their vehicles whilst on the stand.

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Enforcing the notification inside passenger vehicles of the rate of fares for time or distance.

Preventing what is called the nursing or shepherding of passenger vehicles by other passenger vehicles, and preventing the owner or driver of one passenger vehicle from wilfully preceding or following another passenger vehicle.

Preventing persons standing on the footways or roadways of any town or city, and touting for passengers for any vehicles driven by licensed drivers.

For the punishment of any driver or rider of horses or other animals who leaves them in any street or other public place unattended or insecurely fastened to bridle-posts.

Regulating the use and management of hand-carts in the streets, and the conduct of persons in charge thereof.

Proceedings.

(21.) Regulating its own proceedings.

Public property.

(22.) For the general control and management of the public reserves, and of any public library, museum, botanical garden, or other place of recreation, the control or management of which is vested in the council.

For the use and management of all public bridges, jetties, piers, wharves, or landing places which have been handed over by the Governor to the care and management of a council, and notice whereof has been published in the *Government Gazette*. Provided always, that until any by-laws have been made in pursuance of this subsection, any regulations made by the Governor shall apply to any such public bridge, jetty, pier, wharf, or landing place, as aforesaid.

Rates.

(23.) As to the times and modes of collecting and enforcing payment of the rates, either in arrear or current; and also of any licenses payable under this or any other Act.

Scavengers.

(24.) Regulating the time and mode of the removal of the contents of any drain, water closet, earth closet, privy, cesspool, ashpit, or other place, or of any noxious or offensive matter by nightmen or scavengers, licensed under the provisions of this Act, or by other persons; and prescribing the vehicles by which such removal is to be effected, and the fees to be paid to the nightmen and scavengers so licensed as aforesaid.

Signboards.

(25.) Prohibiting and regulating the erection, putting up, and situation of signboards or other signs, or awnings or blinds, or overhanging lamps, or other things over or near any footway or roadway.



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- (26.) For the regulation of slaughter houses and the management of the cattle to be slaughtered thereat, and for defining areas within which no slaughter house shall be permitted. Slaughter houses.
- For the prevention of the slaughtering both of great and small cattle, except at slaughter houses established by the council.
- For destroying infected cattle which, if slaughtered, would be unfit for human food.
- For destroying unwholesome meat.
- For the maintenance of cleanliness in and at every slaughter house and place used for slaughtering cattle.
- For the management of cattle kept at any slaughter house on behalf of the owner, prior to their being slaughtered, or without being slaughtered, and the fees to be taken therefor.
- (27.) For the prevention of obstructions of any streets, footways, water channels, and watercourses therein. Streets and footways
- Regulating the paving and repairing of the streets and footways.
- For cleansing the same.
- Compelling the securing, removing, or filling up of any cellar, ways, or openings which may now or hereafter be in or under any footway.
- Regulating the speed or pace at which persons shall ride or drive round the corners or across the intersections of any street or streets, or across any bridge, or along any particular part or parts of any municipality.
- Prescribing the removal, at the expense of the owner or occupier, of any verandahs or balconies which obstruct the footway or roadway, or are dangerous, and all other obstructions to the footways or roadways whether the same have before the commencement of this Act been or may hereafter be erected.
- Requiring and regulating the painting of all lamp-posts, bridle-posts, telegraph, telephone, and electric lighting poles, and for compelling the removal of any such poles which may be bent, dangerous, unsightly, or not in use.
- Prohibiting or regulating processions in the streets.
- Prohibiting or regulating the playing of music in the streets.
- Prohibiting or regulating the passage of advertising vans through the streets, and the throwing or discharging of handbills or other printed matter therein, or in or upon any private premises.

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Requiring and regulating the lighting of wharves for the purposes of public safety. Provided that wherever any wharf is rated, and subject to a lighting rate, one moiety of the cost of lighting shall be paid out of such rate on such wharf.

Prohibiting the erection of dangerous fences, or fences with barbed wire, abutting on public places, and regulating and prescribing the materials of which fences abutting on public places shall be erected.

Regulating the traffic, at times of public interest, amusement, or excitement, in or along all or any of the foot and carriage ways of any street.

Prohibiting the drawing of any wagon, cart, or other carriage not having springs, or the driving of any animal attached thereto at any faster rate, speed, or pace than a common walk.

Prohibiting any goods or merchandise, coal, or firewood from remaining in any street for a longer period than necessary for housing or removing the same.

Regulating the cleansing of footpaths in front of buildings before eight o'clock in the morning, and preventing the shaking of carpets, rugs, or doormats in the street after that hour.

Prohibiting animals or vehicles being left in the street, or obstructing any portion of the street, and permitting the seizure by the corporation officers or police constables of any such animals or vehicles.

For the punishment of any contractor, or other person, who deposits, or causes to be deposited, any rubbish or materials on the surface of any street or roadway, or who excavates or leaves open any excavation without having a sufficient and continuous light burning thereon from sunset to sunrise.

Regulating or prohibiting the use of bicycles and other velocipedes or perambulators in or upon the streets, roadways, and footways, and requiring and regulating the carrying of a lighted lamp after sunset by all bicycles and other velocipedes, and the carrying and sounding of a bell by the riders thereof by day and by night.

Prohibiting unyoked cattle or unbroken horses being driven through the streets within certain hours.

For the punishment of persons throwing orange peel or other vegetable substances, or any offensive, noxious, or dangerous substance on any footpath of a street in the municipality.

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- Prohibiting any impure water or any liquid matter of whatever description being drained or allowed to flow from any house, land, or premises into or upon any street, footway, or gutter, in a municipality, or being thrown or placed thereon or therein.
- (28.) Defining areas within which no swine shall be permitted to be kept. Swine.
- (29.) Providing for the coating, with some white paint or white-wash, of buildings and erections composed or roofed wholly or in part with iron, zinc, or tin, and occupied or used as dwellings or workshops or workrooms. Structures of iron, zinc, or tin.
- (30.) Regulating the manner in which leading horses shall be driven and yoked upon any street, and to prohibit or regulate the riding or driving of camels through any street; and generally for the regulation and preservation of order of general traffic. Traffic.
- (31.) Regulating movable or temporarily fixed stalls in or near any street for the sale of any meat, fruit, vegetables, drink, eatables, or articles of merchandise, and the management thereof, and the conduct of the persons in charge thereof, and the times when, and positions of, places in which such stalls shall be allowed to carry on business. Refreshment stalls.
- (32.) For regulating the use of balconies and verandahs now or hereafter erected over any part of a street. Verandahs.
- (33.) For prohibiting the use of iron spikes or other projections, broken glass, or barbed wire on any premises abutting upon a street. Spikes, glass, wire, &c.
- (34.) Regulating the mode and manner of giving, and the information to be contained in, the notices and plans given under section 174 hereof. Notices and plans.
- (35.) For more effectually regulating, observing, and carrying out all and every the powers and authorities by this Act given to corporations; and for insuring the good rule and government of the municipality, and the convenience, comfort, and safety of the inhabitants thereof, and for the prevention and suppression of nuisances therein. Generally for carrying out the objects of this Act.

Any such regulations may be limited in their application to any portion of the municipality, or to any catchment, water supply, or other area under the control or jurisdiction of the council as Local Board of Health or otherwise.

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By-laws to be approved by the Governor in Council and gazetted.

**100.** SUCH by-laws shall not be inconsistent with or repugnant to any of the provisions of this Act, or to any law in force, and when confirmed by the Governor, with the advice of the Executive Council, and published in the *Government Gazette*, but not sooner or otherwise, shall have the force of law within the limits of the municipality or any area under the control or jurisdiction of the council as aforesaid, and copies thereof shall be forthwith laid before both Houses of Parliament, if Parliament be then sitting, and if not then sitting, then within fourteen days after the then next assembling of Parliament.

By-laws to be enforced by penalty.

**101.** SUCH by-laws shall state some maximum penalty for any neglect or breach thereof respectively; provided that no such maximum penalty shall exceed twenty pounds.

Existing by-laws to be preserved.

**102.** ALL by-laws heretofore made by the council under the provisions of any Act hereby repealed for any of the purposes in the last preceding section mentioned, shall henceforth be as valid and have the same effect as if such by-laws had been made under the provisions of this Act, and shall remain in force until repealed by the council.

Provisions as to offences punishable by summary proceeding, applicable to offences against by-laws.

**103.** ALL the provisions hereof, relative to offences against this Act, punishable upon summary conviction, shall be taken to apply to all offences committed in breach of any by-law duly made and confirmed by virtue of this Act or of any Act hereby repealed.

Certified copies of by-laws to be evidence.

**104.** A PRINTED copy, purporting to be a copy of any such by-law, and purporting to be signed by the mayor, shall, without any other proof, be received as *prima facie* evidence of the existence of such by-law, and of the making, confirming, and publication in the *Government Gazette* thereof, and of the performance of the requirements of this Act or any Act hereby repealed in respect thereof in all Courts and before all Justices and tribunals.

Council may grant licenses for certain purposes.

**105.** THE council may, subject to such conditions as it deems fit, grant licenses to persons for any of the following purposes, within a municipality:

- (a.) For the erection and use of bathing houses, sheds, or machines;
- (b.) For carrying on the trade of cow-keepers, dairymen, or purveyors of milk;
- (c.) For keeping and depasturing goats;
- (d.) For the hawking of fruit, fish, and vegetables;

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- (e.) For movable or temporarily fixed stalls in or near any street for the sale of meat, fruit, vegetables, drink, eatables, or articles of merchandise.
- (f.) For the driving of passenger vehicles, wagons, drays, carts, or other vehicles for the carrying of goods and merchandise ;
- (g.) For the removal of the contents of any drain, water-closet, earth-closet, privy, cesspool, ashpit, or other place used for a similar purpose, or of any noxious or offensive matter ;
- (h.) For the erection or use of slaughter-houses ;
- (i.) For carrying on the trade or calling of a chimney-sweep ;
- (j.) For driving and depasturing horses, sheep, cattle, pigs, goats, camels, asses, or mules over and upon park lands and reserves ;
- (k.) For the use and employment of hand-carts in the streets ;
- (l.) For keeping and maintaining any suitable premises as a bazaar or repository for the sale therein of horses, horned cattle, carriages, and other vehicles, or any of them, respectively, as the council may deem proper.

and the council may fix the fees for all such licenses, and may prohibit the doing by unlicensed persons of any act or thing for which a license may be granted under the provisions of this section, and any unlicensed person doing such act or thing shall be guilty of an offence against this Act, summarily punishable upon conviction before two Justices of the Peace, and shall be liable to pay any sum not exceeding Twenty pounds for every such offence.

**106.** THE council may, on the application of twenty householders resident in the immediate neighbourhood, for such term, on payment of such sum, and subject to such conditions as the council may direct, license any room or saloon (not on the premises of a licensed publican) as a dancing room or saloon where payment may be received or taken for admission thereto.

Dancing rooms may be licensed.

**107.** IF upon inspection or satisfactory evidence it appears to the council that on account of the position or insufficiency of the premises, or the improper character of the applicant or any persons resorting thereto, or from other sufficient cause, or the non-fulfilment of any conditions of the license it is desirable or expedient so to do, the council may refuse to license or may cancel the license of any such room or saloon.

License may be refused or cancelled.

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Penalty where dancing saloon not licensed.

**108.** IF any person keep open or maintain any such dancing room or saloon in any house, tent, or edifice, the same not being duly licensed, or if any person take or receive, either directly or indirectly, payment for the admission of any other person thereto, he shall, on conviction thereof before any two or more Justices of the Peace, forfeit and pay a sum not exceeding Twenty pounds nor less than Five pounds, or be imprisoned for any period not exceeding three months.

Council to have certain powers as to public places, streets, roads, drains, wharves, &c.

**109.** THE council, may make, alter, level, grade, extend, pave, light, water, cleanse, repair, keep in good order and condition and otherwise improve, all public places, streets, thoroughfares, bridges, jetties, wharves, and other premises within the municipality; and may plant and maintain such trees on such public places, streets, and thoroughfares as seem proper; and may make and keep in good order and condition all proper sewers, gutters, drains, and watercourses along or under the said public places, streets, wharves, jetties, and thoroughfares for carrying off the water, mud, or other filth, and again remove or alter the same as occasion requires; and may place bars and other fences across or along the said public places, streets, wharves, jetties, or thoroughfares when under or preparatory to their alteration or repair, and may erect posts or railings, and suspend chains for guarding footways, gutters, or the like, and generally may do and make or cause to be made and done all acts and things whatsoever that are necessary and proper for accomplishing the several purposes aforesaid.

Power to make, open, and cleanse drains on lands adjoining streets.

**110.** THE council of every municipality may, in and through any lands adjoining or lying near to any street or road within the municipality, make and open such ditches, gutters, tunnels, drains, and water-courses as to such council may seem fit; and all ditches, creeks, gutters, tunnels, drains, or water-courses within or adjoining the municipality may make, scour, cleanse, and keep open, and for any of the purposes aforesaid may enter upon any lands, and such council shall make compensation to the owners and occupiers of any lands for any damage which they may sustain through the exercise of any of the powers conferred by this section.

Power to plant trees and erect guards.

**111.** THE council of any municipality may plant trees in any street or road in the municipality and erect tree-guards to protect the same so that the thoroughfares be not thereby unduly obstructed.

Carriage stands.

**112.** THE council may from time to time appoint and fix places in the streets to be used as public stands for licensed vehicles plying for hire, and from time to time may alter, vary, cancel, and remove stands so appointed, notwithstanding any such stands have been or are declared included or named in any by-law of the corporation; and may further direct, order, and fix the number and

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class of licensed vehicles to be allowed at any one time to ply for hire on any stands as to it may seem expedient.

**113.** THE council may authorise the mayor for the time being, as circumstances arise, to appoint temporary stands in any of the streets, and to cancel temporary stands as to him seem expedient.

Temporary stands.

**114.** WHENEVER it is expedient, within the limits of a municipality, to pave any footway or part of a footway, the council may give notice thereof to the owners of the rateable lands abutting on such footway, or part of such footway, to be served in the manner hereinafter mentioned, and may thereupon cause any such footway, or part of such footway to be paved, and may pay one moiety of the expense incurred thereby, and the cost of giving such notice as aforesaid, out of the general revenue of the corporation, or out of any loan moneys raised for any such purpose, and the other moiety shall be paid by such owners rateably, according to the frontage of such lands abutting on the footway, or portion of a footway so paved; and such last mentioned moiety of the expenses aforesaid, or any part thereof, may be recovered from such owner by the council by action at law in any Civil Court of competent jurisdiction.

Footways may be paved and a moiety of the expense recovered.

**115.** THE council shall keep in a proper state of repair all public buildings within the municipality, the possession or control of which is vested in it.

Council to keep buildings in repair.

**116.** THE council may from time to time let or lease any lands granted in fee simple by the Crown to the municipality or any part or parts of such lands, to any person for the use of any cricket, athletic, football, or other clubs, or to any person for any other purpose for any period or term not exceeding three years, at such rent and under and subject to such terms and conditions as the council deems expedient. Provided that no such letting or lease shall exceed six months without the consent in writing of the Governor.

Power to lease for purposes of cricket, &c.

**117.** THE council may, with the approval of the Governor, lease for any period not exceeding twenty-one years at one time, any convenient portions of land being the ends of the streets abutting on any river, water-course, or stream for the purposes of erecting and maintaining wharves and other landing places.

The council may lease ends of streets for wharves.

**118.** THE council may declare any portion of any river or water-course within the limits of the municipality to be reserved for the supply of water for public use.

Reserves for water supply may be declared.

**119.** The council may, by writing under the common seal of the corporation, and signed by the mayor and the clerk of the

Private streets may be declared public streets.

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municipality, on the request in writing of the owner of any land forming a street, court, alley, thoroughfare, or *cul-de-sac* within a municipality which heretofore has been and hereafter is formed, made, paved, or repaired at the cost of such owner, declare the same to be a public street, and the said street shall thereafter be repaired by the council out of the annual ordinary income of the municipality; and such declaration shall be entered amongst the proceedings of the council, and notice of such declaration shall be put up in some conspicuous place in or near such street.

No street to be hereafter set out less than 66ft. wide.

**120.** NO street shall, after the passing of this Act, be set out or declared as a public street by the council, unless the width of such street (to be ascertained by measuring at right angles to the course of such street from front to front of the building line on either side thereof) shall be 66ft. at least.

Streets, squares, and public places to be aligned and width of footpaths determined.

**121.** THE council shall cause all streets and public places to be correctly aligned, and may determine the width of all footways.

Steam road-rollers.

**122.** THE council may use locomotives propelled by steam upon any street or public place for the purpose of making and rolling the same, subject to the following conditions—

- (1.) At least two persons shall be employed with each locomotive, one of whom shall, on foot, precede the locomotive when in motion by at least twenty yards, and shall, in case of need, assist riders and drivers of horses and carriages passing the same.
- (2.) Barriers shall be provided and fixed, when practicable and not inconvenient, at the ends, and in sections of streets, to prevent ingress or egress during the time a street or place is undergoing rolling with a steam-roller.

Council may compel owner to clear and fence land.

**123.** WHERE any land adjoining or abutting upon any paved, macadamised, or otherwise artificially formed portion of a street or public place is not fenced in, or is overgrown with underwood or bushes, or the fence whereof has been allowed to fall into disrepair, or is not sufficiently fenced in or enclosed to the satisfaction of the council or in the opinion of the council so as to prevent drift-sand, soil, or refuse from being carried on to any such street or public place to the obstruction or annoyance of passers-by, or of others, the council may, from time to time, by writing, under the hand of the mayor or clerk of the municipality, order that such land be cleared, or so far as the same adjoins or abuts upon any such street or public place, be enclosed with a wall or substantial fence of such description, style and



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materials, and in such manner as may be prescribed by by-law under this Act; and the owner of the said land, after due service on him of such order, shall, within three calendar months from the date thereof, at his own cost, clear or well and sufficiently fence or otherwise enclose such land as such order directs, to the satisfaction of the council.

**124.** IF any owner, after service upon him of such order as aforesaid, neglects within the time aforesaid to clear or to fence in or otherwise enclose any such land or any part thereof as such order requires, the council may clear or fence in and enclose such land or parts thereof as have not been cleared or fenced in or enclosed pursuant to the said order and may recover the expense of so doing from such owner.

In default of clearing or fencing by owner the council may fence and clear land at his expense and recover expenses.

**125.** NO person shall in any street, or public place, or in any park lands, or reserves situate within a municipality, fix any posting bills or other papers against or upon any building, wall, fence, tree, verandah post, lamp post, telegraph post, or other post, rail, pole, seat, or any curb, paving, or footway, the property of, or under the control of the corporation or council, or in, over or upon any street; or write upon, soil, deface, stencil, chalk, paint, or mark any such building, wall, fence, tree, verandah post, lamp post, telegraph post, or other post, rail, pole, seat, curb, paving, or footway, without having first obtained the consent thereto of the council for such time and on such terms as the council may decide or then except in accordance with such consent. Any person who does any of the acts or things prohibited from being done by this section shall be guilty of an offence against this Act and liable for every such offence to a penalty not exceeding Ten pounds.

Posting bills, &c., in public places without permission of the Council.

**126.** THE council may affix upon the walls of any house within the municipality any board or plate, legibly showing thereon the name of any street, or place, or such notice as may be conducive to the public convenience, or may cause such name or notice to be painted or coloured upon such walls, or may affix on such house any letters in wood, iron, or other material by which such names of streets or notice may be expressed, so as to be clearly legible.

Council may paint or affix names of streets on any house.

**127.** THE council may assign a number to each house in every street or place, and may from time to time, whenever they may deem it expedient, assign any other number to such house in lieu of the previously assigned number; and the occupier of every such house is hereby required to paint or affix every such number upon a conspicuous place on the front door of such house within fourteen days after notice to that effect, signed by the town clerk or surveyor,

The council may assign a number to each house.

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shall have been served on such occupier. Any person failing to comply with the provisions of this section shall be deemed to have committed an offence under this Act.

The council may cause any street to be watered.

**128.** THE council may from time to time cause any street or portion of a street to be watered, and may employ such men, horses, and water-carts, or other means as are necessary for the purpose.

The council to keep footways in streets of the same widths and levels.

**129.** THE council shall cause the footways in the streets to be made as nearly as practicable of the same width and level, and for that purpose may remove or reduce any paving, steps, unevenness of surface, or whatever obstructs, renders uneven, or contracts such footways or any of them.

The council may fence footways for safety of passengers.

**130.** THE council may, in its discretion, erect temporary or permanent fences within the municipality for preventing the access of cattle, horses or vehicles, to any of the footways and for the general safety of the foot passengers, and the prevention of accidents, and, from time to time, may paint, repair, remove, and replace the same.

Crossing places over footways.

**131.** THE council may fix the places at which crossing places for vehicles and animals from any street to private residences or other premises on either side of the street may be made over any footway.

Owners of property requiring communication with main street.

**132.** UPON the application of any owner, or of the majority in number of any owners of property, who require a communication with the street by means of such crossing as aforesaid, the council may permit the same to be constructed under the superintendence and to the satisfaction of the surveyor, in conformity with the provisions of this Act, or they may construct the same and may recover the cost thereof from any such owner or owners in any Civil Court of competent jurisdiction.

Council may require owners or occupiers of premises to make and repair crossing places from any street.

**133.** THE council, by any writing under the hand of the mayor or clerk of the municipality, may require the owners or occupiers of any premises on either side of any street to make or repair any crossing place over the footway leading to and from such premises into the said street, to the satisfaction of the surveyor, in conformity with the provisions of this Act; and unless the said owners or occupiers, within thirty days after the service of such requisition, show cause to the satisfaction of the council why such crossing should not be so constructed or repaired, or within such time construct or repair the same according to the provisions hereof, the council may execute such work or repairs and determine and charge such owners or occupiers with their proportionate parts of the expenses thereby incurred; and if, after the expiration of twenty-one

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days from the delivery of an account of the proportionate expense to which any such owner or occupier has become liable, the same is not paid, the council may recover the same in the manner hereinafter mentioned.

**134.** THE formation, completion, and repairs of all private streets, shall be executed at the exclusive expense of the proprietors of such private streets; but they shall, nevertheless, as to the prevention and suppression of nuisances therein and the cleansing thereof, and the prevention of fire, be subject to the provisions of this Act for the general regulation of streets of a municipality from and after the period at which any such private street is set out and aligned.

Formation and repairs of private streets.

**135.** EVERY person who intends to lay out or make any new street in the municipality shall give written notice of such intention to the council, in order that the level of such street may be fixed by the said council.

Notice of laying out new streets.

**136.** NO person shall lay out or make any new street within a municipality unless and until the level of such street has been fixed by the council, and until the surveyor is satisfied that the proper and perfect drainage of such street has been provided for by the person laying out such street, and every person shall, in building any house or other building in any street, the level of which has been fixed by the council, keep that level, and any person offending against this section, shall be liable to defray all such expenses consequent upon any change in the level of the street or that part of the street on which any such house or building abuts, and of providing for the proper and perfect drainage of the same as the council, by an order under the hand of the mayor or clerk of the municipality, directs.

Persons constructing street contrary to level fixed by the council to pay expenses consequent upon a change in the level.

**137.** NO person shall hereafter make or lay out any new street within a municipality unless the same, being a carriage road, be at least thirty-three feet wide, or, not being a carriage road, be at least twenty feet wide, or any alley or court unless of the last-mentioned width, and no person shall erect or cause to be erected for human habitation, or use, or allow, suffer or permit to be used for human habitation, any building or erection fronting or abutting on any street, alley, or court of less than twenty feet in width unless such building or erection also abuts on a street of the width of twenty feet.

Width of private streets.

**138.** THE council may fence in or otherwise enclose, level, drain, plant, and form walks and carriage drives through and over any park lands or reserves within a municipality or any part thereof, and may construct dams and reservoirs for the retention and formation of sheets of water thereon, or may otherwise improve and

Power to council to improve park lands and reserves.

ornament the same; and do all such further acts and carry out such measures as are calculated for the adaptation of such lands or reserves to the purposes of public recreation, amusement, health and enjoyment.

Council to have certain powers as to weights and measures.  
3 W. IV. No. 2.

**139.** THE powers conferred upon the Governor by an Ordinance passed in the third year of the reign of His late Majesty King William IV., and numbered two, intituled "An Act for the Regulation of Weights and Measures," shall not be exercised by the Governor within the limits of any municipality, but the council may, by order made under its seal and published in the *Government Gazette*, appoint a certain place and a person, in which and with whom respectively shall be deposited standard weights and measures, authenticated as by the said order is directed, and also may appoint by warrant under its seal one or more fit and proper persons to examine all weights, balances, and measures within the municipality; and all the provisions of the said Ordinance shall thereupon apply, as if the said place, person, weight, or measure had been appointed by the Governor under and in pursuance of the said Ordinance.

Council may exercise powers of Surveyor General under 16 Vic., No. 16.

**140.** WITHIN the limits of a municipality the council may of its own authority, exercise all the powers which may by virtue of an Ordinance passed in the sixteenth year of the reign of Her present Majesty and numbered sixteen, be given by the Governor, by notice in writing or other authority, to the Surveyor General, and in the exercise of the said powers the council shall be subject to all the provisions of the said Ordinance.

Cart fees may be imposed by municipality.

**141.** THE council may grant licenses under "The Cart and Carriage Licensing Act, 1876," to any cart, as thereby defined, used within the limits of the municipality; and in addition to any other license or fee now required by law for such cart, may charge a license fee for such cart at a rate not exceeding Ten shillings for any one whole year. And the several provisions contained in "The Cart and Carriage Licensing Act, 1876," with respect to carriages, shall be deemed to be applicable to carts licensed under this Act; but no person residing at least three miles from the nearest limits of a municipality shall be required to take out from any municipality a license for a cart, if such cart be used solely as a means of conveyance into or through the limits of a municipality from and to places beyond such limits.

Overhanging gutters or eaves.

**142.** (1.) THE council may require the owner or occupier of any building, balcony, shop front, or other property abutting on a public place, to construct the roof-flats or gutters of the same in such a manner that, and to supply the same with gutters and pipes, so that

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no water from such roof-flats or gutters drips upon or runs over any part of any public place, and also to cause the water from such roof-flats or gutters to be conducted through a pipe or trunk under any footway to the gutter or drain of a public place, in such manner as the surveyor approves.

(2.) Every owner or occupier refusing or omitting to comply with such request, within reasonable time, shall be guilty of an offence against this Act and liable to a penalty not exceeding Fifty pounds for each such offence, and in addition to such penalty the council may cause to be done anything necessary to effect such alteration or improvement as is required.

Provided that any occupier of property upon whom, under the provisions of this section, a penalty is imposed, or who is put to expense as aforesaid, may sue for and recover the amount of such penalty and expense from the owner of such property as money paid for such owner.

**143.** THE council by contract or otherwise may in its discretion cause the several streets and public places within the municipality to be lighted with gas, oil, or otherwise, during such times as are requisite; and, in like manner, may provide such lamps, lampposts, lampirons, gas pipes, and other works and materials as are necessary for that purpose; and may manufacture, or contract for the manufacture of gas for lighting such streets and public places, and provide or contract for gasometers, and all requisite apparatus and machinery.

Council empowered to light the city, or parts thereof, with oil, gas, or otherwise.

**144.** IF at any time, before a municipality is wholly or chiefly lighted with gas, oil, or otherwise, the majority of ratepayers of any principal street, or of any locality, or of any ward, desire that the same should be lighted with lamps, the council may cause the same to be so lighted, and may and are hereby authorised as to one moiety of the expense to be incurred to defray the same out of the general rate and ordinary income of the municipality; but if such general rate and ordinary income are not sufficient, the council may strike a special rate, which in no case shall exceed sixpence in the pound upon the annual value of all rateable lands within the limits of the municipality, and of such special rate a separate account shall be kept, and the proceeds shall be applied solely for the purpose aforesaid; and as to the other moiety of the expense of lighting such street, locality, or ward, the same shall be paid by the ratepayers thereof, rateably according to the annual value of their rateable lands and either from year to year or for such number of years as the council may determine; and the moiety of the expense aforesaid may be collected and shall be recoverable rateably from each of the ratepayers of the said street or ward by the collector of rates or duly authorised officer of the corporation, under the provisions herein

Lighting Rate.

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contained for the collection and enforcing payment of the general rates.

Management of  
sewers and drains.

**145.** THE council shall cause all sewers and drains within the municipality to be kept so as not to be a nuisance or injurious to health, and to be properly cleared, cleansed, and emptied; and for the purpose of clearing, cleansing, and emptying the same may construct and erect such works as are necessary, and may cause all or any of such sewers to communicate with and be emptied into such places, the same not being a fresh water running stream, as it deems fit and necessary; and no person shall, without the consent of the council, cause any private drain or sewer to be emptied or flow into any public drain or sewer under the control of such council, nor do any act, matter, or thing which in the opinion of such council tends to the injury or stoppage of any such drain or sewer.

Power to remove  
and treat nightsoil.

**146.** (1.) THE council of any municipality may provide for the removal of nightsoil from places within the municipality, or any part or parts thereof, and the treatment and disposal of such nightsoil, including the ploughing in or burying of such nightsoil on land, or its application to land for the purpose of manuring it, and may, from time to time, make contracts for that purpose, and any person so contracting with the council may, in carrying out his contract, do anything that the council might do. Provided that nothing in this section shall authorise the committal of any nuisance, or anything in contravention of any Act for the time being in force relating to the public health, or of any by-law for the time being in force in any municipality.

(2.) Nothing in "The Roads Act, 1888," or any by-laws made thereunder before or after the passing of this Act shall interfere with or restrict the exercise by a Municipal Council as a Local Board of Health of the powers conferred by Section 94 of "The Public Health Act, 1886."

Prevention of fires.

Council may take  
measures for  
providing supply of  
water for use in the  
event of fire.

Procure fire engines  
and other apparatus.

Organise fire bri-  
gade, pay officers,  
etc.

**147.** THE council may, either separately or in conjunction with any commissioners or other authorised body for supplying the municipality with water, cause such reservoirs, tanks, mains, pipes, and fire-plugs to be constructed and laid down in such public places as the council deems necessary for affording a constant and ample supply of water for use in the event of fire within such municipality; and may, either separately or in conjunction with any fire insurance company or other persons, procure fire engines, fire escapes, ladders, and other machines and apparatus made use of for extinguishing fires and saving life and property in cases of fire; and may in like manner organise and establish any fire brigade and make provision for, or contribute towards the payment of, any superintendent,

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officer, fireman, or other person employed therein, or grant any sum of money as rewards for meritorious conduct, or compensation for personal injury to any person assisting in the extinguishment or preventing the spread of fire, or in the rescue, or attempt to rescue, any person, animal, or goods therefrom within such municipality; and may cause fire-alarm bells to be fixed in such situations as it deems expedient.

Give rewards.

Fire alarm-bells.

**148.** THE council may cause such fountains, urinals, and privies, as it deems necessary for the public convenience and health, to be made and constructed in or upon any of the public places within the municipality, and accept and take the care and management of any fountain or water-course which is surrendered to it for public use, and cause all such fountains, urinals, privies, and water-courses to be from time to time altered, enlarged, repaired, and cleansed, as the council deems proper.

The council may construct public fountains and urinals.

PART VII.—FINANCIAL.

**149.** (1) THE council shall, before or during the first week in November in each year, prepare two statements in writing, to be signed by the mayor for the time being, the one showing the various works and improvements which have been effected during the current year, and the other showing the various works and improvements which it proposes should be made and executed in or about the said municipality during the year next ensuing, and the estimated cost thereof. In the month of December in each year, the council shall determine how far, if at all, they will adopt the statement last mentioned, and shall publish the result of such their determination, signed as aforesaid, in some newspaper circulating in the municipality. The said council shall also in the course of the said month estimate, as nearly as may be, the amount that will be required in all to meet the several liabilities of the corporation and to carry out the plan for the ensuing year determined on as aforesaid, and otherwise to carry into effect the provisions of this Act, and how far the several sources of its ordinary income, independently of rates, will be sufficient for that purpose, and what sum will be required to make up the deficiency, if any, found to exist on comparing the sum required with the estimated revenue of the corporation, independently of rates.

Council to prepare annual estimate.

(2.) Notwithstanding anything contained in this part of this Act, the council of any newly proclaimed municipality may exercise the powers and carry out the duties and obligations granted to and imposed upon a council as soon after their election as may be practicable, having regard to the intervals of time respectively assigned for the doing of any act under the provisions of this part of this Act; and for the purposes of this section, the council of any such newly proclaimed municipality may prepare the statements and

Provisions in case of newly proclaimed Municipality.

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estimate therein mentioned in respect of the remaining period of the then current year, and any rate struck by such council by virtue of the provisions of this section shall be payable only in proportion to the unexpired period of such year.

Income of  
municipality, how  
made up.

**150.** NOTWITHSTANDING the provisions of any other Act now in force in the Colony, the ordinary income of any municipality shall be made up of—

- (1.) The rents, issues, profits, and dues arising from or out of any real or personal property of what description soever belonging to the corporation, together with any fines or penalties that are payable in consequence of any injury done to the same;
- (2.) Fees, profits, or rents arising from or out of any public reserve with which it has been endowed;
- (3.) All dues and fees authorised by the Governor to be exacted in respect of any building, erection, or work placed by the Governor under its control or management;
- (4.) All fees for licenses granted under the provisions of this Act.
- (5.) All fees for licenses and registrations, which by any Act or Ordinance are granted, or the fees whereof are made payable to any municipality or town trust;
- (6.) All fines and penalties which by any Act or Ordinance are made payable to any municipality or town trust, excepting so much as is payable to any informer;
- (7.) All fines and penalties incurred and recovered under the provisions of "The Police Act, 1892," within the municipality, excepting so much as is payable to any informer;
- (8.) All fines and penalties that are incurred and recovered under the provisions of this Act, within the municipality;
- (9.) All moneys payable in respect of any general rate struck under the provisions of this Act.

Council authorised  
to strike a rate.

**151.** THE council, after making the estimate and statement hereinbefore mentioned and ascertaining the sum, if any, that will be required to make up the deficiency, if any, found to exist on comparing the sum required with the estimated revenue of the corporation, independently of rates, shall order such rate to be struck within the limits of the municipality, not exceeding in the aggregate eighteenpence in the pound in any one year upon the annual value of all rateable land within the municipality as is required to make good such deficiency. Such rate shall be called the General Rate.



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**152.** NO rate whatever shall be struck upon any land or buildings— Lands exempted from rating.

- (1.) Belonging to the Crown, and not used or occupied for purposes other than public purposes; or
- (2.) Belonging to any public body created by Statute, and not used or occupied for purposes other than the purposes of such public body; or
- (3.) Belonging to any religious body, and used or occupied as a place of residence of a minister of religion; or
- (4.) Belonging to any religious body, and used exclusively as a place of public worship or Sunday School; or
- (5.) Belonging to any religious body, and used or occupied as a convent, nunnery, or monastery, or by a religious brotherhood or sisterhood; or
- (6.) Used exclusively as a hospital, benevolent asylum, orphanage, public school, private school (being the property of a religious body), public library, public museum, or mechanics' institute; or
- (7.) Used or occupied exclusively for charitable purposes; or
- (8.) Permanently appropriated and used for the purposes of public recreation or military training; or
- (9.) Hereinbefore mentioned and which are not used or occupied otherwise than for one or more of the aforesaid purposes;

Provided always, that no buildings otherwise exempted from being rated under this section shall be liable to be rated by reason of being used for the purposes of any bazaar, or as a place of meeting for any religious, charitable, temperance, or benevolent object.

**153.** EXCEPT as hereinafter mentioned, the council shall on or before the third Saturday in December in each year make, in conformity with the rules prescribed by this Act, a valuation of the annual value, and also, when necessary, a separate valuation of the capital value of all rateable land within the municipality; and such valuations respectively shall be the basis of all rates struck by the council upon the annual value, and every such valuation shall remain in force until a fresh valuation has been made. Valuation of rateable land.

**154.** SUBJECT to the provisions of this Act and to the rules hereinafter prescribed, all rates struck by the council shall be assessed upon such annual value as aforesaid. Rates to be assessed on the annual value.

**155.** IN the valuation of land the following rules shall be observed:— Mode of making valuation.

- (1.) The annual value of any rateable land shall be deemed to be a sum equal to the full, fair, average estimated

amount of rent at which such land might reasonably be expected to let from year to year, on the assumption (if necessary to be made in any case) that such letting is allowed by law, less the amount of all rates and taxes, and a deduction of Ten pounds per centum for repairs, insurance and other out-goings

- (2.) The capital value of rateable land shall be taken to be the probable and reasonable price at which such land in fee simple, exclusive of improvements, might be expected to sell at the time when valued for the purposes of this Act.
- (3.) The annual value of rateable land, which is improved or occupied, shall in no case be deemed to be less than Four pounds per centum upon the fair capital value of the fee simple thereof.
- (4.) The annual value of rateable land, which is unimproved and unoccupied, shall be taken to be Seven pounds ten shillings per centum upon the capital value. Provided that no land shall be considered to be unoccupied if the same be a portion of the original grant from the Crown, and let or occupied with any part of the same lands belonging to the same owner that are occupied and rated.
- (5.) No separate portion of rateable land shall be valued at a capital value of less than Thirty pounds, or at an annual value of less than Two pounds ten shillings.

New valuation to be made.

**156.** AS soon as conveniently may be after this Act comes into force fresh valuations of all rateable land shall be made in every municipality in accordance with the provisions of the last preceding section.

Valuers.

**157.** (1.) FOR the purpose of making valuations, the council shall from time to time appoint two valuers, neither of whom shall be a member of the council, nor have been a member of the council within six months preceding his appointment, who shall make and return, as far as possible, a joint valuation in such form as is prescribed by the council. The valuation so returned, or in case the valuers differ in any case, the valuation of either may be adopted by the council with or without alteration, but when adopted shall be the valuation of the council.

(2.) Every such appointment shall be in writing, and shall be published in the *Government Gazette* forthwith, after the making of such appointment.

Declaration of value.

**158.** EVERY such valuer shall, previously to acting in any such valuation, make and subscribe before a Justice of the Peace a declaration that he will make all valuations and otherwise perform the duties of his office faithfully and without favour.

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**159.** A VALUER who makes a wilfully incorrect valuation of the annual or capital value of any land shall be guilty of an offence against this Act, and liable for every such offence to a penalty not exceeding Twenty pounds.

Penalty for wilfully incorrect valuation.

**160.** EVERY valuer shall, for the purpose of making the valuation and return as aforesaid, have power to enter between the hours of nine and five in the day time into and upon any rateable property without being liable to any legal proceedings on account thereof, and shall also have power to search in the office of Land Titles and Registry of Deeds, and to inspect all plans and memorials free of charge.

Entry on premises by valuer.

**161.** ANY valuer may put to any person in occupation or charge, or being the owner, of any rateable property which such valuer is authorised under the provisions of this Act to value, questions upon all such matters as may be necessary to enable such valuer to state correctly the several particulars required to be stated in the valuation and return with regard to the premises; and if after being informed by such valuer of his purpose in putting such questions and of his authority under this Act to put the same, any such person in occupation or charge, or any such owner, refuse or wilfully omit to answer the same to the best of his knowledge and belief, or wilfully make any false answer or statement in reply to any such question, such person shall, for every such offence, be liable to a penalty not exceeding Ten pounds.

Valuers may make inquiries.

**162.** THE council shall cause a book to be kept (to be called "The Rate Book") according to the form contained in the Sixth Schedule to this Act, and shall enter therein all rateable land within the municipality; and shall in the appropriate column state the annual value, and when necessary, the capital value of the same; and the said council shall cause to be entered in the said book the names of the owner and occupier and the other particulars indicated by the form given in the said schedule. And such book shall be made up and completed on or before the third Saturday in December in each year, and the mayor shall then sign his name at the bottom of each page therein, and shall set his initials against any alteration or erasure therein. And the said rate book shall at all times thereafter be open to inspection.

Manner of making up the rate book.

Sixth schedule.

In connection with the preparation of any "Rate Book" or "Electoral List," the clerk of the council, or his agent, may search in the office of Land Titles and Registry of Deeds, and inspect all memorials and plans free of charge.

Provided always, that the council may in its discretion, instead of causing to be prepared and entered in the rate book fresh valuations in any year, use the valuations of the last or any previous year, with such alterations and additions as appear necessary.

**163.** IF it appears at any time to the council that any property has not been valued in accordance with the provisions of this Act, or ought to have been entered in the rate book and 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 some other person ought to have been rated, or that any other matter purely of error shall need rectification, the council may cause such property to be duly valued, or a description of the property so omitted, and the name of the owner or occupier to be inserted in the rate book, together with the annual, and if necessary, the capital value at which such property is assessed; and may also substitute for the name of the person erroneously inserted in such rate book as the owner or occupier of any property rated, the name of the true owner or occupier thereof, and correct any such other error in the said rate book as is requisite.

Amending rate book.

**164.** WHENEVER any general rate has been ordered to be struck by the council, the mayor shall on a vacant page or pages of the rate book, to be left blank for such purpose, enter a memorandum of such order, and shall sign the same, and shall then give public notice thereof, and shall publish a copy of the same in some newspaper published in the Colony; and thereupon, at the expiration of fourteen days after the publication of such notice, the amount payable in respect of such rate shall, subject to any by-law made by the council relative to the times and modes of enforcing payment of the same, become due from and payable by, in the first instance, the occupier at the time of the striking of such rate of the land rated, and in the next instance within the year for which any rate is struck, from and by any subsequent occupier, or if there be no such occupier, or if the council have levied a distraint upon the goods of the occupier as aforesaid, and have failed to recover the amount payable, then from and by the owner of the same.

Manner of making rate.

Who liable to pay rates.

**165.** THE council shall as soon as practicable, and within sixty days after the making up of any rate-book, cause notice to be served upon every owner or occupier whose name is inserted in such book, in the form or to the effect of the form contained in the Seventh Schedule to this Act. Two or more properties may be included in one notice.

Notice of valuation and rate.

Seventh Schedule.

**166.** IF any person thinks himself aggrieved by the valuation put upon property under the provisions of this Act, and whether as regards the amount thereof or the manner in which such valuation has been made or otherwise howsoever, such person may appeal against the same to the Local Court in the municipality, or nearest to the municipality, by serving a notice in writing stating the grounds of his appeal, on the clerk of the municipality, at any time within fourteen days after service of the notice specified in the Seventh

Appeal against rates.

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Schedule, and by depositing in the hands of the clerk of the Court the amount payable in respect of the rate, together with a sum of Two guineas to answer costs. And such Court shall hear and determine all such appeals, and may amend any valuation appealed against, and make any order as to the disposal of the deposits, and as to the costs involved, as such Court thinks fit.

**167.** THE appellant shall enter the appeal for hearing within ten days after the service of the notice of such appeal at the sitting of the Local Court next after the expiration of ten days from the entry of such appeal.

Entry of appeal.

**168.** THE amount payable in respect of all rates struck under this Act shall be recoverable either by action at law, or by distress and sale, as hereinafter mentioned, and such amount, with interest thereon at ten per cent. per annum, and the amount of all costs, charges, and expenses of any proceedings to recover the same, shall constitute a charge and have priority after Crown debts to every security or claim (including rent) of any description against the estate, real and personal, of the person liable to make payment of such amount.

How rates may be recovered.

**169.** (1.) SUBJECT to the right of appeal hereinbefore mentioned, in case any person liable to pay the amount due in respect of any rate, who has been served with the notice mentioned in the 165th section of this Act, does not pay the whole amount of the rate due in respect of any property mentioned in the said notice or (if payable by instalments) any instalment thereof then due, at the time, in the manner, and at the place required by the said notice, and if such default continues for fourteen days, the mayor may at any time thereafter, and as often as occasion may arise, by warrant under his hand, distrain the goods and chattels found upon the land in respect of which the rate is payable.

Distress for amount payable in respect of rates and costs, charges and expenses.

(2.) At the expiration of five days from the time of such distress the mayor may cause such goods and chattels to be sold, and out of the moneys to arise therefrom may pay all costs, charges, and expenses attendant upon such distress and sale, and shall then pay the amount or the instalment thereof then due in respect of the rate for which such distress and sale are made, and pay over any surplus to the person so distrained upon.

(3.) In every case in which a warrant of distress has been delivered to a collector or bailiff, such bailiff may levy for the costs, charges, and expenses of such warrant and of anything done thereunder, unless such costs, charges, and expenses be paid as well as the amount due in respect of such rate.

(4.) In the event of any such distress not realising sufficient to pay the amount due in respect of any rate, and such costs, charges, and

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and expenses as aforesaid, the mayor may from time to time make further and other distresses in like manner until the whole of such amount has been fully paid.

Eighth Schedule.

(5.) All such costs, charges, and expenses as aforesaid shall be fixed and determined by the scale mentioned in the Eighth Schedule hereto.

(6.) Under a warrant of distress the collector or bailiff shall not sell any personal or family clothing, bedclothes, bedding, tools or implements of trade, nor such household furniture, cooking utensils, and effects as may be absolutely necessary for the use of the person whose goods are seized and of his family.

Warrant of Distress.

Ninth Schedule.

**170.** (1.) THE warrant of distress for the recovery of the amount due in respect of any rate struck under this Act may be in the form and to the effect contained in the Ninth Schedule hereto.

(2.) The mayor may include any number of persons in one such warrant, and may direct such warrant to any bailiff and his assistants for execution, subject to the provisions of this Act.

(3.) All distresses and sales made in pursuance of such warrant shall be conducted and carried out as nearly as practicable with the provisions of the law relating to distraint and sale for rent.

(4.) Every police constable shall, upon being so required by any bailiff or his assistant as aforesaid, aid in making a distress or sale pursuant to such warrant.

Ratebooks to be evidence.

**171.** IN any proceeding to levy and recover, or consequent on the levying or recovering of the amount due in respect of any rate under the provisions of this Act, the ratebook, duly signed by the mayor in the manner prescribed by this Act, and all entries purporting to be made therein in manner by this Act directed, or certified copies thereof or extracts therefrom, signed by the mayor shall, upon the production thereof alone, be *prima facie* evidence of the contents of such book, and of the due striking of such rate and of the obligation of the person charged with the amount payable in respect of such rate to pay the same, without any evidence that the notices required by this Act, or other provisions of this Act, have been given or complied with.

Amount payable in respect of rates to be apportioned in certain cases.

**172.** (1.) WHEN an occupier or owner ceases to be the occupier or owner of the land in respect whereof a rate is struck before the end of the period in respect of which such rate was made, such occupier or owner shall, as between himself and the succeeding occupier or owner, be liable to pay a portion of the amount due in respect of the rate payable for the whole of such period proportionate to the time during which he continued to be the occupier or owner, and

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any person who is the occupier or owner of such land during the remainder of the period shall, as between himself and the preceding occupier or owner, be liable to pay a portion of such amount in proportion to the time during which he is such occupier or owner.

(2.) Any occupier or owner, as aforesaid, who has paid the whole of such amount, may recover from any such succeeding or preceding occupier or owner, as the case may be, the proportionate amount for which such succeeding or preceding occupier or owner is liable, as aforesaid, by action at law in any Court of competent civil jurisdiction.

**173.** WHEN payment of any sum due in respect of a rate has been enforced against or made by the owner of any rateable land, unless such owner has agreed with the occupier of such land to pay such sum, such owner may recover the sum so paid from such occupier, as money paid for such occupier, by action at law in any Court of competent civil jurisdiction.

Remedy to owner not being primarily liable to pay a rate, having paid the same.

**174.** (1.) WHENEVER a person who is the owner of rateable land within a municipality subdivides the same for sale, he shall forthwith give notice in writing, accompanied with a plan of subdivision, if any, to the clerk of the municipality.

Notice of subdivision or transfer of rateable land to be given to local authority.

(2.) Whenever any such person sells or agrees to sell any rateable land, he shall give like notice, specifying the name and address of the purchaser, to such clerk.

(3.) Any such person who fails to give any such notice as aforesaid shall, until such notice is so given, continue to be liable for all sums accruing by way of rates upon such land in the same manner as if he were still the owner thereof.

**175.** AN unsatisfied judgment or order of any Court for the recovery of the amount payable in respect of any rates from any person shall not be a bar to the recovery thereof from any other person liable under the provisions of this Act to the payment thereof.

Persons liable may be resorted to in succession.

**176.** IF, on the request of the council, or any officer duly authorised by it, the occupier of any rateable land refuses or wilfully omits to disclose, or wilfully misstates, to the council or such officer the name of the owner of such land, or of the person receiving or authorised to receive the rents of the same, or if any such last-mentioned person on the like request wilfully omits to disclose, or wilfully misstates, to the council or such officer the name of the owner, such occupier or other person shall be guilty of an offence against this Act and liable to a penalty not exceeding Five pounds.

Occupier refusing to give name of owner liable to penalty.

**177.** THE council may cause to be published in one newspaper circulating in the municipality, and issued during

List of defaulters to be published.

the months of January and July respectively in each year, a list of all persons who are in arrear in the payment of the amount due in respect of any rate, whether made under this Act or of any of the Acts hereby repealed, and of the amounts due by them respectively, and in respect of what rateable lands.

Land may be sold for arrears of amount due in respect of rate remaining unpaid for eighteen months.

Tenth Schedule.

**178.** IF the amount due in respect of any rate or rates struck under this Act, or any of the Acts hereby repealed, remains unpaid for the term of eighteen months in respect of any land whatsoever, whether the owner thereof be resident in the Colony or not, and if no sufficient distress can be found on such land applicable thereto, the council shall cause a notice according to the form of the Tenth Schedule to this Act to be signed by the mayor, and a copy thereof to be published in three successive numbers of the *Government Gazette*, or of one newspaper circulating in the municipality, stating the amount due and unpaid as aforesaid in respect of such land (describing the said land by the name, if any, by which the same is most usually known, and by the name of the owner or last known owner of the same), and warning the owner of the same, and all other persons interested therein, that in default of the payment of the said amount due, and all expenses caused by non-payment of such amount, within two months after the first publication of the said notice, a petition will be presented to the Supreme Court as hereinafter mentioned; and if the amount and the said expenses be not paid at or before the expiration of the time specified in such notice for payment, the council shall present a petition to the Supreme Court, stating the imposition of the rate on the said land, the non-payment of the amount due in respect of the same, the fact that no distress can be found on the said land sufficient to satisfy such amount, and the publication of the notices aforesaid; and any Judge of the Supreme Court, on being satisfied of the proof of such circumstances, may order the said land, or such part thereof as is deemed sufficient, to satisfy the said amount and all expenses caused by the non-payment thereof as aforesaid, to be sold by some person to be named in such order, by public auction, and the proceeds of such sale (after deducting the expenses thereof) to be paid to the Registrar of the Supreme Court. And the Registrar, on receiving the same, shall, out of such moneys, pay to the council, on demand, the amount due in respect of such rates as aforesaid, up to the day of such sale, and all costs and expenses incurred by such council in the premises, and shall hold the overplus (if any) in trust for such person or persons as prove himself or themselves entitled to the same. And the said Judge may, at the time of making any such order, give any directions that he deems proper touching the time and place of such sale, and the notices to be given thereof; provided always that no neglect of any of such directions shall in anywise invalidate any such sale, but the person or persons neglecting the same shall be deemed guilty



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of contempt of Court, and may be ordered by the said Court to make compensation to any person injured or damnified by such neglect.

Any notice, advertisement, or petition under this section, or any order of a Judge directing any sale as aforesaid, may include all lands in respect whereof any rate is unpaid, and in such case the costs and expenses aforesaid shall be paid out of the proceeds of such property in such proportion as the Registrar shall determine and direct.

**179.** A CERTIFICATE of the sale of any such land as aforesaid, according to the form contained in the Eleventh Schedule to this Act, shall be given by the person named in the order of the Court as the person to sell the said land or premises; and the Registrar of Titles shall, notwithstanding any of the provisions of "The Transfer of Land Act, 1893," on production by the purchaser of the said land of the said certificate and of an office copy of the said order, forthwith bring the said land mentioned in the said order and certificate under the operation of the said Act, and issue to such purchaser a certificate of title as the proprietor in fee, or if such land be already under the said Act, shall register the said certificate of sale as a transfer of the land therein mentioned, and make all such entries, and do all such acts, matters, and things in respect thereof as the Registrar is required to do upon a like transfer under the said Act. The purchaser of any such land as aforesaid shall pay to the Registrar all such fees as the Registrar would be entitled to demand from any other person in respect of an application to bring land under the Act, and in respect of the same or similar entries, acts, matters, and things by this section required to be made or done.

Certificate of sale  
be given to purchaser.  
Eleventh Schedule.

Certificate of title  
to be issued.

Usual fees to be  
paid.

**180.** ANY person ordered to sell any such property as aforesaid, may act as an auctioneer in respect of any such sale without any license authorising him so to act.

Person ordered to  
sell need not have  
auctioneer's license.

**181.** ALL moneys of the council amounting to Twenty pounds and upwards shall, within seven days, or such shorter period as the council directs, after they have come into the hands of the treasurer or any other officer of the council, be paid into such bank and in such manner as the council from time to time appoints and directs for that purpose. And no such money shall be drawn out of such bank by the treasurer of the council, excepting by a warrant for payment, signed by the mayor and countersigned by the municipal clerk; and no person shall at one and the same time hold the offices of mayor and treasurer of a council.

Bank account.

**182.** ANY council, pending the collection of any rates, or subsidies in aid of rates or grants which are payable by the

Overdraft.

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Government, may, for the purpose of carrying on or completing public works then in progress, obtain advances from any bank by overdraft of the current account ; but no such overdraft shall, at any time, under any circumstances, exceed one-fourth of the income of the year last preceding.

PART VIII.—LOANS.

Power to council to borrow money.

**183.** SUBJECT to the provisions and for the purposes herein-after mentioned, and not otherwise, the council of every municipality may borrow money on the credit of such municipality.

Purposes for which money to be borrowed.

**184.** MONEY may be borrowed for permanent works or undertakings, or to liquidate the principal moneys owing by the municipality on account of any previous loan.

Amount which may be borrowed.

**185.** THE amount of money so borrowed at any time for permanent works or undertakings shall not exceed ten times the average net ordinary annual income of the municipality for the two years terminating with the yearly balancing of accounts next preceding the *Gazette* notice of such loan hereinafter mentioned, or in the case of any municipality already indebted, the difference obtained by subtracting from ten times such average net income the balance remaining unpaid of any previous loans. The amount of moneys borrowed to liquidate any loan shall not exceed the balance of principal moneys owing on account of such loan.

Permanent works and undertakings.

**186.** THE works and undertakings hereinafter specified, and no other, shall be deemed permanent works and undertakings within the meaning of this part of this Act, that is to say :

- (1.) The opening and making of new streets, and the diverting, altering, or increasing the width of any streets.
- (2.) The raising, lowering, or altering of the ground or soil of any streets.
- (3.) The construction, purchase, and establishment of bridges, culverts, ferries, and jetties.
- (4.) The construction, enlargement, and alteration of sewers and drains, and works connected with sewerage and drainage.
- (5.) The construction and purchase of waterworks, or the procuring of a water supply by any means whatever.
- (6.) The construction and purchase of gas-works and electric light plant, or any other works for lighting the municipality.

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- (7.) The construction and providing of municipal offices, pounds, abattoirs, market places, market houses, fountains, urinals, places for weighing carts and their loadings, and the making convenient approaches to markets.
- (8.) The providing of baths and wash-houses.
- (9.) The providing of pleasure grounds, libraries, museums, and places of public resort and recreation.
- (10.) The purchase of land and materials, and the making of compensation to the owners of any lands purchased for any of the foregoing purposes.
- (11.) The purchase of fire engines and other appliances for preventing and extinguishing fires.
- (12.) The purchase of organs and other musical instruments.
- (13.) The permanent paving and kerbing of footpaths.
- (14.) Erection of lamp posts, lamps, and all necessary connections for lighting a municipality with gas or electricity.
- (15.) The construction, purchase, or erection of plant, pans, and appliances for the removal and treatment of night-soil and refuse, and the application thereof to land for the purpose of manuring it.
- (16.) The construction, or purchase, or erection of stone quarries, machinery, and plant in connection therewith.
- (17.) The purchase of steam rollers and apparatus and appliances for watering streets.

**187.** BEFORE proceeding to borrow any money for the construction of permanent works and undertakings, the council shall cause to be prepared plans and specifications, and an estimate of the cost thereof, and also a statement showing the proposed expenditure of the money to be borrowed, and such statement shall be open to the inspection of the ratepayers of the municipality for one month after the publication of the notice next hereinafter mentioned, at all reasonable times.

Plans, specifications, estimate, and statement to be prepared before borrowing.

**188.** NO proposition for borrowing money for the purposes aforesaid shall be adopted by the council unless a notice thereof has been published in the *Government Gazette*, and also published twice in some newspaper generally circulating in the municipality not less than one month nor more than three months before such proposition is adopted, stating the amount proposed to be raised and the rate of interest to be paid on the debentures, the times and places at which any moneys due on such debentures are to be payable, and the purposes for which the loan is to be applied; and in case such loan is to be expended in the purchase of any works or undertakings, specifying such works or undertakings; and in case the loan is to be expended in the construction of works or

*Gazette notice to be published before borrowing.*

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undertakings, stating that the plans and specifications and estimate of such works and undertakings, and the statement hereinbefore mentioned, are open for inspection at the office of the council.

Power to demand the submission of the proposal to borrow to the ratepayers.

**189.** WITHIN one month after the publication of such notice as aforesaid of any proposition to borrow money (not being a proposition to borrow money to liquidate any loan lawfully incurred under the provisions of any of the Acts hereby repealed, or of this Act), any ten persons whose names are inscribed on the municipal electoral list in force for the time being, may, in writing under their hand delivered to the mayor or clerk of the municipality, demand that the question whether or not such loan be incurred be submitted to the election of the ratepayers of the municipality.

Votes of the ratepayers, how taken.

**190.** WHEN any such demand has been made, the votes of such ratepayers shall be taken upon such question on a day to be fixed by the mayor of the municipality, not less than twenty-one nor more than twenty-five clear days after the delivery of such demand, and such day shall be forthwith notified in some newspaper circulating in the municipality, and be otherwise published as the council directs; and on such day a poll shall be taken of all ratepayers who desire to forbid the council from proceeding further with such loan; and at the taking of such poll, papers in the form in the Twelfth Schedule hereto shall be used instead of ballot papers; and in taking such poll, all the provisions hereinbefore contained with reference to the taking of the poll at the election of a mayor shall apply as nearly as may be.

Twelfth Schedule.

Power to council, under certain circumstances, to proceed to raise money.

**191.** IF no such demand is made as aforesaid that the question whether or not such loan be incurred be submitted to the election of the ratepayers, or if, on such demand being made, less than one-third of the votes of the persons on the municipal electoral list for the time being forbid the council to proceed further with such loan, the council may at any time not less than one month, nor more than three months after the last publication of such notice as aforesaid, proceed to make a special order for borrowing money for the purposes mentioned in such notice.

Money to be raised by sale of debentures.

**192.** ALL moneys borrowed by the council for the purposes aforesaid shall be raised by the sale of debentures under the provisions of this Act.

Manner of making debentures.  
Thirteenth Schedule.

**193.** ALL such debentures shall be in the form given in the Thirteenth Schedule to this Act, and shall be numbered with consecutive numbers, and dated on the date of issue. The capital sum and interest shall be payable at such place and time, to the bearer or the registered holder, as are stated in any such debenture.

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**194.** NOTWITHSTANDING anything hereinbefore contained, if the council of any municipality publish a notice of their intention to borrow money in the *Government Gazette*, and are not forbidden by the ratepayers from proceeding further with such loan, and not less than six months after the publication of such notice issue debentures as aforesaid as in pursuance of such intention, such debentures shall be good and valid as against such municipality in favour of any purchasers thereof without fraud and *bona fide*.

All debentures valid under certain circumstances.

**195.** WHENEVER any money has been lawfully borrowed by any municipality, and so long as any such money remains unpaid, the council from time to time shall strike such special rate, not exceeding one shilling and sixpence in the pound upon the annual value of all rateable land within the limits of the municipality, as the council deems necessary to enable it to pay the interest on the said money borrowed, and also such percentage of the principal sum as is named in the debentures issued to raise such money for the purposes of a sinking fund.

Whenever any council has borrowed money, it shall strike special rate.

**196.** A SEPARATE account shall be kept of all proceeds of such special rate, which shall be applicable solely to the payment of the interest secured by the said debentures and the formation of a sinking fund as aforesaid. If in any year the proceeds of such special rate are in excess of the sum required for those purposes, such excess shall be kept in hand towards the payment of the next year's interest, and such special rate may be reduced accordingly; if in any year the proceeds of the said rate are insufficient for the purpose aforesaid, the council shall make good such deficiency out of the ordinary income of the municipality, but may in any succeeding year, when the proceeds of the said rate are in excess of the requirements, repay itself the amount so paid out of the ordinary income.

Application of proceeds of special rate.

**197.** ALL the provisions of this Act with reference to striking the general rate, and levying and recovering the amount due in respect of the general rate, or any arrears of the same, shall be equally applicable to any special rate, and the amount due in respect of any special rate struck under this Act, or any of the Acts hereby repealed, with this proviso, that in addition to the memorandum required to be made in the rate book, and signed by the mayor, of the order of the council ordering such rate to be struck, the mayor may in the case of any special rate enter in the rate book, a statement in writing, setting forth the circumstances which justify the striking of such rate, and sign the same, and publish a copy of the same, together with a copy of the order aforesaid. If this is done, then in any proceeding taken to enforce payment of the amount due in respect of any such special rate, such statement

All provisions of this Act as to general rate to be equally applicable to special rate.

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signed as aforesaid shall be *primâ facie* evidence of the truth of the facts therein set forth.

Sinking Fund.

**198.** (1.) WHEN any municipality has incurred a loan under the provisions of this Act hereinbefore contained, a sinking fund shall be formed to liquidate the same in the manner following:—

(2.) The council of such municipality shall, in every year after the issue of the debentures for such loan, cause a sum, being such percentage of the principal sum secured by such debentures as is named therein, not being at any time less than Two pounds per centum of such principal sum, to be invested in the purchase of any such debentures or in the purchase of consols or in the Government stock of this colony or of any British colony in Australasia, in the joint names of the Colonial Treasurer and of the municipality, and to an account intituled as of such loan, until the complete liquidation of such loan, or until the Auditor General by writing under his hand certifies that the amount of the sinking fund formed hereunder is sufficient to secure the liquidation of such loan.

Power to purchase debentures.

**199.** EVERY council may at any time purchase any debentures issued by the council under the provisions of this Act or any of the Acts hereby repealed, and the ordinary income of the municipality shall be applicable to such purposes.

Sinking Fund may be placed at fixed deposit.

**200.** UNTIL such time as the Colonial Treasurer and council of a municipality can purchase debentures, consols, or Government stock as aforesaid they may place the moneys of the sinking fund at fixed deposit in any of the banks doing business in this Colony.

Investment of the interest of sinking fund.

**201.** ALL interest accruing due on any debentures, consols, or stock, or fixed deposit for the time being standing to the credit of any account forming any sinking fund, shall be invested in the purchase of debentures, consols, or stock, or until such investment placed upon fixed deposit as aforesaid, in the names and to the account aforesaid.

Application of sinking fund to meet debentures.

**202.** WHEN any debentures are about to fall due any consols or stock comprised in any sinking fund formed to liquidate the same may be sold out and the proceeds thereof paid into such bank to the account of such person or persons as the Colonial Treasurer and the council of the said municipality may determine, and the moneys so paid into such banks shall be paid out to the bearers or registered holders (as the case may be), of such debentures, on presentation and delivery up of the same.

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**203.** AT any time, on the presentation on behalf of the municipality of any debentures and any coupons not then payable belonging thereto, together with a certificate signed by the Auditor General stating what amount of consols, stock, and deposits credited to any such account as aforesaid will be sufficient to secure the holders of all debentures secured upon such consols, stock or deposits other than the debentures so presented, and upon the cancellation of such debentures and coupons (if any) the Colonial Treasurer may join in transferring to the municipality any balance of consols, stock, or deposits credited to such account, and over and above the amount mentioned in such certificate.

Power to treasurer to transfer sinking fund after re-purchase of debentures.

**204.** EXCEPT for the purposes herein provided, or if ordered so to do by the Supreme Court or a judge thereof, the Colonial Treasurer shall not join in transferring any debentures, consols, or stock, or deposits forming part of any such sinking fund as aforesaid.

When Treasurer may transfer.

**205.** IF any municipality has incurred more loans than one, every sinking fund formed under the provisions hereof shall be applicable in the first instance in liquidation of the debentures, and of all interest thereon, which such fund was formed to liquidate; and save as aforesaid, both as to principal and interest, the holders of debentures by the sale of which different loans were raised shall have priority according to the priority of the notices of such loans published in the *Government Gazette* as aforesaid, and the holders of debentures, by the sale of which the same loan was raised, shall stand as between themselves on an equal footing.

Priorities of debenture holders.

**206.** IF any municipality makes default in payment of any principal money or interest secured by any debenture or coupon, or in forming a sinking fund to liquidate any debentures as hereinbefore directed, the Supreme Court may, on the petition of the holder of any debenture of such municipality, appoint some person or persons, not exceeding three, to be a receiver or receivers of the whole annual ordinary income of such municipality, and of the special rate levied in respect of any loan as aforesaid. Every such receiver shall be deemed an officer of, and shall act under the direction of, the Supreme Court.

Power to appoint a receiver if municipality make default.

**207.** THE Supreme Court may from time to time remove any receiver appointed under this Act; and on the death or removal of any such receiver may appoint some other person in his place.

Power to remove receiver.

**208.** THE receiver or receivers appointed under this Act shall be entitled to receive and recover any part of the income (whether such part forms part of the annual ordinary income of such municipality or of any special rate levied in respect of any loan as afore-

Powers of receiver.

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said) of the municipality that is outstanding at the time of his or their appointment, and to receive and recover any part of such income that becomes due and payable, as fully and effectually as the council might have done; and shall have and exercise all the powers of the council as to striking rates, whether general or special; for the purpose aforesaid such receiver or receivers shall be deemed to be the council of the municipality, and may exercise all the powers thereof.

Commission to receiver.

**209.** EVERY such receiver shall be entitled to such commission, as remuneration for his services, as the Supreme Court directs.

Transfer of sinking fund to receiver

**210.** THE Supreme Court may order the Colonial Treasurer and the council of the municipality to transfer all consols and stock and fixed deposits standing in their names as aforesaid, and forming any such sinking fund as aforesaid, into the name or names of the receiver or receivers.

Purposes for which receiver is to hold moneys.

**211.** SUCH receiver or receivers shall hold all moneys received and recovered as aforesaid, and the proceeds of all consols and stock and all fixed deposits forming any sinking fund received by him or them, after payment of costs and expenses, and of his or their commission, for the benefit of all holders of debentures of the municipality, according to their respective priorities, and subject thereto for the municipality.

Separate account to be kept of every loan.

**212.** THE council of every municipality shall cause a separate account to be kept in some bank for every loan incurred by it, and all money forming part of such loan shall be paid into such account and shall be applied to the purposes for which the same was borrowed; and if after all such purposes are performed there is any surplus of such money, the council may apply the same in the repurchase of any debentures by the sale of which such money was borrowed, or in the purchase of consols or stock, or may place the same upon fixed deposit as aforesaid, to be credited to the sinking fund to liquidate the same; and so long as any part of such loan remains unpaid, no part of such money shall be otherwise applied. Provided, however, that the council may re-appropriate any such surplus for the continuation of any of the works for which the loan was incurred, or other permanent works or undertakings; but such re-appropriation shall not be made except by resolution, to be passed by three-fourths of the members of the council at a meeting thereof specially convened for that purpose, nor unless such resolution has been confirmed by the like proportion of the council at a subsequent meeting specially convened to consider such resolution, and held not less than one month nor more than two months after such first meeting.

Re-appropriation.



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#### PART IX.—ACCOUNTS AND AUDIT.

**213.** THE council shall cause books to be provided and kept in such form (if any) as is from time to time appointed by the Governor, and true and regular accounts to be entered therein of all sums of money received and paid on account of and for the municipality, and of the several purposes for which such sums of money have been received and paid; the said books shall at all reasonable times be open to the inspection of any councillor, ratepayer, or creditor of the municipality, without fee or reward; and any such person 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 any reasonable demand of any such councillor, ratepayer, or creditor permit him to inspect the said books or to take copies or extracts as aforesaid, shall be guilty of an offence against this Act and liable to a penalty not exceeding Five pounds for every such offence.

Books of account,  
and inspection by  
persons interested.

**214.** THE council shall cause the accounts of the municipality to be balanced half-yearly up to the thirtieth day of April and the thirty-first day of October in each year; and after each such balancing the auditors shall audit the said accounts as soon as conveniently may be; and the council shall by their clerk, or other proper officer, produce and lay before the auditors the accounts so balanced as aforesaid, with all vouchers in support of the same, and all books, papers, and writings in their custody or power relating thereto; and if the accounts be found correct, the auditors shall sign the same in token of their allowance thereof, but if they think there is just cause to disapprove of any part of the said accounts, they may disallow any part of the said accounts so disapproved of, and take such steps thereupon as are hereinafter provided.

Half-yearly balance  
and audit.

**215.** ANY person interested in the said accounts, either as a creditor of the municipality or as a ratepayer, may be present at the audit of the said accounts, by himself or his agent, and may make any objection in writing, signed by such person or his agent, to any part of such accounts.

Persons interested  
may be present.

**216.** AN annual statement or summary, showing the financial position of the municipality at the end of October in each year, shall be prepared by the council, showing on the one side the amount received from each source of ordinary income, and from the special rate, if any, struck to defray a moiety of the expense of lighting the streets or wards of a municipality, and, on the other, the various matters and things on which such amounts have been expended. And, in the case of any municipality that has borrowed

Annual financial  
statement.

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any money during the year ending on the thirty-first day of October in any year, or has brought forward any borrowed money from the preceding year, a statement shall be made showing on the one side all moneys so received or brought forward, and on the other, the application of all such moneys as have been expended and the amount remaining unexpended and to be carried forward; in the case also of any such municipality, a statement shall be made, showing on the one side the amount received from any special rate levied in respect of any loan as aforesaid, and, on the other, the application thereof, and also a statement with respect to each sinking fund formed under the provisions of this Act, showing as to each of such funds the amount standing to the credit of the Colonial Treasurer and municipality. These several statements shall be audited by the auditors, and if found correct shall be certified as correct under the hand of the auditors, and when so certified shall be forthwith published in the *Government Gazette* and at least one newspaper circulating in the Colony.

Duty of auditors.

**217.** THE auditors shall, if they find any account or statement submitted to them for audit under the provisions of this Act to be erroneous or deficient in any particular, unless such error or deficiency be at once made good by the person or persons liable to make it good, instead of signing such account or statement, forthwith publish in the *Government Gazette*, and in some one newspaper circulating in the Colony, a statement showing in what respects they have found such account or statement erroneous or deficient, and shall take forthwith, at the expense of the council, all legal and necessary proceedings to have such error or deficiency made good by the person or persons liable to make it good.

Power of council as to expending its income.

**218.** THE council may in any year expend out of the ordinary income of the municipality any sum not exceeding three per cent. of such ordinary income, for any purpose connected with the municipality, and for the benefit or credit thereof, although such purpose be not within the scope of this Act. Subject to the foregoing provision, the whole of the ordinary income of any municipality shall be applicable solely to doing or carrying out those things which by this Act the council is empowered or required to do or carry out.

Duty of auditors.

**219.** IN auditing the accounts of any municipality, the auditors shall disallow any expenditure which is not authorised by the next preceding section, or which contravenes any provision of this Act, and shall refer to the minutes of proceedings kept by such council to ascertain by whom such expenditure was authorised. And the individual members of the council who have sanctioned any such expenditure as has been disallowed, shall be personally liable, individually and collectively, to make good to the council the

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amount or amounts so spent. And the auditors shall certify to the council the amount of any such unauthorised expenditure, and the names of the members who are liable to make good the same as aforesaid; and in case the said sums are not made good to such council to the satisfaction of the auditors within seven days after such certificate is given, the auditors shall, in the name and on behalf of the council, sue for the same by action of debt in any Court of civil jurisdiction, and shall, if it appear to such Court that such expenditure was not authorised, or was in contravention of any provision of this Act as aforesaid, be entitled to judgment for the sum or sums so spent by any person or persons sued who appear to have concurred in such expenditure; and the amount so recovered by the auditors in any such action shall be forthwith paid over by them to the council. In any such action as aforesaid, the minutes of proceedings kept by the council shall be *prima facie* evidence of any facts therein stated; if it does not appear from the minutes what particular members of the council concurred in any particular expenditure, every member shall be deemed to have concurred until he proves the contrary.

**220.** THE Governor may from time to time appoint for every municipality two auditors, to be called "special auditors," and such auditors shall at any time on being required so to do by the Colonial Secretary or by any fifty ratepayers of such municipality, or by any creditor or creditors of the same, by writing under the hands of such Colonial Secretary, electors, or creditor or creditors respectively, proceed to hold a special audit of the accounts of such municipality upon a day to be appointed by such auditors not less than thirty nor more than forty days from the time of their being so required, and shall forthwith notify, by advertisement in the *Government Gazette* and in some newspaper circulating in the municipality, the fact of their having been so required, and the day so appointed, and the said special auditors shall attend at the office of the council on the day so appointed for such audit as aforesaid.

Special auditors may be appointed.

**221.** WHEN any day has been appointed for a special audit as aforesaid the council shall cause their accounts to be balanced to a day not less than one month before the day so appointed, and shall lay before the said special auditors all books of account and all vouchers or other documents in support thereof. And the special auditors shall forthwith after such audit report to the Colonial Secretary the result thereof.

Accounts to be balanced for special audit, and books of account, &c., to be laid before auditor.

**222.** IF any such special audit has been required by electors as aforesaid, the council shall defray the expenses thereof. If such audit has been required by any creditor or creditors of the municipality, such creditor or creditors shall defray the said expenses.

Expenses of special audit.

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If such audit has been required by the Colonial Secretary, the said expenses shall be defrayed from the Consolidated Revenue Fund.

### PART X.—MISCELLANEOUS PROVISIONS.

**223.** (1.) NO person shall be entitled to recover damages against any municipality in respect of any loss or injury sustained either to himself or to any other person or any property by reason of any accident upon or while using any highway, street, road, bridge, ferry, or jetty in the Municipality and under the control of the council, and for which the municipality would otherwise be liable, unless the following condition is complied with:—

Notice of action to be given within twenty-eight days.

That notice in writing, stating the name and address of the person injured, or of the owner of such property, the nature of the accident, and the time and place at which it took place be given to the municipality or left at the office of the council by or on behalf of the person injured, or by or on behalf of the owner of such property within twenty-eight days after the occurrence of the accident, or the plaintiff show some sufficient reason why the person injured or the owner of such property was unable to give such notice.

Limit of time for bringing action.

2. Not less than one month nor more than six months after the service of notice of an action for any such cause as aforesaid, an action for such cause may be brought in any Court of competent jurisdiction.

If notice not given Court may stay all proceedings.

3. If any action for any such cause as aforesaid is commenced by any plaintiff when the condition hereinbefore contained has not been complied with, and the municipality proves by affidavit to the satisfaction of the Court in which the action is pending that such is the case, such Court may order such action to be stayed.

Expenses recoverable from occupier may be recovered in a summary manner, and in default of occupier may be recovered from the owner.

**224.** ANY expenses incurred by the council in doing any matter or thing which by this Act the occupier of any premises is required to do, may be recovered from such occupier in a summary manner by proceedings before any two Justices of the Peace, and in the event of the council being unable to obtain payment thereof by any such occupier, or if such occupier is not known or cannot be found within the Colony, or it should be returned to a warrant of distress that there are not goods or chattels of such occupier sufficient to pay the sum for which such warrant of distress has issued, such expenses may be recovered in like manner against the owner of the premises as if such owner and not the occupier were primarily liable to pay the same.

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**225.** ANY expenses incurred by the council in doing any matter or thing which by this Act the owner of any land or premises is required to do, and any expenses which are recoverable against an owner of any land or premises may be recovered against such owner by summary proceedings before any two Justices of the Peace, and any summons issued by any Justice of the Peace in this behalf against any such owner may be served in the same way as is provided by the next following section of this Act in the case of notices; and thereupon, on proof of such service, the said Justices of the Peace may adjudicate upon the case; and any order made by the Justices in this behalf against any owner (who if he be not known need not be named but only described as the owner) may be enforced by warrant of distress against the goods and chattels of such owner, or if such owner be not known, or it be returned to a warrant of distress that there are not goods and chattels of such owner sufficient to pay the sum for which such warrant of distress has issued, the council may at any time within twelve months of such expenses being incurred, obtain a warrant from any two Justices of the Peace (which warrant such Justices are hereby empowered to issue) authorising such council, by any officer authorised by such council in that behalf, to enter upon and take possession of the land or premises or any part thereof in the name of the whole upon which the said expenses have been incurred, and to hold the same until out of the rents and profits thereof such expenses together with all expenses incurred in the recovery thereof, have been paid, any lease, tenancy, sale, mortgage, charge or other encumbrance created by such owner notwithstanding. Provided always, that where such land or premises are under the provisions of "The Transfer of Land Act, 1893," such council shall, within six weeks of the issue of such warrant as aforesaid, direct a memorandum of the issue of such warrant to be endorsed upon the certificate of title, whereof such land is the subject, and thereupon such endorsement shall be made by the Registrar of Titles and shall operate as a preferential encumbrance or charge upon such land.

How expenses to be recovered from owner.

**226.** CONTRACTS on behalf of any council may be made, varied, or discharged, as follows:—

Contracts by council —how made.

- (1.) Any contract which, if made between private persons, would be by law required to be in writing under seal, may be made, varied, or discharged in the name and on behalf of the council in writing under the seal of the council.
- (2.) Any contract which, if made between private persons, would be by law required to be in writing and signed by the parties to be charged therewith, may be made,

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varied, or discharged in the name and on behalf of the council in writing, signed by any person acting under the express or implied authority of the council.

- (3.) Any contract which, if made between private persons, would by law be valid, although made by parole only, and not reduced into writing, may be made, varied, or discharged by parole in the name and on behalf of the council by any person acting under the express or implied authority of the council.

And all contracts made according to the provisions herein contained shall be effectual in law, and shall be binding upon the council and their successors and all other parties thereto, their heirs, executors, or administrators, as the case may be.

Service of notices.

**227.** WHENEVER under this Act any written, printed, or special form of notice is required to be served on or given to the owner or occupier of any building or land, such notice, addressed to the owner or occupier thereof as such as the case may require, may be served on the occupier of such building or land, by leaving the same with some inmate of his abode, or by posting such notice in a registered letter addressed to such owner or occupier, or if there is no occupier then resident there, by affixing the notice on some conspicuous part of such building or land; and by posting the same by registered letter to the owner or occupier to the address as appears by the rate-book; and it shall not be necessary in any such notice to name the occupier or the owner of such building or land: And when the owner of any such building or land and his residence are known, the council may, if such owner as aforesaid is residing within its jurisdiction, cause every notice required to be given to the owner to be served on such owner by leaving the same with some inmate of his abode; and if such owner is not resident within its jurisdiction the council shall send every such notice by post, addressed to the last known place of residence of such owner.

Operation of notices.

**228.** ALL notices required under this Act to be served on or given to any owner or occupier shall, if due service thereof has been once made on any owner or occupier, be binding on all persons claiming by, from, or under such owner or occupier to the same extent as if such notice had been served on such last mentioned persons respectively.

Penalties for obstructing the execution of this Act.

**229.** WHOSOEVER wilfully obstructs any inspector, or any member or officer of the council acting under the authority thereof, or any officer or person duly employed in the execution of this Act, or incites any other person so to do, or destroys, pulls down, injures, or defaces any board, placard, or notice made or published under this

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Act, shall be guilty of an offence against this Act and liable for every such offence to a penalty not exceeding Five pounds; and if the occupier of any premises or any other person whomsoever wilfully prevents, or attempts to prevent, the owner thereof from obeying or carrying into effect the provisions of this Act or of any by-law made hereunder, he shall be guilty of an offence against this Act and liable to a penalty not exceeding Five pounds for every such offence.

**230.** WHERE any act is by this Act or by any by-law of any council made under the authority hereof, directed to be done or forbidden to be done, or where any authority is given to the council, or any member or officer of the council respectively, to direct any act to be done, or to forbid any act to be done, and such act having been duly directed to be done remains undone, or such act having been duly forbidden to be done is done, in every such case the person making default as to such direction or prohibition respectively, as the case may be, shall be deemed guilty of an offence against this Act.

Penalties for disobedience of this Act or of by-laws.

Every person guilty of an offence against this Act for which no penalty is specially provided hereby shall be liable for any such offence to a penalty not exceeding the sum of Twenty pounds, in addition to all costs and expenses to which he is hereby liable.

**231.** ALL offences against this Act, or any by-law made hereunder, or under any of the repealed Acts, other than such as are declared to be misdemeanours, shall be summarily punishable upon conviction before any two or more Justices of the Peace, and all informations and proceedings in respect of such offences shall be heard and determined, and the penalties, fines, and forfeitures in respect of the same shall be enforced, and all sums of money payable under this Act, the recovery whereof is not otherwise provided for, shall be recoverable according to the provisions of the Ordinance No. 5, passed in the fourteenth year of Her present Majesty.

Jurisdiction and recovery of penalties.

**232.** IN any prosecution or other legal proceeding under the provisions of this Act, or any by-law hereunder, instituted by or under the direction of the council of any municipality, no proof shall be required—

Proof in legal proceedings.

- (1.) Of the persons constituting the council, or the extent of the municipality; or
- (2.) Of any order to prosecute, or of the particular or general appointment of any municipal clerk, surveyor, inspector, or other officer of the council; or
- (3.) Of the authority of any municipal clerk, surveyor, inspector, or other officer of the council to prosecute; or

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(4.) Of the appointment of the mayor of the municipality, or the municipal or town clerk, or surveyor; or

(5.) Of the presence of a quorum of the council at the making of any order or the doing any act

until evidence is given to the contrary.

Proof of ownership  
or occupancy.

**233.** IN any legal proceedings under the provisions of this Act, in addition to any other method of proof available,

(1.) Evidence that the person proceeded against is rated as owner or occupier in respect of any land to any general or special rate for the municipality within which such land is situated, or

(2.) Evidence by the certificate of the Registrar of Deeds or his deputy that any person appears from any memorial of registration of any deed, conveyance, or other instrument to be the owner of any land, or evidence by a certificate signed by the Registrar of Titles, or any assistant, or Deputy Registrar, and authenticated by the seal of the Office of Titles, that any person's name appears in any register book, kept under the "Transfer of Land Act, 1893," as owner of any land,

shall, until the contrary is proved, be evidence that such person is the owner or occupier, as the case may be, of such land.

Signature of Deputy  
or Assistant Regis-  
trar to be judicially  
noticed.

Registrar to furnish  
certificate when  
required.

**234.** ALL courts and all persons having, by law or by consent of parties, authority to hear, receive, and examine evidence shall, for the purpose of this Act, take judicial notice of the signature of any such assistant or deputy, whenever such signature is attached to such certificate, and such Registrar of Titles or assistant or deputy registrar shall, on the written application of the council of any municipality signed by the municipal clerk, furnish to such council a certificate under the seal of the Office of Titles, giving the name and address of such owner, the situation and description of such land, and date of registration of title, on payment of two shillings for each certificate.

Documents signed  
by Mayor, Clerk, or  
Surveyor, to be  
admitted in evidence.

**235.** ALL documents whatever purporting to be issued or written by or under the direction of the council of a municipality, and purporting to be signed by the mayor, or municipal, or town clerk, or surveyor shall be received as evidence in all courts of law, and shall be deemed to be issued or written by or under the direction of the council without proof, unless the contrary be shown. The word "documents" in this section shall include all regulations, orders, directions, and notices.



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**236.** SECTIONS C, F, G, and H of "The Shortening Ordinance, 1853," shall be incorporated with and taken to form a part of this Act to all intents and purposes and in as full and ample a manner as if the said sections had been introduced and fully set forth in this Act.

Shortening  
Ordinance incor-  
porated.

**237.** ANY person who thinks himself aggrieved by any order made under this Act for the payment by such person of any sum exceeding Five pounds, or for the infliction of any penalty exceeding Five pounds, or of any term of imprisonment, shall have a right of appeal.

Appeal.

**238.** ALL penalties and other sums recovered under the provisions of this Act shall, unless otherwise herein provided, be paid to the council, and shall become the property of and part of the ordinary income of the municipality.

Penalties to be paid  
to council.

**239.** ANY officer of the council or other authorised person may without warrant arrest any person found offending against any by-law made under the provisions of this Act or of any Act hereby repealed, if the offender refuses to give his name and address.

Power to arrest  
offender against  
by-laws.

In the name and on behalf of the Queen I hereby assent  
to this Act.

ALEX. C. ONSLOW, Administrator.

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### SCHEDULES.

#### First Schedule.

Section 4.

#### REPEALS.

Date of Act.	Title of Act.	Extent of Repeal.
34 Vic., No. 6 ...	An Act for establishing Municipalities	All portions not already repealed
40 Vic., No. 13 ...	The Municipal Institutions Act, 1876 ...	The whole
42 Vic., No. 16 ...	The Municipal Institutions Act, 1876, Amendment Act, 1878	The whole
44 Vic., No. 11 ...	The Municipal Institutions Further Amendment Act, 1880	The whole
45 Vic., No. 12 ...	The Municipal Institutions Further Amendment Act, 1881	The whole
46 Vic., No. 19 ...	The Municipal Institutions Further Amendment Act, 1882	The whole
47 Vic., No. 19 ...	The Municipal Institutions Further Amendment Act, 1883	The whole
49 Vic., No. 14 ...	The Municipal Councils Titles Act, 1885	The whole
49 Vic., No. 17 ...	The Municipal Institutions Act, 1876, Amendment Act, 1885	The whole
51 Vic., No. 29 ...	The Municipal Footpaths Act, 1888 ...	The whole
55 Vic., No. 16 ...	The Municipal Institutions Act Amendment Act, 1892	The whole

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### Second<sup>d</sup> Schedule.

*List of Voters for the Municipality of*      *made for the year 18*      Section 39.

Surname of person supposed to be entitled to vote.	Christian name of same person.	Trade or occupation.	Description and situation of property giving title to vote.	Whether as owner or occupier.	Annual Rateable value of property.	Number of votes.	
						For Mayor and Auditors.	For Councillors.

(Signed.) A. B.  
Mayor.

*Voters' List for the*      *Ward of the Municipality of*      *made*  
*for the year 18*      .

Surname of person supposed to be entitled to vote.	Christian name of same person.	Trade or occupation.	Description and situation of property giving title to vote.	Whether as owner or occupier.	Annual Rateable value of property.	Number of votes.	
						For Mayor and Auditors.	For Councillors.

(Signed) A. B.  
Mayor.

### Third Schedule.

*Application by a person whose name has been omitted from any list,*      Section 42.  
*(to have his name inserted thereon.)*

To the Mayor of the Municipality of

Sir.—I hereby claim to have my name inserted on the [Municipal Electoral List]      or [      Ward Electoral List]

in accordance with my qualification, as stated hereunder.

Dated this      day of      A.D. 18      .

(Signed) A. B.      (name in full)

Surname of Claimant.	Christian name of Claimant.	Trade or occupation.	Description and situation of property in respect of which claim is made.	Whether claiming as owner or occupier.	Annual Rateable value of property.	Number of votes claimed.	
						For Mayor and Auditors.	For Councillors.

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*Application by a person to have the Amount of the Annual Rateable Value of his Property Altered.*

To the Mayor of the Municipality of

SIR,—I hereby claim to have the annual rateable value of my property, as specified on the [Municipal Electoral List] or [Ward Electoral List] altered in accordance with the following particulars.

Dated this            day of            A.D. 18

(Signed) A. B.            [name in full].

Surname of Claimant.	Christian name of Claimant.	Trade or occupation.	Description and situation of property in respect of which claim is made.	Whether claiming as owner or occupier.	Annual rateable value of property.	Number of votes claimed.	
						For Mayor and Auditors.	For Councillors.

### *Notice of Objection to Retention of Name on Electoral List.*

To [person objected to]

..... Municipality.

SIR,—I give you notice that I object to the retention of your name on the [Municipal electoral list] or [Ward electoral list] on the following grounds:—

Dated this            day of            A.D. 18

(Signed) A. B.            [name in full].

### *Notice of Objection to Annual Rateable Value of Lands.*

To [person objected to]

... Municipality.

SIR,

I give you notice that I object to the Annual Rateable Value of the Rateable Lands set against your name on the [Municipal Electoral List] or [Ward Electoral List] on the following grounds:—

Dated this            day of            189 .

(Signed) A.B.            [name in full.]

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### Fourth Schedule.

Section 66

Counterfoil  
Number.

*Municipality of.....*

*Ballot Paper.*

Election of Mayor on the                      day of                      18

*List of Candidates for Election.*

Names.	Addresses.

Counterfoil  
Number.

*..... Ward of the Municipality of.....*

*Ballot Paper.*

Election of a Councillor (or Councillors) on the  
day of                      18

*List of Candidates for Election.*

Names.	Addresses.

Counterfoil  
Number.

*Municipality of.....*

*Ballot Paper.*

Election of an Auditor (or Auditors) on the                      day  
of                      18

*List of Candidates for Election.*

Names.	Addresses.

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## *Municipalities.*

Section 66.

### Fifth Schedule.

*Municipality of.....*

### *Voting Paper by Proxy for Mayor.*

Name of Elector Voting.	No. of Votes Elector entitled to.

Christian Name and Surname of the Person for whom I vote as Mayor:—

Elector to sign his  
or her name.

Elector Voting.

Proxy to sign name  
and address.

NOTE.—Every person entitled to vote at the election of a Mayor may give his vote or votes to any *one candidate*. The proxy on the back hereof must be properly filled in.

### *Proxy.*

Name in full, residence, and trade or occupation. I, \_\_\_\_\_ of \_\_\_\_\_ in the Colony of Western Australia, \_\_\_\_\_ being entitled to vote at the next Election for Mayor of the Municipality of \_\_\_\_\_ and being resident in the said Colony, but more than twenty miles distant from the said Municipality, the place of such election, do hereby appoint \_\_\_\_\_ of \_\_\_\_\_ in the said Colony, \_\_\_\_\_, my proxy or agent to deliver to the Returning Officer at such election the voting paper on the first side hereof written on my behalf, and which is signed by me, and by the said proxy or agent, and contains the address of my said proxy or agent.

Fill in date.

Dated the \_\_\_\_\_

day of \_\_\_\_\_

18 .

Fill in name.

(Signed) \_\_\_\_\_

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*Municipality of.....*

*Voting Paper by Proxy for Councillors or Councillor for the above Municipality or of the..... Ward, as the case may be.*

Fill in the name of the ward.

Name of Elector Voting.

No. of Votes Elector entitled to.

Christian Name and Surname of the Person or Persons for whom I vote as Councillor or Councillors :—

Elector Voting.

Elector to sign his name.

Proxy to sign name and address.

NOTE.—Every person entitled to vote at the Election of a Councillor or Councillors may give his vote or votes to each of the number of persons to be elected. The proxy on the back hereof must be properly filled in.

## *Proxy.*

I, \_\_\_\_\_ of \_\_\_\_\_ in the Colony of Western Australia being entitled to vote at the next Election for a Councillor or Councillors for the above Municipality, or for the \_\_\_\_\_ Ward, and being resident in the said Colony, but more than twenty miles distant from the said Municipality, the place of such election, do hereby appoint \_\_\_\_\_ of \_\_\_\_\_ in the said Colony, \_\_\_\_\_ my proxy or agent to deliver to the Returning Officer at such election, the voting paper on the first side hereof written on my behalf, and which is signed by me, and by the said proxy or agent, and contains the address of my said proxy or agent.

Name in full, residence, and trade or occupation.  
Name of Ward.

Name in full, residence, and trade or occupation.

Dated the \_\_\_\_\_ day of \_\_\_\_\_ 18 .

(Signed)

Fill in date.

Sign name.

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*Municipality of.....*

*Voting Paper by Proxy for Auditor or Auditors.*

Name of Elector Voting.	No. of Votes Elector entitled to.

Christian name and surname of the person or persons for whom I vote as Auditor or Auditors.

Elector to sign his  
or her name.

Elector Voting.

Proxy to sign name  
and address.

NOTE.—Every person entitled to vote at the election of an Auditor or Auditors may give his vote or votes to each of the number of persons to be elected.  
The proxy on the back hereof must be properly filled in.

### *Proxy.*

Name in full, residence, and trade or occupation. I, \_\_\_\_\_ of \_\_\_\_\_ in the Colony of Western Australia, being entitled to vote at the next election for an Auditor or Auditors of the Municipality of \_\_\_\_\_ and being resident in the said Colony, but more than twenty miles distant from the said Municipality, the place of such election, do hereby appoint \_\_\_\_\_ of \_\_\_\_\_ in the said Colony my proxy or agent to deliver to the Returning Officer at such election the voting paper on the first side hereof written on my behalf, and which is signed by me, and by the said proxy or agent, and contains the address of my said proxy or agent.

Fill in date.

Dated the \_\_\_\_\_ day of \_\_\_\_\_ 18 .

Fill in name.

(Signed)



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### Sixth Schedule.

Section 162.

#### *Form of the Rate Book.*

No. of Assessment.	Surname of occupier of property rated.	Christian Name of occupier of property rated.	Trade or Occupation.	Name of owner of rateable property.	Description and situation of rateable property.	Ward (where municipality is divided into wards.)	Net annual value.	Capital value.	Amount payable in respect of rate.

### Seventh Schedule.

Section 165.

#### *Notice Valuation and Rate.*

To

Notice is hereby given that the Council of the Municipality of \_\_\_\_\_ has ordered and directed that the property (or properties, as the case may be) hereinafter mentioned, of which you are the owner (or occupier), is valued and rated as hereinafter appears.

No. of Assessment.	Land Rated.	Annual Value.	Capital Value.	Rate in the £.	Amount payable in respect of rate.

You are hereby required to pay the above amount of £ \_\_\_\_\_ to the office of the Council within fourteen days of the date of service of this notice. And if the same be not paid as aforesaid, a warrant will be forthwith issued by the Mayor for the recovery of the same with costs.

[If the rate be payable by instalments in pursuance of any by-law of the Council, alter the form in the manner or to the effect following:—You are hereby required to pay the above amount of £ \_\_\_\_\_ to the office of the Council by two equal instalments of £ \_\_\_\_\_ each, on the \_\_\_\_\_ day of \_\_\_\_\_ next, and the \_\_\_\_\_ day of \_\_\_\_\_ next. And if either of the said instalments be not paid within fourteen days after the day herein named for payment of the same, a warrant will be forthwith issued by the mayor for the recovery of the same with costs.]

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

Clerk.

N.B.—You are requested to bring this notice with you when you come to pay.

Council Office,  
18 .

Received the amount of the rates above mentioned.

Clerk.

To be endorsed as follows:—

Any person served with this notice may appeal against the valuation put upon any property as regards the amount thereof or the manner in which

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such valuation has been made, or otherwise howsoever, to the Local Court in the Municipality, by serving a notice in writing, stating the grounds of his appeal, on the clerk of the Municipality within fourteen days after service of this notice, and upon depositing in the hands of the clerk of the Local Court the amount of the rate and Two guineas to answer costs.

The appeal must be entered for hearing within ten days after service of the notice of appeal at the sitting of the Local Court next after the expiration of ten days from the entry of such appeal.

### Eighth Schedule.

Section 169.

#### SCALE OF COSTS.

	s.	d.
For every warrant of distress ... ..	1	0
For every levy ... ..	5	0
For man in possession, one shilling per hour for the first three hours, and if longer detained seven shillings per day or part of a day.		
For inventory, sale, commission, and delivery of goods, not exceeding one shilling in the pound on the net proceeds of the sale.		

### Ninth Schedule.

Section 170.

*Municipality of.....*

#### *Warrant of Distress.*

To ..... and his assistants.

Whereas the several persons whose names appear in the Schedule hereunder written are liable to make payment to the Council of the said Municipality of the sums set opposite to their respective names in accordance with the particulars and in respect of the lands respectively mentioned in the said Schedule, and demand for the payment of such sums has been respectively made in the manner prescribed by the "Municipal Institutions Act, 1895," and default has been respectively made in such payment: These are therefore to authorise you forthwith to make distress of the several goods and chattels in the first place of the person or persons named in the said Schedule, if he, she, or they be then resident in the said premises and have any goods and chattels there, and in case of a change of possession then upon the goods and chattels of any person or persons who is the occupier or occupiers in possession of the said premises so named in the said Schedule at the time of the execution of this warrant, and if within the space of five days next after the making of any distress under this warrant, the said several sums of money so distrained for, including your lawful charges for levy, inventory, sale, commission, and delivery of goods in each case are not paid, that then you do sell the said goods and chattels so by you distrained, and out of the money arising by such sale you retain the respective sums so due and owing according to the said Schedule, and render to the party or parties respectively whose goods you

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have sold the overplus, and that you certify to me on or before the                      day  
of                      what you have done by virtue of this warrant.

### Schedule.

Name of Ratepayers.	Description of Land rated.	Situation of Property.	Amount payable in respect of Rate.	Costs.	Total.
			£      s.      d.	£      s.      d.	£      s.      d.

Given under my hand and the common seal of the corporation of the  
municipality of                      at                      this                      day of                      A.D. 18

Mayor.  
(L.S.)

### Tenth Schedule.

#### Form of Notice.

Section 178.

By virtue of the provisions of "The Municipal Institutions Act, 1895," notice is hereby given to all parties interested therein that the sum of £      has now been due and unpaid for the term of eighteen months in respect of rates struck by the council of the municipality of      upon (*here describe the premises*) within the said municipality, and payment of the said sum is now required; and the owner of the said property, and all other persons interested therein, are hereby warned, that in default of payment of the said sum of £      , together with all expenses caused by the non-payment of the same, on or before the      day of      , 18      , to (*the person appointed by the council to receive the same*) a petition will be presented by the said council to the Supreme Court, praying the said court to order the said property, or a competent part thereof, to be sold, pursuant to the provisions of the said Act.

Dated this      day of      , A.D. 18      .  
(Signed) A.B.,

Mayor.

### Eleventh Schedule.

#### Form of Certificate of Sale.

Section 179.

Whereas, by an order of the Supreme Court, dated the      day of      18      it was ordered that (*here describe the property ordered to be sold*) should be sold by public auction by me, the undersigned, and the proceeds of such sale be dealt with as in the said order mentioned; Now I, the undersigned, do hereby certify that the said property was put up to sale by public auction on the      day of      , and that      of      became the purchaser thereof, for the sum of £      .

In witness whereof I have hereto set my hand this      day of      A.D. 18      .

(Signed) A.B.

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### Twelfth Schedule.

Section 190.

#### *Municipality of.....*

This is to forbid the council of the municipality of \_\_\_\_\_ from  
proceeding further with a loan, notice of which has been published in the  
*Government Gazette* of the \_\_\_\_\_ day of \_\_\_\_\_ 18 \_\_\_\_.

(Signed) A. B. (name of voter) of \_\_\_\_\_

Number of votes that the }  
voter is entitled to }

### Thirteenth Schedule.

Section 193.

*No.*

*Debenture £*

Issued by \_\_\_\_\_  
Institutions Act, 1895."

under the provisions of "The Municipal

Transferable by delivery.

THIS Debenture was issued by the above-named municipality, in pursuance  
of a notice published in the Western Australian *Government Gazette* of the  
\_\_\_\_\_ day of \_\_\_\_\_ and is to secure to [the bearer or the  
registered holder, *as the case may be*] a principal sum of £  
payable at \_\_\_\_\_ on the \_\_\_\_\_ day of \_\_\_\_\_  
Interest on the rate of £ \_\_\_\_\_ per centum per annum on such principal  
sum in the meanwhile is payable by equal half-yearly payments on the  
\_\_\_\_\_ day of \_\_\_\_\_ and the \_\_\_\_\_ day of \_\_\_\_\_ and  
a coupon is annexed for each payment, which entitles the bearer of such coupon  
thereto. Such principal sum and interest are payable at \_\_\_\_\_  
and are charged in accordance with the provisions of the above-named Act upon  
the municipal revenue of the \_\_\_\_\_ and are not otherwise  
secured. £ \_\_\_\_\_ per cent. on the amount of the loan will be invested every  
year in accordance with the said Act to form a sinking fund.

Dated this \_\_\_\_\_ day of \_\_\_\_\_

(L.S.)

A. B., Mayor,

C. D., Treasurer.