



# WESTERN AUSTRALIA.

ANNO QUADRAGESIMO

VICTORIÆ REGINÆ.

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No. XIII.

AN ACT to amend “The Municipal Institutions’ Act, 1871,”

[Assented to, 12th September, 1876.]

**W**HEREAS it is expedient to amend “The Municipal Institutions’ Act, 1871”; Be it therefore enacted by His Excellency the Governor of Western Australia and its Dependencies, by and with the advice and consent of the Legislative Council thereof, as follows:—

**1** THIS Act may be cited for all purposes as “The Municipal Institutions’ Act, 1876.” Short Title.

**2** IN construing this Act, the following words and expressions shall have the meanings hereby respectively assigned to them:— Interpretation clause.

The word “Council” shall mean the Council of the City of Perth, and shall also mean the Council of any Municipality declared and proclaimed under the provisions of the 7th section of “The Municipal Institutions’ Act, 1871” (whether such Council has been or shall be elected under the provisions of the said Act of 1871, or

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under the provisions of this Act), and the Council of any Municipality which may be hereafter so declared and proclaimed under the provisions of this Act.

Repeal of 34 Vict. No. 6.

Proviso.

**3** "THE Municipal Institutions' Act, 1871," (hereinafter styled "the said recited Act") with the exception of the second and third sections thereof, and of Part III of the said recited Act, relating to Elections, shall be and the same is hereby repealed; except in so far as it may be necessary to retain so much of the remaining portions of the said recited Act in order to give validity to any proclamation heretofore made by the Governor with the advice of the Executive Council in pursuance of the 7th and 8th sections of the said Act; and to enable any such council to recover any arrears of rates and assessments heretofore validly made under the said Act; and for the purpose of making, levying, and recovering any rate or assessment that may be required to be made under the said Act in order to pay off any debt contracted in pursuance of the said Act. Part III of the said recited Act, excepted as aforesaid from repeal, shall be and the same is hereby repealed from and after the nineteenth day of September, in the year of our Lord One thousand eight hundred and seventy-seven, except in so far as it may then be necessary to retain the same in order to continue any persons elected to the office of chairman, councillor, or auditor of any municipality in such office until the thirtieth day of November, in the year of our Lord One thousand eight hundred and seventy-seven.

Time of coming into operation of certain parts of Act.

**4** PART II of this Act, relating to Electors, Part III, relating to Qualification of Councillors, and Part IV, relating to Election of Council, shall not come into operation until the twentieth day of September, in the year of our Lord One thousand eight hundred and seventy-seven, and shall then come into operation, subject only to the provisions contained at the end of the next preceding clause.

### PART I.—CONSTITUTION OF MUNICIPALITIES.

City of Perth divided into wards.

**5** THE City of Perth shall be divided into four wards, to be called respectively the "East Ward," the "Central Ward," the "West Ward," and the "North Ward;" and the boundaries of the said wards shall be those which are described in the Schedule to this Act annexed, marked A.

Council for the City of Perth.

**6** FOR the government of the said city there shall be a council which shall consist of three members for each ward, and of a chairman; the said members and the said chairman shall possess the qualifications hereinafter provided; the said members shall in each ward be elected as hereinafter mentioned by the persons

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whose names are on the ward electoral list as voters for such ward, and the said chairman shall be elected by a majority of the votes of all the persons whose names are on the municipal electoral list for the time being.

**7** THE Governor, with the advice of the Executive Council, may declare and proclaim any town to be a municipality, and may by the same or any other proclamation define the boundaries of such municipality and the wards therein and the limits of each ward; and upon the publication of such proclamation, the inhabitants of each town and their successors, inhabitants of the same, shall be and the same are hereby constituted a body corporate and politic by and under the name, style, and title to be mentioned in such proclamation. And the Governor, with the advice aforesaid, may by like proclamation, published as aforesaid, declare any adjoining defined portion of any district, not being part of such town, to be united with such municipality, and thereupon such union shall take place accordingly.

Power to Governor to declare municipalities.

**8** FOR the government of every municipality (whether the same has been declared and proclaimed a municipality under the authority of the seventh section of the said Act of 1871 hereby repealed, or under the authority of the next preceding section) there shall be a council; and every such council shall consist of a chairman and six councillors, where the population does not exceed one thousand; and if at the time of constituting such municipality or at any subsequent time the population shall exceed that number and not exceed five thousand, then of a chairman and nine councillors; and if at any time it shall exceed five thousand, then of a chairman and twelve councillors. In any election prior to the third Monday in November, in the year of our Lord One thousand eight hundred and seventy-seven, the chairman, councillors, and auditors shall be elected pursuant to the provisions of Part III of the said recited Act; in any case on and after that date the chairman shall be elected by a majority of votes of the persons for the time being on the municipal electoral list, and the councillors for each ward by a majority of the votes of the persons on the municipal electoral list for such ward.

Council to be elected for each municipality.

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

Auditors to be elected in each municipality.

PART II.—ELECTORS.

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

Qualification of electors of chairman, auditors, and councillors.

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- (1.) On the first day of September in any year, shall be, and since the first day of January next preceding has been, seised of or in occupation of, as owner or tenant, any land, house, warehouse, counting-house, or shop within the limits of any municipality; and
- (2.) Has paid any rates and assessments assessed upon him by the council of the said municipality up to the thirtieth day of June in such year; and
- (3.) Has not been during such year 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 or any ward in which any such land, house, warehouse, counting-house, or shop is situate.

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

**11** THE chairman and auditors shall be elected by the persons whose names are on the municipal 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 rateable value of property occupied by him within the municipality set against his name on the said list as hereinafter mentioned, according to the following scale:—

RATEABLE VALUE OF PROPERTY.			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

Councillors, by persons whose names are on ward list.

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, each of whom shall have one vote only.

Electoral list how made up.

**12** 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 qualified to have their names inserted in the ward electoral list as voters at the election of councillors for such ward, and shall against the name of each such person specify the particular land, house, warehouse, counting-house, or shop in respect of which the name of such person is inserted on such list.

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The said council shall further on or before the said day cause to be prepared alphabetical lists for the municipality, of all persons entitled to have their names inserted in the municipal electoral list, as voters at the election of a chairman and auditors, and shall against the name of every such person specify the annual rateable value of the lands, houses, warehouses, counting-houses or shops of which such person is seised or possessed, as owner or tenant, within such municipality. The said lists, having been so prepared, shall be signed by the chairman of the council, and a copy thereof shall on the said day be affixed on one or more conspicuous buildings in each ward, and the said chairman shall deliver one or more copies thereof to any citizen applying for the same, on the payment of a reasonable price for each copy. The said lists shall respectively be in the form given in Schedule B to this Act.

**13** ANY person whose name shall have been omitted from any such electoral list, may on or before the thirtieth day of September in any year, apply by letter sent through the post addressed to the chairman 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 the municipal electoral list as a voter at the election of a chairman and auditors, who is dissatisfied with such list as not specifying the full rateable value of the lands, houses, warehouses, counting-houses or shops of which he may be seised or possessed, may likewise on or before the said day apply in the same manner to the chairman to have the amount of such rateable value altered, and shall give particulars of such claim. Any person whose name appears on any such electoral list, 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 rateable value placed against the name of any person on the municipal electoral list 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 in the same way to the chairman. Any application under this section shall be in the form given in the Schedule C to this Act, or to the like effect.

Persons omitted from such list may claim to have their names inserted.

**14** THE chairman shall cause lists to be made showing the names and addresses of the several persons claiming to have their names inserted on the list of voters for any ward, or to have the amount of rateable value set against their names on the municipal electoral list altered, and the particulars of such claims; and also of the persons whose names have been duly objected to as aforesaid; and shall cause such lists, with appropriate headings to the same showing the contents thereof, to be affixed on the outer door of some

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

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one or more conspicuous public buildings within the municipality on or before the third day of October in each year.

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

**15** THE chairman and council of every municipality shall hold an open court within the municipality for the purpose of revising the voters' list 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 chairman; and the chairman 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 some public or conspicuous building within the said district, and by advertisement in some newspaper generally circulating in the neighborhood. The court shall consist of the chairman of the municipality, 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 chairman, or, in his absence, any councillor, may adjourn the court.

Powers of such court.

**16** 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 may think 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 may 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, 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.

**17** THE said court shall insert in the voters' list 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 the voters' list; and shall retain on the said list the names of all persons to whom no objection has been duly made, and the rateable value set against the same unaltered, and shall also retain on the said list the

name of every person who has been objected to by any person, and the rateable value set against the same unaltered, unless the person so objecting appears by himself or by someone on his behalf in support of such objection, and prove the sending of the requisite notices; and when the name of any person inserted in any list or the rateable value 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 the said list, or shall alter and correct the rateable value 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 voters' list and rate book, and valuation and return, correct any mistake or supply any omission which may appear to such court to have been made in any of the said lists in respect of the name, place of abode, or trade or occupation, of any person who is included therein, or in respect of the local description of the rateable property, or the situation thereof. Provided always that no person's name shall be inserted by the said court in any such 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.

**18** IN case it appears to the court that any person has made or attempted to sustain any frivolous or vexatious claim or objection, it shall be lawful for the Court to award such costs, not exceeding one pound, as to them may seem 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.

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

**19** THE chairman of such court shall in open court write his initials against the names struck out or inserted as aforesaid, and against any part of the list 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 list a certificate that the same has been revised and is correct, with the date thereof, and the chairman and not fewer than two other members of the court shall severally sign such certificate.

Certificate &c., of revision.

**20** THE lists so signed and certified shall be forthwith delivered to an officer appointed by the municipality for that purpose, and such

Lists to be made out and delivered to chairman.

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Schedule D.

officer shall forthwith cause the names thereon to be copied or printed in alphabetical order according to the form contained in and with the several particulars required by Schedule D to this Act, and shall prefix to every name in either of such lists a number, beginning such numbers at the first name on the said list with the number one and continuing them on in regular arithmetical series to the last name thereon, and shall before or on the first day of November sign and deliver the said lists to the chairman of the municipality, or other person entitled to act as returning officer at the municipal elections within the same, who shall on or before the said first day of November sign the same.

Lists so signed to be voters' lists.

**21** THE printed lists so signed as aforesaid by the chairman of the municipality or other person 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.

Clerk to furnish copies of lists.

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

Copy of lists to be evidence.

**23** ANY copy purporting to be a copy of either of the said lists for any municipality, and signed by the chairman of such municipality, shall be *prima facie* evidence of such list, and of the contents thereof.

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

**24** NO omission to notify by public advertisement with regard to any list 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. If from any cause, the revision of any list awaiting revision under this Act has not been made or completed within the time herein appointed or allowed for that purpose, the Governor in Council may appoint a day, not more than twenty days from the last day upon which such revision might have been made, to be the day for holding a revision court for revising the said list; and such day shall as to all such acts and proceedings as yet remain to be done or had with respect to such list, be deemed to be for all intents and purposes the day appointed for such revision, and the time herein appointed for the delivery of the said list to the

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chairman or other returning officer of the municipality shall be extended in the same proportion. If from any cause the preparation, printing, or revision of the voters' list has been omitted or not completed, the Governor in Council may, at the request of the council of the municipality, direct the same to be done, and the order in Council authorising it shall be forthwith published in the *Government Gazette*, and upon such publication such omission or non-compliance shall be rectified, and such list validated according to the tenor of such order.

Governor may appoint day for revision, and may correct errors, &c.

**25** IF at the time at which the council is hereby required first to make out a voters' list for any municipality, no rate and no valuation and return have been made for such municipality, or if from any cause a voters' list has not been made out at such time, or if made has not been revised and completed within the period, it shall be lawful for the Governor in Council to appoint for that occasion the several times and intervals of time, or, as the case may require, the several remaining times and intervals of time, at or within which the acts hereinbefore required or permitted to be done with regard to the making and revision of the voters' list and completion of the voters' list shall or may be had or done; provided that in the case where no such rate, and no such valuation and return have been made, the first in order of such times shall be not less than three nor more than six months after the time when councillors shall first be in office in such municipality under this Act, and that in all cases such times shall be of the same distance from each other, and such intervals shall be of the same length, as hereinbefore prescribed or provided in that behalf respectively.

If no materials for first voters' list yet provided or in case of failure to make first list, Governor may extend time, &c.

**26** IN the case of any municipality where there is no Council, the acts and things by this Act required to be done in and about the settling 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.

Where no council, Governor may appoint person to make lists.

PART III.—QUALIFICATION OF COUNCILLORS.

**27** NO person shall be eligible to be elected as, or to hold the office of chairman, councillor, or auditor, in any municipality, who is 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 shall have any interest in any contract with or employment under such council. Provided that no person shall be disqualified from being so elected,

Disqualifications for election.

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by reason only of his being a proprietor or shareholder of any public company which shall contract with such council for any of the purposes hereof.

Qualification of councillors,  
chairman and auditors.

Proviso.

**28** SUBJECT to the provisions of the next preceding section, 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 under the provisions of "The Jury Act, 1871," to serve on special juries, be eligible for election as chairman of such municipality; provided always that no person shall be eligible for election as chairman of any municipality, who has held such office for three consecutive years prior to any election. Provided that no person exempted from serving on juries by reason of any thing contained in the ninth Section of "The Jury Act, 1871," or by reason of his being over sixty years of age, shall be disqualified under this Section to be such chairman as aforesaid.

### PART IV.—ELECTION OF COUNCIL.

Time of election of chairman,  
auditors, and councillors.

**29** THE election of a chairman, 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 to be the returning officer at such election shall appoint; in any new municipality that may be created by the Governor in pursuance of the provisions of this Act, the first election of chairman and councillors 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 person entitled to be the returning officer at such election shall appoint. The presiding and returning officer at any first election shall be nominated by the Governor; and at every succeeding election, the chairman of the council, or in his absence any councillor of the municipality appointed for that purpose by the council, shall be the presiding and returning officer.

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

**30** ANY person who shall be desirous of being a candidate for election as chairman, or councillor, in any municipality, shall by himself or his agent give notice in writing of his intention thereof to the returning officer at such election at least seven days before the day of such election; and the said returning officer shall

give notice of the intention of such person to become such candidate by affixing a notice to that effect on the door of the municipal chamber or other accustomed place of meeting for the council of the municipality and keeping the same there affixed until the day of election. At any such election no one shall be deemed a candidate for the office of chairman or councillor within the meaning of the next following sections, except those who have given such notice as is herein provided.

**31** ON the day of election the returning officer shall preside at a meeting to be holden at one o'clock in the afternoon at the place appointed for the 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 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 favor 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, or by not less than six persons qualified to vote at the election; and on such demand being made for a poll, the polling shall immediately take place.

Proceedings at elections.

**32** THE poll at any such election shall be taken by the returning officer or his deputy, and shall close at five o'clock in the afternoon of the same day. Every person entitled to vote at any ward election may in any ward election give one vote 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 chairman or auditors, may at the election of chairman give his vote or votes to any one candidate, and at the election of auditors, may give as many votes as he is entitled to to each of as many candidates as there are vacancies to be filled up. In all cases the votes shall be given by the voter, unless he is, though resident in the Colony, more than twenty miles distant from the place of election on the day of election, in which case they may be given by a proxy or agent duly authorised in writing; provided always that no votes be accepted or taken from any person being or professing to be a proxy or agent, unless such proxy or agent has satisfied a Justice of the Peace or the returning officer that the signature of the voter thereon is his own proper signature, and that he, the proxy or agent, has been duly authorised by the voter to deliver in the voting paper on his behalf, and such

Manner of taking poll.

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Justice of the Peace or returning officer has endorsed the voting paper hereinafter mentioned to that effect. Votes shall be given by delivering to the returning officer or his deputy a voting paper (to be supplied by the returning officer) containing the christian name and surname, or christian names and surnames, of the person or persons for whom he votes, and, in the case of the election of the chairman or auditors, the number of votes that the voter is entitled to give. No voting paper shall be received from any proxy or agent unless it be signed by the elector voting, and also by such proxy or agent, and contain his address. No inquiry shall be permitted at any election as to the right of any person to vote, except only as follows: that is to say, that the returning officer or his deputy shall, if he shall think fit, or if required by any two persons entitled to vote at the election, put to any person tendering a voting paper, at the time of his delivering in his voting paper and not afterwards, the following questions, and no other:—

Are you the person whose name appears as (*here specify the name contained in the electors' list*) in the electors' list now in force for this (*municipality or ward*), being registered therein for property described to be situated in (*here specify the property described in the electors' list*)?

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

or, in the case of any such voting paper being tendered by a person being or professing to be a proxy or agent, the following questions, and no other:—

Is the person who signed this voting paper the person whose name appears as (*here specify the name contained in the electors' list*) in the electors' list now in force in this (*municipality or ward*), being registered therein for property described to be situated in (*here specify the property described in the electors' list*)?

Is the said person now, to the best of your knowledge and belief, resident within the Colony, and more than twenty miles from this place?

Is the name signed on the 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?

Has the person, whose name is signed to this paper as the voter, ever revoked the authority given to you to deliver it, or has he already voted at this election?

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**33** NO person so required to answer the said questions shall be qualified or permitted to vote, until he shall have answered such question or questions in such manner as shall show that he is entitled to have the voting paper tendered by him accepted by the returning officer or his deputy. What votes may be rejected.

**34** IF any person shall wilfully and corruptly make a false answer to any of the questions aforesaid, or shall knowingly tender to the returning officer or his deputy, a false, untrue, or fictitious voting paper, such person shall be guilty of a misdemeanour, and on conviction thereof shall suffer the like penalties as persons convicted of wilful and corrupt perjury. Penalty for misrepresentation.

**35** NO voting paper shall be rejected by any returning officer or his deputy for mere want of form, provided that the name or names of the candidates for whom the voter votes be intelligibly expressed, and in a manner to be commonly understood. If at any municipal election any person entitled to more than one vote omits to specify on any voting paper the number of votes he is entitled to, his voting paper shall be taken to constitute one vote only. Voting papers not to be rejected for want of form.

**36** EACH deputy returning officer shall immediately on the close of the poll collect and seal up all the voting papers which have been taken at the polling place whereat he presided, and shall with the least possible delay deliver the same or cause the same to be delivered to the returning officer. Deputy returning officer to deliver voting papers to returning officer.

**37** THE returning officer shall, as soon as may be practicable after the election shall have been held, openly declare the general state of the poll at the close of the election as the same shall have been made up and ascertained by him from the voting papers taken at the several polling places, and shall at the same time and place declare the name or names of the person or persons who shall have been duly elected at such election; and in the event of the number of votes being found to be equal for any two or more candidates, such returning officer may, 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; provided also that it shall and may be lawful for the deputy of any returning officer, if entitled to vote at any election, to give his vote or votes in like manner as if he had not been appointed and acted as deputy returning officer. Provided also that no candidate at any election shall be entitled to act as presiding or returning officer. Names of persons elected to be declared by returning officer.

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Names of persons elected to be returned to Governor.

**38** THE name or names of the person or persons so elected shall be returned to the Governor as the name or names of the person or persons elected, and shall be notified in the *Government Gazette*.

Chairman and auditors, when to enter on and resign office.

**39** THE chairman and auditors so elected shall enter upon their office on the first day of December following their election, and shall remain in office up to the 30th day of November (taken inclusively), in the following year.

Councillors, when to enter or resign office.

**40** THE councillors shall also enter upon their office on the first day of December following their election. They 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 November following the first election; another third on the thirtieth day of November succeeding, and the remaining third on the thirtieth day of November after that. 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 November following the first election, and the other half on the thirtieth day of 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 of votes or without a poll, it shall be determined by lot in what rotation, as between themselves, such councillors shall retire.

Provision for extraordinary vacancy.

**41** IN case of any extraordinary vacancy occurring in the office of chairman, auditor, or councillor, an election shall forthwith be held to fill up such vacancy; and thereupon the same proceedings shall take place, as nearly as may be, as at an annual general election. Any person who may be elected to fill any such vacancy shall enter upon his office immediately after his election, and shall go out of office on the day on which the person, by whose death or retirement such vacancy has occurred, would have gone out.

No person to enter on office till he has taken oath.

**42** NO person elected to be chairman, councillor, or auditor under this Act, shall be capable of acting as such until he shall have first taken the oath of allegiance to Her Majesty, Her Heirs

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and Successors, and shall in like manner have made and subscribed the declaration following (that is to say): "I, A. B., having been elected chairman (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." 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 chairman, before his predecessor as such chairman, or a Justice of the Peace, and in the case of a councillor or auditor, before the chairman of the municipality.

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

**43** THE Council of any municipality shall appoint, from time to time, a treasurer and such other officers and servants as shall be 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.

Appointment and remuneration of officers.

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

Custody of seal, &c.

**45** 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 their body: provided that due notice of each such general or special meeting shall previously have been given.

General and special meetings of ratepayers.

**46** THE Council shall meet within the municipality at whatever place they may decide upon for the transaction of their ordinary business at least once a month, or oftener if so determined, on such day or days as may be agreed upon; but no business shall be transacted at any such meeting unless at least one-third of the members of the council, exclusively of the chairman or councillor chosen to preside in his absence, shall be present; each member, including the chairman, shall have one vote, and such chairman 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 three members.

Chairman to have casting vote.

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Council to keep minutes of proceedings.

**47** THE Council shall keep a book or books, in which shall be entered minutes of all proceedings and transactions, and the chairman 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.

Chairman to preside.

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

Power to council to make by-laws.

**49** IT shall be lawful for the council to make, publish, alter, modify, amend, or repeal such by-laws and regulations as to them shall seem meet

1. For regulating their own proceedings;
2. As to the conduct of the election of chairman, councillors, and auditors, in any matters which may not be sufficiently provided for by this Act, and which may not be inconsistent therewith;
3. As to the taking of the votes of the electors for the municipality upon any proposal to borrow money, as hereinafter stated;
4. As to the times and modes of collecting and enforcing payment of their rates, either in arrear or current; and also of any licenses payable to them under this or any other act;
5. To enforce the taking of proper precautions against fires, and of proper means to extinguish the same;
6. For regulating markets and fairs;
7. To regulate the publication of notices;
8. 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 them;
9. For the preservation of public decency and public health;
10. For defining areas within which no slaughter-house shall be permitted, and generally for regulating the slaughtering of beasts;
11. For defining areas within which no swine shall be permitted to be kept;
12. For the general regulation of traffic, and the general good rule and government of the municipality.

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**50** SUCH by-laws as aforesaid 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; and copies thereof shall be laid before the Legislative Council as soon as confirmed, if then sitting, and if not, within fourteen days after the opening of the next session.

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

**51** ALL by-laws so to be made as aforesaid shall state some maximum penalty for any neglect or breach thereof respectively, provided that no such maximum penalty shall exceed twenty pounds.

By-laws to be enforced by penalty.

**52** 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 or regulation duly made and confirmed by virtue of this Act.

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

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

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

**54** 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.

**55** AND whereas by an Ordinance passed in the third year of the reign of His late Majesty King William IV, intituled "An Act

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

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for the Regulation of Weights and Measures," power was given to the Governor from time to time by any order made and published as therein stated to appoint certain places and persons in which and with whom respectively should be deposited certain standard weights and measures, to be procured and authenticated as by the said order might be directed, and further by warrant under his hand and seal to appoint fit and proper persons to examine all weights, balances, and measures within the colony: Be it enacted that the said powers thereby given to the Governor shall no longer be exercised by the Governor within the limits of any municipality, but it shall be lawful for the council, by order made under its seal and published in accordance with its by-laws, to 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 shall be directed, and also to 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.

Also as to removal of  
boundary posts.  
16 V. No. 16.

**56** AND whereas by an Ordinance passed in the sixteenth year of the reign of Her present Majesty, and numbered sixteen, power was given to the Governor, by notice in writing addressed to the Surveyor General, to require the Surveyor General to do certain things, and also to authorise him to do certain things therein stated; Be it enacted that the powers therein given to the said Surveyor General, by the authority of the Governor, shall within the boundaries of any municipality be exercised, subject to the provisions of the said Ordinance, by the council of the municipality of its own authority.

Provisions of 14 Vic. No. 8  
made applicable to municipalities.

**57** THE Ordinance passed in the fourteenth year of the reign of Her present Majesty, and numbered eight, is hereby made applicable to any municipality constituted under this or the said recited Act as if it were a "townsite having a town-trust in operation under any Ordinance constituting a trust for the improvement of such town;" and the acts and things by the said Ordinance required or authorised to be done by the chairman of the town-trust are hereby required and authorised to be done by the chairman of the municipality.

Council to have certain  
powers as to pounds.  
25 Vic. No. 13.

**58** AND whereas by "The Public Pound Ordinance, 1861," certain powers as therein stated are given to, and certain things

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required to be done by, the Justices of the Peace in petty session assembled; be it enacted that within the limits of any municipality the said powers shall be exercised and the said things be done by the council of such municipality instead of being exercised or done by the said Justices.

**59** NO local board constituted under the provisions of "The District Roads Act, 1871," shall have any power or jurisdiction over any road, track, or bridge within the limits of any municipality; but any power or jurisdiction over any such road, track, or bridge, which, if the same were within any road board district, would under the said Act be enjoyed and exercised by the local board of such district, shall within the limits of any municipality be exercised by the council thereof.

No Road Board to have jurisdiction within any municipality.

**60** IT shall be incumbent upon the council, by notice served upon the owner of any allotment, garden, or piece of ground abutting or opening upon any paved, macadamised, or otherwise artificially formed street, path, or thoroughfare within the limits of the municipality, and which shall not be then properly enclosed and cleared, to require such owner to clear such allotment of all underwood and bushes, and to erect such suitable fencing, paling or wall along the frontage of the same as may be specified in such notice, and apprising him that if such requirement be not complied with within a period of not less than six months from the service of such notice, a penalty of Five pounds shall be thereupon incurred under this Act by such owner, and informing him that the council will, if they see fit, proceed after the expiration of such period, to erect such fencing, paling, or wall, and to clear such allotment as aforesaid, and to recover the amount of all costs and expenses in doing so, with interest thereon at ten per cent. per annum, as provided by this Act; and it is accordingly declared hereby that it shall be lawful for the council so to do, and to recover all expenses incurred in so doing from the owner, as provided by this Act, and such owner shall, if he neglect to comply with the requisition contained in the said notice, incur such penalty of five pounds.

Council may require erection of palings, &c., or erect the same and recover expenses thereof.

### PART VI.—SANITARY REGULATIONS.

**61** IF any candle-house, melting-house, melting place, or soap-house, or any fellmongery, slaughter-house, or any building or place for boiling meat, offal, or blood, or for boiling, burning, or crushing bones, or any manufactory, building, or place used for any trade, business, process, or manufacture whatsoever, causing effluvia, whether established before or after the passing of this Act, be at

Offensive or noxious trades.

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any time thereafter certified to the council by the inspector of nuisances or its officer of health; or in the case of any municipality having no such inspector or officer, then by any legally qualified medical practitioner, or by any six householders, to be a nuisance or offensive to the inhabitants of the neighborhood or others living adjacent thereto, or so near as to be affected by the influence thereof, or injurious to their health, the council shall cause to be summoned before any two Justices the person by or in whose behalf the work so complained of is carried on.

Those Justices shall inquire into such complaint, and if it shall appear to them that the trade or business carried on by the person complained against is a nuisance or causes any effluvia or fumes offensive to the inhabitants of the neighborhood, or others living adjacent thereto, or so near as to be affected by the influence thereof, or injurious to their health, the person so carrying on such trade or business may be convicted by the Justices of such offence, and shall, upon a summary conviction for such offence, forfeit and pay a sum of not more than Five pounds nor less than Forty shillings, and upon a second conviction for such offence the sum of Ten pounds, and for each subsequent conviction a sum double the amount of the penalty imposed for the last preceding conviction; but the highest amount of such penalty shall not in any case exceed the sum of Two hundred pounds:

Provided, always, that the Justices may suspend their final determination in any such case, upon condition that the person so complained against shall undertake to adopt, within a reasonable time to be fixed by such Justices, such means as the said Justices shall judge to be practicable, and shall order to be carried into effect for abating such nuisance, or mitigating or preventing the offensive or injurious effects of such effluvia or fumes.

Reservoir for refuse.

Every distillery, manufactory, brewery, slaughter-house, and every establishment for the boiling, preserving, or preparing of any animal matter, shall be provided with a cesspool or reservoir for the receipt and deposit of the refuse of such works, so far as the same is offensive or dangerous to the health of persons living in the vicinity; and such cesspool or reservoir shall be periodically emptied of its contents, and kept continuously in as inoffensive and cleanly a condition as possible, and shall

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be kept covered if the council of the town in which it is situate shall so direct, and it shall not be lawful to empty or suffer to flow into any surface drain or running fresh water stream, the contents of such cesspools or reservoirs aforesaid; and the owner or occupier of every such distillery, manufactory, brewery, slaughter-house, or establishment aforesaid may be compelled, by order in writing of such council, to use the best practicable means for rendering such refuse inoffensive or innoxious before the same is discharged.

**62** UPON the certificate of the officer of health to any council, or in any municipality where no such officer has been appointed, of any legally qualified medical practitioner, that any house or part thereof, or any out-building connected or used therewith, any abattoir or slaughter-house, or any shop, building, stall or place kept or used for the sale of butcher's meat, fish, or poultry, or any place used for carrying on the business of a soap-boiler, tallow melter, candle maker, starch manufacturer, meat boiler, meat preserver, blood boiler, bone boiler, bone crusher, tripe boiler, boiler of refuse or animal matter, tanner, currier or fell monger or gas manufacturer, or the premises occupied with the same or appurtenant thereto, situate within the jurisdiction of the council, is or are in such a filthy or unwholesome condition that the health of any person is affected or endangered thereby, or that the whitewashing, cleansing, ventilating, or purifying of any house, out-buildings, or part thereof, would tend to prevent or check the spread of infectious or contagious disease, such council shall give notice in writing to the occupier of such house, out-building, or part thereof, to whitewash, cleanse, or purify the same, as the case may require. If the person to whom notice is so given fails to comply therewith within such time as shall be specified in the said notice, the council may cause proceedings to be instituted against such person for an offence against this Act, and may cause such house, out-building, or part thereof to be whitewashed, cleansed, or purified; and the expenses incurred by such council in so doing shall be repaid by the occupier, and recovered as hereinafter mentioned.

Filthy houses to be washed and cleansed.

**63** THE contents of any water-closet, earth-closet, privy, or cess-pool shall not, nor shall any part thereof, be permitted to overflow, or leak, or soak therefrom: and every such water-closet, earth-closet, privy, or cess-pool that is not watertight shall be deemed to be a nuisance, and injurious to health.

Council to ascertain drains, &c., are nuisances.

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Each council shall provide that all drains whatsoever, and the water-closets, earth-closets, privies, cess-pools, and ash-pits within its jurisdiction shall be constructed and kept in such a manner that the same shall not, nor shall the contents thereof, be a nuisance, or injurious to health, and that there shall be no overflow, leakage, or soakage therefrom; and may, upon the written application of any person showing that any such drain, water-closet, earth-closet, privy, cess-pool, ash-pit, or other matter is, or that the contents thereof are, a nuisance, or injurious to health, or on the report of the inspector or other officer of the council, that such drain, water-closet, earth-closet, privy, cess-pool, ash-pit or other matter is not constructed or kept, or that the contents thereof are not kept according to this Act, or any regulation or order made in that behalf, and after twenty-four hours' notice in writing, (or, in case of emergency, without any notice), to the occupier of the premises of which complaint shall be made, by themselves, or by an officer or servant of such council, make entry upon and examine such premises, and cause the ground to be opened, or do any other necessary act to examine any drain, water-closet, earth-closet, privy, cess-pool, ash-pit, or other place, and the contents thereof.

If such drain, water-closet, earth-closet, privy, cess-pool, ash-pit, or other place, shall be found to be in proper order and condition, the council shall cause the ground to be closed, and any damage done to be made good as far as can be at the expense of such council; but if any drain, cess-pool, water-closet, privy, ash-pit, or other place shall be found to be in bad condition, or require alterations or amendment, the ground shall be closed up, and notice in writing given by such council to the occupier, requiring him to make such alteration or amendment within a time to be named in such notice; and if such occupier shall fail to comply with such notice, it shall be competent for the council either to cause such alteration or amendment to be executed at the expense of the occupier of such premises, or to cause proceedings to be instituted against such occupier, for an offence against this Act.

Council to clean and cover  
such as are nuisances.

**64** NO person shall suffer any waste or stagnant water to remain in any cellar or premises in or about any dwelling house occupied by him for twenty-four hours after a written order to

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remove the same has been served upon him by the council of the town in which such house is situate, or its officer.

Each council shall cause to be drained, cleansed, covered, or filled up, all ponds, pools, open ditches, sewers, drains, and places within its jurisdiction in which any drainage, filth, water, matter, or thing of an offensive nature, or likely to be prejudicial to health, collects, by making and serving an order in writing upon the person using the same, or permitting the same to be used for any such purpose, or upon the occupier of any premises whereon the same are so used, requiring him, within a time to be specified in such order, to drain, cleanse, cover, or fill up any such pond, pool, ditch, sewer, drain, or place, or to construct a proper sewer or drain, or place for the discharge thereof, as the case may require.

If the person to whom any such order as is in this section mentioned is lawfully given fails to comply therewith, the council by which such order was given may cause proceedings to be instituted against such person for an offence against this Act, and may execute the works mentioned or referred to therein, and recover the expenses incurred therein against the occupier of the premises.

**65** THE council of every town shall take care that all private passages, yards, ways, and other premises are kept in such a state in respect of cleanliness as not to be a nuisance or injurious to health; and if at any time it shall appear to any such council that any accumulation of manure, dung, soil, filth, blood, offal, coal-ashes, or other offensive or noxious matter ought to be removed from any butcher's shambles, abattoir, slaughter-house, yard, house, out-building, lane, alley, private passage, way, or other place within its jurisdiction, such council shall make an order in writing, directing the occupier of the premises whereon it is, to remove the same within a time to be named in such order, and if such order, after notice thereof duly given, be not complied with, may cause proceedings to be instituted against such occupier for an offence under this Act, and may cause such manure, dung, soil, filth, blood, offal, coal-ashes, or other offensive or noxious matter to be removed and disposed of as the council may direct, and may recover the expenses of such removal from such occupier.

Private premises to be  
cleansed.

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Management of sewers and houses.

**66** ALL houses hereafter to be erected or rebuilt within the jurisdiction of a council shall have such covered drains leading to such sewer or other places, having such a fall and constructed of such materials as such council shall by written notice direct; and such council may in the case of there not being any sufficient drain from any house or other building within its jurisdiction (whether erected at any time before or after the coming into operation of this Act) cause notice in writing to be given to the owner to construct a drain of such nature and description as such council shall think necessary and shall specify in such notice; and if such drain, at the expiration of the time to be named in such notice for the completion thereof, shall not have been constructed, the council may cause proceedings to be instituted against such owner for an offence against this Act, and may cause such drain to be constructed at the expense of such owner.

Houses to have privies.

**67** ALL houses shall have attached to them such water-closets, earth-closets, or privies, with proper doors, coverings, drains, and cesspools, and so constructed as shall be in the opinion of the council within the jurisdiction whereof such houses are situate sufficient for such houses respectively.

If at any time it shall be made to appear to any council that any house or building within its jurisdiction, whether built at any time before or after the coming into operation of this Act, has not a sufficient water-closet, earth-closet, or privy, with proper doors, coverings, drains, cesspools, and the owner, on notice in writing to that effect from such council, shall not erect such sufficient water-closet, earth-closet, or privy, with proper doors, coverings, drains, and cesspools, within the time to be named in such notice, such council may cause proceedings to be instituted against such owner for an offence against this Act, and may cause a privy or water-closet, or earth-closet, with proper doors, coverings, drains, and cesspools, to be erected at the expense of such owner.

Buildings in which many persons collected to have privies.

**68** IF it shall appear to any council that any house or building within its jurisdiction is used or intended to be used as a school or a factory, in which persons above twenty in number are, or are intended to be gathered or employed at one time, such council shall, by notice in writing to the owner of such house or building, require him, within a time to be specified in such notice, to construct a sufficient number of water-closets, earth-closets, or privies for the

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use of such persons, and (if they are of different sexes) separate water-closets, earth-closets, or privies for the use of each sex; and if the owner shall neglect to erect such water-closets, or earth-closets, or privies, within the time mentioned in such notice, such council may cause proceedings to be instituted against such owner for an offence against this Act, and may cause a sufficient number of water-closets, or earth-closets, or privies, to be constructed at the expense of the owner of such house or premises.

**69** WHENEVER it appears that the person by whose act, default, permission, or sufferance a nuisance arises, or the owner of the premises whereon the nuisance exists, is not known or cannot be found, then the council within the jurisdiction of which such premises are situate shall remove, abate, or discontinue the nuisance, and the cost shall be defrayed out of the rates or moneys applicable to the execution of this Act, but shall be recoverable from any owner of the said premises.

Council may abate nuisances.

**70** 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; 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 against the owner of the premises as if such owner and not the occupier were primarily liable to pay the same.

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

**71** ANY expenses incurred by the council in doing any matter or thing which by this Act the owner of any premises is required to do, may be recovered against such owner by summary proceedings before any two Justices; and any summons issued by any Justice in this behalf against any such owner may, if such owner is not known or cannot be found within the Colony, be served in the same way as is provided by the next section of this Act in the case of notices; and thereupon, on proof of such service, it shall be lawful for the Justices to 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

How expenses to be recovered from owner.

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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 (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 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 incumbrance created by such owner notwithstanding. Provided always, that where such land and premises shall have been brought under the provisions of "The Transfer of Land Act, 1874," such council shall, within six weeks of the date of such warrant as aforesaid, direct a memorandum of the issue of such warrant to be endorsed on the certificate of title whereof such land is the subject, and thereupon such endorsement shall operate as a preferential encumbrance or charge upon such land.

#### Service of notices.

**72** WHENEVER, under this Act, any written notice is required to be given to the owner or occupier of any building or land, such notice, addressed to the owner or occupier thereof, as the case may require, may be served on the occupier of such building or land, or left with some inmate of his abode, or, if there is no occupier then resident there, may be put up on some conspicuous part of such building or land; and it shall not be necessary in any such notice to name the occupier or the owner of such building or land: Provided that when the owner of any such building or land and his residence are known, or, if such owner is known not to be resident within the Colony but to have an agent whose name and address are known to the council by which such notice is given, the council shall, if such owner or agent as aforesaid is residing within its jurisdiction, cause every notice required to be given to the owner to be served on such owner or his agent, or left with some inmate of his abode; and if such owner is not resident, and has no known agent, within its jurisdiction, shall send every such notice by post, addressed to the last known place of residence of such owner.

#### Operation of notices,

**73** ALL notices required under this Act to be served on 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.

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**74** THE council, within their respective jurisdiction, shall cause all sewers and drains 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 may be 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 they may deem fit or 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 shall, in the opinion of such council, tend to the injury or stoppage of any such drain or sewer.

Management of sewers and drains.

**75** EACH council may provide and maintain in proper and convenient situations, and in proper repair and condition, water-closets, earth-closets, privies, urinals, and other similar conveniences for public accommodation, and defray the necessary expenses out of the moneys received by such council for the purposes of this Act.

Public privies may be provided.

**76** EACH council shall provide, in proper and convenient situations, a place or places for the deposit and collection of dust, ashes, and rubbish, and also fit buildings or places for the deposit of the sewage, soil, dung, filth, ashes, dust and rubbish collected by or by the permission of such council; and all sewage, soil, dung, filth, ashes, dust, and rubbish so collected by or by the permission of the said council, or in any place or places provided as aforesaid, shall be vested in and be sold and disposed of by such council, and the proceeds of such sale shall be carried to account of the rates or moneys applicable to the purposes of this Act.

Places to be provided for deposit of rubbish, sewage, &c.

Each council may undertake or contract with any person for the proper cleansing of streets, the removal of house refuse from any premises, the cleansing of water-closets, earth-closets, privies, ash-pits, or cess-pools; and all matters thus collected by the council or contractor may be sold or otherwise disposed of, and any profits thus made by the council shall be carried to the credit of its ordinary income.

Whosoever deposits or causes to be deposited any filth, dust, ashes, or rubbish in any place except in the place or places so provided, or without the consent of

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the said council collects or removes any sewage, soil, dung, filth, ashes, dust or rubbish (except in cases where such matters are produced on his own premises, and are removed for sale, or for his own use as manure, and in the meantime kept so as not to be a nuisance or injurious to health), or obstructs the council or such contractor or his servants in removing any such matters, shall for every such offence be liable to a penalty not exceeding Five pounds.

Overcrowding in houses.

**77** UPON the certificate of the officer of health of any council, or when no such officer has been appointed of any legally qualified medical practitioner, that any house or building, or any part thereof, is so overcrowded as to be dangerous or prejudicial to the health of the inmates or inhabitants, or persons employed therein, the council within the jurisdiction of which such house or building is situate shall cause complaint to be made before any Justice, who may summon before any two Justices any person permitting or having power to prevent such overcrowding; and the Justices shall thereupon make such order as they may think fit to abate such overcrowding; and the person permitting such overcrowding shall forfeit a sum not exceeding Five pounds nor less than Twenty shillings.

Unwholesome food to be seized.

**78** ANY member or officer of any council, acting under the authority thereof may at all reasonable times enter into and inspect any butcher's, poulterer's, or fishmonger's shop, or any abattoir or slaughter-house, or any shop, building, stall, or place kept or used for the sale of any provisions or other articles used or intended to be used as food for human consumption, and may examine any carcass, provisions, or articles, which may be therein, and may also inspect any carcass, provisions, or articles, or any part thereof which may appear to such council or officer to be intended as food for human consumption, if offered or exposed for sale by any hawker or such like person; and in case any such carcass, provisions, or articles, or any part thereof respectively, appear to such council or officer to be intended as food for human consumption, and to be unfit for such food, may seize and carry the same before two Justices:

In case upon inspection or examination by or before such Justices such carcass, provisions, or articles, or any part thereof respectively, shall be found by such Justices to be unfit for food for human consumption, such Justices shall order the same to be immediately destroyed, or to

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be otherwise disposed of, so as to prevent the same being exposed for sale or used for such food; and the sale or exposure for sale, or the possession with the intention of selling for human food of any such carcass, provisions, or articles, or any such part thereof respectively, shall be an offence under this Act, and the person guilty of such offence shall, in addition to the penalty which may be imposed upon him, be charged with and shall pay the expenses incurred in the seizure, carriage, inspection, examination, and destruction or other disposition of such provisions or articles.

**79** EACH council shall from time to time appoint one or more of its members or officers whose duty it shall be to make inspections of the town within its jurisdiction, with the view to ascertain what nuisances exist calling for abatement under the powers of this Act, and to enforce the provisions thereof:

Persons acting in the execution of this Act may inspect.

Any person appointed as aforesaid may, with such assistants as may be necessary, at all reasonable times in the day-time, enter and inspect any abattoir, shop, stall, dwelling, and all other places whatsoever, whether private or public, within the jurisdiction of any council, if such entry and inspection are, in the judgment of such persons proper in order to effectuate any of the purposes of this Act. In case peaceable admission is refused to any such person, he shall report the circumstance to the council, and such council shall, if it think fit, thereupon apply to any Justice of the Peace for a warrant authorising the person to be named in such warrant to demand to be admitted and allowed to inspect such abattoir, shop, stall, dwelling-house or place, and if admission be refused on production of such warrant, with such assistants as may be necessary, to break down doors and do all other acts that may be necessary to force an entrance into such abattoir, shop, stall, dwelling-house or place, or any part thereof. And any Justice of the Peace is hereby empowered, on the application of the council or some person specially authorised by the council thereunto, to issue such warrant. And the person named in such warrant is hereby authorised, if he is on production of such warrant unable to gain peaceable admission into such abattoir, shop, stall, dwelling-house or place or any

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part of the same, to summon to his assistance such persons as he may deem necessary and with them to break down doors and do all other acts and things necessary to enable him to force an entrance into such abattoir, shop, stall, dwelling-house or place, or any part thereof.

Penalties for obstructing  
the execution of this Act.

**80** WHOSOEVER shall wilfully obstruct 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 shall incite any other person so to do, or shall destroy, pull down, injure, or deface any board, placard, or notice made or published under this Act, shall be 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 or his agent from obeying or carrying into effect the provisions of this Act, or of any by-law made hereunder, he shall be liable to a penalty not exceeding Five pounds for every day of such prevention; and if the occupier of any premises, when requested by the council within the jurisdiction of which the same are situate, or by any officer thereof, to state the name of the owner of the premises occupied by him, shall refuse or wilfully omit to disclose to the best of his knowledge, information, and belief, or wilfully misstate the same, he shall be liable to a penalty not exceeding Ten pounds.

Penalties for disobedience  
of this Act.

**81** 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 theirs 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 shall remain undone, or such act having been duly forbidden to be done shall be 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:

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.

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#### PART VII.—FINANCIAL.

**82** THE council is hereby required, prior to the first day of November in each year, to prepare two statements in writing, to be signed by the chairman thereof 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. 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 and assessments, 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 and assessments.

Council to prepare annual estimate.

**83** THE ordinary income of any municipality shall be made up of—

Income of municipality, how made up.

1. The rents, issues, profits, and dues arising from or out of the lands, houses, tenements, and other property of the corporation, together with any fines or penalties that may be 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 may have 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, and all fines and penalties, which by any Act or Ordinance are made payable to any municipality or town trust, excepting so much of the latter as may be payable to any informer;
5. All fines and penalties incurred and recovered under the provisions of "The Police Ordinance, 1861," within the

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municipality, excepting so much as may be payable to any informer;

6. All fines and penalties that may be incurred and recovered, under the provisions of this Act, within the municipality.

7. Any general rate made and levied pursuant to the provisions of this Act.

Council authorised to make a rate.

**84** THE council is hereby authorised and required, after making the estimate and statement in the 82nd section 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 and assessments, to make and levy such rate or rates within the limits of the municipality, not exceeding in the aggregate eighteen pence in the pound in any one year upon the rateable value of all houses, stores, shops, mills, tenements, or other buildings, pieces of land, allotments, gardens, and other premises within the municipality, as may be required to make good such deficiency. Such rate shall be called the general rate.

Manner of making up the rate book.

**85** FOR the purpose of determining the rateable value of property for the purpose of the said rate, the council shall cause a book to be kept (to be called "The Rate Book") according to the form contained in Schedule E to this Act, and shall enter therein every house, store, shop, mill, tenement or other building, piece of land, allotment, garden, or other premises within the municipality; and shall in the appropriate column state the full, fair, average, estimated net annual value of the same clear of all outgoings; and such value shall, in the case of all buildings that have been unoccupied for a period of six months previous to making up such book, and of any waste piece of land, be taken at one tenth of its full fair value in fee; 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 chairman 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 net annual value set against every house, store, shop, mill, tenement, or other building, piece of land, allotment, garden, or other premises in the said book so signed by the chairman, shall for all purposes be deemed to be

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the rateable value thereof during the year, beginning on the first day of January next ensuing. And the said rate book shall at all times thereafter be open to inspection.

**86** WHENEVER any such general rate has been ordered to be made and levied by the council as aforesaid, the chairman 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 of such rate shall, subject to any by-law that may be 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 tenant or occupier at the time of the making of such rate of every such house, shop, store, mill, tenement, or other building, piece of land, allotment, garden, or other premises, and in the next instance within the year in which any rate is made, from and by any subsequent tenant or occupier, or if there be no such tenant or occupier, or if the council be unable to enforce payment by any such tenant or occupier as aforesaid, then from and by the owner of the same.

Manner of making rate.

Who liable to pay rates.

**87** IN any proceeding taken to enforce payment of any general rate authorised to be levied under this Act, it shall be sufficient for the council to prove that a memorandum of the order ordering such rate to be made was signed by the chairman, that notice of the same was duly given, that demand has been made for payment of the said rate at least fourteen days before the commencement of the said proceedings, and that the same has not been paid, that the person against whom such proceedings are taken is or was at the time of the making of such rate or such demand as last aforesaid the tenant or occupier of the premises, or, if the proceedings are taken against the owner, that the premises are unoccupied or that the council is unable to enforce payment by the tenant or occupier liable in the first instance as aforesaid; and thereupon the council shall be entitled to judgment for the amount of the rate calculated on the rateable value of the land or premises as the same appears in the rate book, or on some lesser value which the court or Justices before whom the proceedings are taken may determine to be the full, fair average, net annual value of the rated premises, free of outgoings as aforesaid.

What to be proved, in order to recover rate.

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How rates may berecovered.

**88** ALL rates leviable under this Act shall be recoverable either by action at law, by summary proceedings before any two Justices, in the same way as any fine or penalty is now recoverable, or by distress and sale, as hereinafter mentioned. Provided always that if at any time before sale under any distress warrant under the hand of the chairman as hereinafter mentioned or payment of any rate, any person who may feel himself aggrieved by any rate made under this Act (whether it be that he objects to the valuation put upon the tenement in respect of which he is rated in the rate book, to the making of the said rate, to the making of the distress aforesaid, or otherwise, howsoever) shall give notice to the chairman of the council that he objects to such rate, and shall in such notice specify the ground or grounds of his objection and at the same time deposit with such chairman the sum of two guineas, as security for any costs that may be awarded against him, then the council shall not be entitled to recover such rate by distress, and if a distress has been put in against the goods and chattels of such person, shall at once withdraw such distress.

Power to council, in certain cases to distrain for rates.

**89** SUBJECT to the provisions of the next preceding section, the council shall be and is hereby empowered, in case of the non-payment of any portion of any rate leviable under this Act within fourteen days after demand made on their behalf on or at the residence of any tenant or occupier of the rated premises liable to pay the same, or by posting the same upon the property, in the manner hereinbefore provided with regard to notices, to issue a warrant under the hand of the chairman and seal of the corporation, directed to the bailiff to be named therein, and enjoining him to levy the amount by distress and sale by public auction of the goods and chattels that may be found on the premises so rated, or that may have been removed therefrom to avoid seizure and can be re-taken, or that belong to such tenant or occupier and can be distrained in any part of the Colony; Provided that no sale of goods or chattels under this section shall take place until the expiration of five days after the seizure thereof, and that no more fees than those stated in Schedule F to this Act be taken.

Remedy to persons who, not being primarily liable to pay a rate, have paid the same.

**90** WHEN payment of any rate has been enforced against or made by any tenant or occupier not primarily liable to pay the same, such tenant or occupier may recover the same from the tenant or occupier primarily liable by action at law, as money paid for such tenant or occupier, or by summary proceedings before any two Justices, or he may in like manner recover the same from the owner, or deduct the same from any rent payable by him to the

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owner of the premises, any covenant or agreement by or between such occupier and owner to the contrary notwithstanding. And the production of the receipts for such rates so recovered from or paid by such tenant or occupier shall be a good and sufficient discharge for the amount so paid or recovered on payment of rent to the owner. When payment of any rate has been enforced against or made by the owner of any premises, or the amount of any such rate has been deducted as aforesaid from the rent otherwise payable by any tenant not primarily liable to pay the said rate, such owner may recover the amount so paid from the tenant or occupier primarily liable by action at law, as money paid for such tenant or occupier, or by summary proceedings before any two Justices.

**91** THE Council shall cause to be published in the first number of the *Government Gazette*, or in two of the local newspapers, issued next after the first day of January and July, respectively, in each year, a list of all persons who shall be in arrear of or for any rate, whether assessed by virtue of this Act, or of the said recited Act, and of the amounts due by them respectively, and in respect of what hereditaments and premises; and from and after the date of such publication such rates, with interest thereon at ten per centum per annum, and the expense of proceedings to recover the same, shall constitute a charge and have priority, after Crown Debts, to every security or claim of any description against the estate real and personal of the debtors respectively.

List of defaulters to be published.

**92** IF any rate or rates imposed under this Act or the said recited Act shall remain due and unpaid for the term of eighteen months in respect of any premises whatsoever, whether the owner thereof be resident in the Colony or not, and if no sufficient distress can be found on the premises applicable thereto, it shall be lawful for and incumbent upon the Council to cause a notice according to the form of the Schedule G to this Act to be signed by the chairman, and a copy thereof to be published in three successive numbers of the *Government Gazette* or of two local newspapers, stating the amount of rates due and unpaid as aforesaid in respect of such premises (describing the said premises by the name, if any, by which the same are most usually known, and by the name of the owner or last known owner of the same), and warning the owner of the said premises, 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 the same, within two

Premises may be sold for arrears of assessments remaining unpaid for eighteen months.

Form—Schedule G.

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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, it shall be lawful for the council, and the said council is hereby required, to present a petition to the Supreme Court, stating the imposition of the rate on the said premises, the non-payment of the same, the fact that no distress can be found on the said premises sufficient to satisfy the same, and the publication of the notices aforesaid; and any Judge of the Supreme Court, on being satisfied of the proof of such circumstances, shall order the said premises or such part thereof as may be deemed sufficient to satisfy the said rate 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 monies pay to the council on demand the amount of such rates as aforesaid, and of all rates imposed on such premises and due in respect thereof 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 may prove himself or themselves entitled to the same. Provided always, that it shall be lawful for the said Judge, at the time of making any such order, to give any directions that he may deem proper touching the time and place of such sale, and the notices to be given thereof; provided further, 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 of contempt of court, and may be ordered by the said court to make compensation to any person injured or damaged by such neglect.

Certificate to be given to  
purchaser.

**93** A CERTIFICATE of the sale of any such hereditaments and premises as aforesaid, according to the form contained in Schedule H to this Act, shall be given by the person named in the order of the court as the person to sell the said hereditaments and premises; and the registrar of titles shall, on production by the purchaser thereof of the said certificate and of an office copy of the said order, forthwith bring the said hereditaments and premises mentioned in the said order and certificate under the operation of "The Transfer of Land Act, 1874," by registering the name of the person named in the said certificate as the purchaser as the proprietor of the said hereditaments and premises.

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**94** IT shall be lawful for any person ordered to sell any such property as aforesaid, to 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.

**95** THAT it shall not be lawful to levy any rate whatever on the property of Her Majesty, not being let or hired to any private individual, nor on any premises vested by Her Majesty or by any Ordinance or Act in any trustee or trustees constituted for any religious or other public purposes, or permanently appropriated for the purposes of public recreation, nor on any allotment or part of allotment containing any hospital, benevolent asylum, building used exclusively for charitable purposes, church, chapel, or other erection used for public worship, nor on any convent or nunnery, monastery or edifice of a religious brotherhood, public school, public library, museum, or mechanics' institute. Exemption from rates.

### PART VIII.—LOANS.

**96** 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. Power to council to borrow money.

**97** MONEY may be borrowed for permanent works or undertakings, or to liquidate the principal monies owing by the municipality on account of any previous loan. Purposes for which money to be borrowed.

**98** 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 three years terminating with the yearly balancing of accounts next preceding the *Gazette* notice of such loan, 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 monies borrowed to liquidate any loan shall not exceed the balance of principal monies owing on account of such loan. Amount which may be borrowed.

**99** 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: Permanent works and undertakings.

1. The opening and making of new streets and roads, and the diverting, altering, or increasing the width of streets and roads.

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2. The raising, lowering, or altering of the ground or soil of streets and roads.
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.
6. The construction and purchase of gas-works.
7. The construction and providing of municipal offices, pounds, abattoirs, market places, market houses, 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.

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

**100** BEFORE proceeding to borrow any money for the construction of permanent works and undertakings, the council of every municipality 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 for one month after the publication of the notice next hereinafter mentioned, at all reasonable times.

*Gazette* notice to be published before borrowing.

**101** 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 twice in some newspaper generally circulating in the Colony, 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 monies 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

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

**102** 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 the said recited Act of 1871, or of this Act), any ten persons whose names are inscribed on the municipal electoral list in use for the time being, may in writing under their hand delivered to the chairman or clerk of the municipality, demand that the question whether or not such loan is incurred be submitted to the election of the ratepayers.

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

**103** WHEN any such demand has been made, the votes of the ratepayers shall be taken upon such question on a day to be fixed by the chairman 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 colony, and be otherwise published as the council may direct; 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 Schedule I 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 chairman shall apply as nearly as may be.

Votes of the ratepayers how taken.

**104** 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.

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

**105** ALL monies borrowed by the council of any municipality for the purposes aforesaid shall be raised by the sale of debentures under the provisions of this Act.

Money to be raised by sale of debentures.

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Manner of making debentures.

**106** ANY such debenture shall be in the form given in Schedule J of this Act. They shall be numbered with consecutive number and shall be dated on the date of issue. The capital sum and interest will be payable at such place and time, to the bearer or the registered holder, as may be stated in any such debenture or annuity.

All debentures valid under certain circumstances.

**107** 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 two months after the publication of such notice issue debentures signed and sealed as aforesaid as in pursuance of such intention, such debentures shall be good and valid as against such municipality in favor of any purchasers thereof without fraud and *bonâ fide*.

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

**108** WHENEVER any money has been lawfully borrowed by any municipality, and so long as any such money shall remain unpaid the council of such municipality is hereby empowered and required from time to time to make and levy such special rate, not exceeding one shilling and sixpence in the pound, upon the rateable value of every house, store, shop, mill, tenement, or other building, piece of land, allotment, garden, or other premises within the limits of the municipality, as such council may deem necessary to enable it to pay the interest on the said money borrowed, and also such percentage of the principal sum as may be named in the debentures issued to raise such money.

Application of proceeds of special rate.

**109** 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 the 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 special rate are in excess of the requirements, repay itself the amount so paid out of the ordinary income.

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**110** ALL the provisions of this Act with reference to the making, levying, and recovering the general rate, or any arrears of the same, shall be equally applicable to any special rate under this Act, or any arrears of the same, with this proviso, that in addition to the memorandum required to be made in the rate book, and signed by the chairman, of the order of the council ordering such rate to be made and levied, the chairman may in the case of any special rate enter in the rate book a statement in writing, setting forth the circumstances which justify the making 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 any such special rate, such statement signed as aforesaid shall be *prima facie* evidence of the truth of the facts therein set forth.

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

**111** 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:—

Sinking Fund.

The council of such municipality shall cause a sum, being such per centage of the principal sum secured by the debentures issued to raise such loan as is named in such debentures, not being at any time less than two pounds per centum of such principal sum, to be in every year after the issue of such debentures and 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, invested in the purchase of consols or in the Government stock of any British Colony in Australasia in the joint names of the Colonial Treasurer and of the municipality, and to an account intitled as of such loan, is sufficient to secure the liquidation of such loan.

**112** ALL interest accruing due on any consols or stock for the time being standing to the credit of any account forming any sinking fund shall be invested in the purchase of consols or stock as aforesaid in the names and to the account aforesaid.

Investment of the interest of sinking fund.

**113** WHEN any debentures are about to fall due, any 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

Application of sinking fund to meet debentures.

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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.

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

**114** 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 stock credited to any such account as aforesaid will be sufficient to secure the holders of all debentures secured upon such stock other than the debentures so presented, and upon the cancellation of such debentures and coupons (if any) the Colonial Treasurer may join in transferring any balance of stock credited to such accounts, and over and above the amount mentioned in such certificate.

When Treasurer may transfer.

**115** 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 stock forming part of any such sinking fund as aforesaid.

Priorities of debenture holders.

**116** 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 *Gazette* notices of such loans published 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.

Power to appoint a receiver if municipality make default.

**117** 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 or holders of any debenture or debentures of such municipality, appoint some person or persons, not exceeding three, to be a receiver or receivers of the whole ordinary income of such municipality, and of the special rate hereinbefore mentioned. Every such receiver shall be deemed an officer of and shall act under the direction of the Supreme Court.

Power to remove receiver.

**118** 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.

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**119** 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 ordinary income of such council or of any special rate) of the council that may have been outstanding at the time of his or their appointment, and to receive and recover any part of such income that may become 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 making and levying 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.

Powers of receiver.

**120** EVERY such receiver shall be entitled to such commission, as remuneration for his services, as the Supreme Court may appoint.

Commission to receiver.

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

Transfer of sinking fund to receiver.

**122** SUCH receiver or receivers shall hold all moneys and the proceeds of all stock 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.

Purposes for which receiver is to hold moneys.

**123** THE council of every municipality shall cause a separate account to be kept in some bank for every loan incurred by them, 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 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.

Separate account to be kept of every loan.

### PART IX.—ACCOUNTS AND AUDIT.

**124** THE council shall cause books to be provided and kept in such form (if any) as may from time to time be appointed by the Governor

Books of account, and inspection by persons interested.

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Governor in council, 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 shall 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 liable to a penalty not exceeding Five pounds for every such offence.

Annual balance and audit.

**125** THE council shall cause the accounts of the municipality to be balanced half-yearly up to the thirtieth day 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.

Persons interested may be present.

**126** ANY person interested in the said accounts, either as 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.

Annual financial statement.

**127** 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, on the other, the various matters and things on which the same has been expended. And, in the case of any municipality that has borrowed 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 monies so received or brought forward and, on the other, the

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application of all such monies 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 under this Act, 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 published in the *Government Gazette* and in at least one newspaper circulating in the Colony.

**128** IT shall be the duty of the auditors, if they shall 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, to 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 the proper steps to have such error or deficiency made good by the person or persons liable to make it good. Duty of auditors.

**129** IT shall be lawful for the council in any year to 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. Power of council as to expending its income.

**130** 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 may have been disallowed, shall be personally liable, individually and collectively, to make good to the council the Duty of auditors.

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the 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 provisions of this Act as aforesaid, be entitled to judgment for the sum or sums so spent by any person or persons sued who may 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 shall prove the contrary.

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

WILLIAM C. F. ROBINSON, Governor.

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## *Municipalities.*

### SCHEDULES.

#### Schedule A.

#### CITY OF PERTH.

##### *Boundaries of the Wards.*

##### WEST WARD.

Bounded on the *South* by the North and Western shores of Perth Water and Melville Water; on the *East* by the centre of William and Hutt Streets; on the *North* by the centre of Ellen and Newcastle Streets; and on the *West* by the West boundaries of the said City.

##### NORTH WARD.

Bounded on the *South* by the centre of Newcastle, Ellen, and Mangles Streets; on the *East* by the centre of Guildford Road; on the *North* and *West* by the boundaries of the said City.

##### CENTRAL WARD.

Bounded on the *South* by the North shore of Perth Water; on the *East* by the centre of Lord Street; on the *North* by the centre of Ellen and Mangles Streets; and on the *West* by the centre of William and Hutt Streets.

##### EAST WARD.

Bounded on the *East* by the right bank of the River Swan; on the *South* by the North shore of Perth Water; on the *North* by Swan Location A 4; and on the *West* by the centre of Lord Street and Guildford Road.

#### Schedule B.

*List of Voters for 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.	Value at which property is assessed.	Number of votes.

*(Signed.)* A. B.

Chairman of the Council.

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#### Schedule B. continued.

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

Surname of person supposed to be en- titled to vote.	Christian name of same person.	Trade or occupa- tion.	Description and situation of property giving title to vote.	Whether as owner or occupier.	Value at which pro- perty is assessed.

*(Signed)* A. B.

Chairman of the Council.

#### Schedule C.

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

To the Chairman of the Council of the                      Municipality.

Sir,—I hereby claim to have my name inserted on the [Municipal  
electoral list for the Municipality of                      ] or [Ward electoral  
list for the                      Ward of the Municipality of                      ]  
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 oc- cupation.	Description and situation of pro- perty in respect of which claim is made.	Whether claiming as owner or oc- cupier.	Rateable value of property accord- ing to rate book.	(If claim is made to be put on Municipal Electoral List) num- ber of votes claimed.

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#### Schedule D.

*Voters' List for the Municipality of , for the year beginning  
November 1st, 18 , and ending October 31st, 18 .*

Number.	Voter's Surname.	Voter's Christian Name.	Trade or Occupation.	Description and situation of rateable property.	Number of votes to which voter entitled.

*(Signed)* A.B.  
Chairman of the Council.

*Voter's List for the Ward of the Municipality of for the  
year beginning November 1st, 18 , and ending October 31st, 18*

Number.	Voter's Surname.	Voter's Christian Name.	Trade or Occupation.	Description and situation of rateable property.

*(Signed)* A.B.  
Chairman of the Council.

#### Schedule E.

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

Surname of person rated.	Christian Name of person 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.

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### *Municipalities.*

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#### Schedule F.

For every Warrant of Distress..... One Shilling  
For man in possession each day or part of day.... Five Shillings  
For inventory, sale, commission, and delivery of goods { Not exceeding one  
shilling in the  
pound on the  
proceeds of the  
sale.

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#### Schedule G.

##### *Form of Notice.*

By virtue of the provisions of "The Municipal Institutions' Act, 1876," notice is hereby given to all parties interested therein that the sum of £ has now been due and unpaid for the term of twelve months in respect of rates made and assessed 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.,  
Chairman of the Council of the Municipality of

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#### Schedule H.

##### *Form of Certificate of Sale.*

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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### *Municipalities.*

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#### Schedule I.

*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* for the \_\_\_\_\_ day of \_\_\_\_\_ 18 \_\_\_\_\_.

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

Number of votes that the }  
voter is entitled to }

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#### Schedule J.

No.

*Debenture £*

Issued by \_\_\_\_\_ under the provisions of "The Municipal  
Institutions' Act, 1876."

Transferable by delivery.

THIS Debenture was issued by the above-named Municipality, in pur-  
suance 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 at 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. Chairman.  
C. D. Treasurer.