



WESTERN AUSTRALIA.

ANNO TRICESIMO QUARTO

VICTORIÆ REGINÆ.

No. VI.

AN ACT for establishing Municipalities.

[2nd January, 1871.]

WHEREAS it is expedient, for the care and management of the local interests of the inhabitants of the City of Perth, to incorporate the said inhabitants; and whereas it is also expedient that the inhabitants of Fremantle, and the inhabitants of other Towns throughout the Colony, should be incorporated; 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:—

Preamble.

PART I.

PRELIMINARY.

1 THE Ordinance intituled *An Ordinance to provide for the improvement of Towns in Western Australia*, 14 Vict., No. 15 of 1850, ^{Repeal of} 14 V. 15.

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22 V. 10.

28 V. 10

15 V. 9, 19 V. 2, and 32 V.
5.

and *The City of Perth Improvement Ordinance* 1858, 22nd Vict., No. 10 of 1858, and *The City Council Amendment Ordinance* 1864, 28th Vict., No. 10 of 1864, together with the Ordinances 15th Vict., No. 9 of 1852, 19th Vict., No. 2 of 1855, and 32nd Vict., No. 5 of 1868, are hereby repealed; Provided that such repeal shall not affect anything lawfully established or perfected under the said Ordinances or either of them; And provided that the present Perth City Council and officers elected or appointed under the said Ordinance 22nd Vict., No. 10 of 1858, and the present committees and officers elected or appointed under the said Ordinance 14th Vict., No. 15 of 1850, shall so continue with all their powers under the said repealed Ordinances until the Council shall be elected under this Act; And provided also that such repeal shall take place only so far as the same affects or in any way applies to the said City of Perth, or any Town the inhabitants of which shall, under the provisions of this Act, be incorporated.

Inhabitants of Perth incor-
porated.

Style of Body Corporate.

2 FROM and after the commencement of this Act, the inhabitants of the said City of Perth and their successors, inhabitants of the same, shall be, and they are hereby constituted a Body Corporate and Politic, by and under the name, style, and title of "The Council and Burgesses of the City of Perth;" and under that name shall have perpetual succession, and shall be capable in law, by the Council hereinafter mentioned, to sue and be sued, and to implead and be impleaded, in all Courts of Law and Equity, and other places, in all manner of actions, causes, and matters whatsoever, and either for any specific purpose, or generally for the use of the said Body Corporate, to accept, take, purchase, and hold lands, tenements, and hereditaments, goods and chattels; and to mortgage, lease, and sell all land, except such as is held on a specific trust; and to demise, assign, transfer, and convey the same; and to do all such other and further acts and things as are in this Act set forth and authorized to be done and suffered; and shall and may have a Common Seal. Provided, always, that no Government Domains, Public Offices, Prisons, or other Public Buildings, and no Victualling Establishment, Arsenal, or Barracks belonging to Her Majesty shall be deemed to be included within the boundaries of the said City.

Boundaries of City of Perth.
Schedule A.

3 THE Boundaries of the said City shall be those which are defined in the Schedule to this Act annexed, marked A.

City to be divided into three
Wards. Boundaries, Sched-
ule B.

4 THE City shall be divided into three wards to be called respectively the "East Ward," the "Central Ward," and the "West

Municipalities.

Ward;" and the boundaries of the said wards shall be those which are described in the Schedule to this Act annexed, marked B.

5 WHENEVER any doubts shall arise whether any house or other building be within one or any other ward of the said City, it shall be competent for the Council thereof to decide such doubt; and such decision shall be final.

Doubts as to situation of houses to be determined by the Council.

6 FOR the government of the said City there shall be a Council (throughout this Act called *The Council*), which shall consist of three ratepayers of and residing in each ward, to be elected by ballot by a majority in number of the parties who are ratepayers in such ward, or liable to be assessed as ratepayers therein, and also a Chairman, to be elected by a majority in number of the ratepayers in the entire City of Perth, such electors to be present and voting in person, or by their agents if absent from the Colony, or if they be then more than twenty miles from Perth by their nominees in writing, at a general meeting of the ratepayers of the said City, to be holden as soon as may be after the passing of this Act, and in each and every subsequent year on the first Monday in the month of December, on a day and at an hour and place to be fixed by the then City Council from time to time; Provided that if the first election after the passing of this Act take place earlier than in the month of July, then the next or second election under this Act shall take place on the first Monday in the month of December of the same year. Provided, also, that if, either from the non-attendance of any such voters as aforesaid at any such general meeting, or from any other unforeseen cause, such elections shall not take place, or shall be incomplete, it shall be lawful for any such electors or voters in any one or more ward or wards for which such election has not taken place, or is incomplete, on any subsequent day to be selected by them, and to be notified in the *Government Gazette* or in two of the local newspapers for one clear week previously, to summon and hold a general meeting for the purpose of electing and completing such City Council and Chairman, and to elect and complete the same accordingly; and the City Council and Chairman so elected shall respectively take office as from the first day of January nearest to the date of such election, and continue in office until the 31st day of December then next ensuing, and if at any time any vacancy by death, resignation, or otherwise, shall occur in such City Council or Chairman, the continuing members of such City Council shall summon a special meeting of the ratepayers for the purpose of electing a ratepayer or ratepayers to fill the vacancy or vacancies.

City Council to consist of 9 Councillors, and a Chairman.

PART II.

CONSTITUTION OF MUNICIPALITIES.

Governor may proclaim
Municipalities.

7 THE Governor, with the advice of his 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 such town and their successors, inhabitants of the same, shall be and they are hereby constituted a Body Corporate and politic by and under the name, style, and title to be mentioned in such proclamation; And such Corporate Body shall have and exercise, within their own Municipality, all the rights, powers, and privileges conferred on the inhabitants of the said City of Perth as fully as if such was particularly mentioned with the said City of Perth in the second, fifth, and sixth sections of this Act.

Adjoining area may be
united to Municipality.

8 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.

Council of Municipality.

9 EVERY 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.

Auditors and Treasurer.

10 IN and for every Municipality there shall be two Auditors and a Treasurer.

Members of Council.

11 NO person shall be elected or appointed Chairman, Councillor, or Auditor or Treasurer, unless he be qualified to vote as an elector within the Municipality.

Management of the lands
vested in the City Council.

12 THE Council shall have power to make, alter, extend, pave, flag, macadamize, or otherwise improve, repair, and keep in good order and condition all and every such streets, paths, ways, thoroughfares, jetties, wharves, and other the premises aforesaid. And the Council is hereby further empowered to make or cause to be made in manner

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aforesaid all such proper sewers, gutters, drains, and watercourses 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 and alter the same as occasion shall or may require, and to place bars or 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 railing, 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.

13 IT shall be lawful for the Council, in their corporate capacity, to accept and have vested in them the use of and interest in any property, real or personal, conveyed, made over, devised, or bequeathed to them, in their said corporate capacity, in trust for any public or charitable purposes for which any such property, real or personal, may be so conveyed, made over, devised, or bequeathed; and it shall also be lawful for such Council to act as trustees in the administration of any such property to such public or charitable purposes. Council may accept property for charitable purposes.

PART III.

ELECTIONS.

14 THE first election of Chairman and Councillors for the said City of Perth shall take place at the City Hall on a day to be notified by the Governor; and the election of Chairman and Councillors for any other Municipality at such place within the Municipality, and as soon after the publication of the proclamation constituting such Municipality, as the said Governor, with the advice aforesaid, shall deem fit; and all subsequent elections shall take place at the General Annual Meeting of the Ratepayers of such Municipality, as hereinafter provided. The presiding and returning officer at any first election shall be nominated by the Governor; and at every succeeding election the presiding and returning officer shall be the Chairman of the Council, or, in his absence, any Councillor of the Municipality appointed for that purpose by the Council. Time of elections.

15 ALL persons being Justices of the Peace residing within the limits of any Municipality, and all proprietors of allotments of land or portions of allotments of land held in fee simple or by a Electors and Ratepayers.

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Exercise of rights of Ratepayers by mercantile firms, joint tenants, and bodies corporate.

tenure not less than for one whole year respectively, situate within any ward or wards, such persons being twenty-one years of age, shall be deemed Electors and Ratepayers of such Municipality. In case the lands, tenements, or hereditaments of any mercantile firm, joint tenant, or body corporate shall be assessed for the payment of rates under this Act, one person only shall be allowed to exercise the rights and privileges of a Ratepayer; and in case any dispute shall arise at any time as to who that person shall be, the Chairman of the Council for the time being, by writing under his hand, may appoint any one person being a member, agent, or servant of any such company, mercantile firm, joint tenants, or body corporate, to exercise such rights, and such appointment shall be final and conclusive until the expiration of the current year of office of the Council.

Election.

16 THE Council of each ward in any Municipality shall be elected by ballot by a majority in number of the Electors and Ratepayers in such ward or liable to be assessed as Ratepayers therein, such Electors and Ratepayers being present and voting in person, or by their duly authorized agents if absent from the Colony, or, if they be resident upwards of twenty miles from the place of election, by their nominees in writing, at the time hereinbefore mentioned. And the first Council so elected shall take office immediately on their election, and every subsequent Council so elected shall take office as from the first day of January nearest the date of such election, and such first and subsequently elected Council shall continue in office until the then next General Annual Meeting of Electors and Ratepayers in such Municipality; and all Councillors in each ward of such Municipality shall annually retire, and other Electors and Ratepayers shall be annually elected in their stead, in manner before provided, and such retiring Councillors shall be eligible for re-election: Provided, that if at any time a vacancy by death, resignation, incapacity, or absence from the said Colony, shall occur in the Council of such Municipality, such vacancy shall be filled up from time to time at a special meeting of Electors and Ratepayers of such Municipality by the election, in manner aforesaid, of an Elector and Ratepayer of the ward for which such vacating Councillor was elected.

Election of Chairman.

17 IMMEDIATELY before the election of Councillors, the Electors and Ratepayers of the Municipality shall, by a majority of votes, choose and appoint, in such manner as they shall deem expedient, some one from among themselves to be chairman, who shall go out of office at like time after the next annual election of Councillors, but may then be re-elected, and so on from year to year, and in

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case of a vacancy, the same shall be filled up by another choice and appointment in the same manner, as near as may be.

18 ON the day fixed for the first and each subsequent election of Councillors, the electors and ratepayers of every Municipality shall elect by ballot two fit persons to be auditors for the same, and one fit person to be treasurer for the same, and such auditors and treasurer shall continue in office until the then next ensuing election of Councillors; and the election of auditors and treasurer shall be conducted in the same manner, as nearly as may be, as the election of Councillors, and in case of a vacancy, shall select in a similar manner, at a special meeting called for that purpose, another person instead of the person so vacating his office. Auditors and Treasurer.

19 ALL proceedings of the Council, or of any person acting as Chairman, Councillor, Auditor, or Treasurer shall, notwithstanding it be afterwards discovered there was some defect in his election, or any disqualification, be as valid as if every such person had been duly elected and qualified. Proceedings valid.

PART IV.

OFFICERS, ACCOUNTS, &c.

20 THE Council of the Municipality shall appoint from time to time such officers and servants as they may deem necessary, and define their duties and 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 in a bond with two sureties, and a reasonable sum, to be respectively approved by the Council, for the fair and diligent discharge of his duties. Appointment and remuneration of officers.

21 THE Council shall keep or cause to be kept under proper headings a just and true account of all their receipts, mortgage debts, and disbursements made under this Act, and the same shall be duly prepared previous to and be audited half yearly by the auditors, and shall without any delay thereafter be published in the *Government Gazette* or in two of the Local Newspapers; and the books of account of the Council shall at all reasonable times be accessible to any ratepayer of such Municipality, who shall be at liberty to take extracts therefrom. Accounts to be kept and published.

22 THE Common Seal, and all deeds and records of the corpo- Custody of Seal, &c.

ration, shall be kept in such place and in such custody as the Council shall direct.

PART V.

MEETINGS AND BUSINESS.

Ratepayers not entitled to vote until payment of rates.

23 NO ratepayer shall vote, either by proxy or otherwise, at any general or special meeting of ratepayers, unless all rates assessed upon all tenements and hereditaments in respect of which such ratepayer shall claim to be entitled to vote shall be fully paid up, and of which payment the receipt of the Chairman of the Council, or the person or persons appointed to collect the same, shall be the sole and conclusive evidence.

General and special meetings of Ratepayers.

24 THE Council shall hold two general meetings of ratepayers within each year, namely, on the first Monday in the months of June and December,—that held in the month of December 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, either by publication in the *Government Gazette*, or in two of the Local Newspapers.

Quorum of Council to consist of three members.

25 THE Council shall meet within the Municipality at whatever place they may decide upon for the transaction of their ordinary business, as often as need shall be; but no business shall be transacted at any such meeting unless the Chairman and two other members of the Council 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.

Chairman to have casting vote.

Council to keep minutes of proceedings.

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

27 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.

PART VI.

BY LAWS.

28 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 for regulating their proceedings; and for conducting the election of Chairman, Councillors, or other Corporate Officers, in any matters which may not be sufficiently provided for by this Act, and which may not be inconsistent therewith, and for the good rule and government of the said city or town; determining the times and modes of collecting and enforcing payment of their rates, either in arrear or current; generally regulating elections, determining the validity of elections and appointments when disputed; the preventing and extinguishing fires; for the erection and repair of public buildings for corporate purposes; for the purchase or sale of property; for hearing and adjusting complaints respecting rates or assessments; for preventing sales or exposure for sale of meat, fish, or vegetables unfit for human food, and for the seizure and destruction thereof; for the registration of dogs, and the regulation and government of persons having or keeping dogs; suppressing nuisances and houses of ill-fame; compelling residents, or, where there are no residents, then owners, to keep their premises free from offensive or unwholesome matters; regulating, licensing, and taxing porters, public carriers, and water drawers; regulating the killing of cattle and sale of butcher's meat, and the establishment and locality of slaughter-houses or abattoirs; regulating markets, market dues, fairs, and sales; opening new public roads, ways, and parks; the alignment, curbing, paving, lighting, and guttering of streets and roads, and for keeping the same clear from dirt; the planting and preservation of trees and shrubs; the general control and management of the public reserves; the regulation of weights and measures; the preservation of public decency and public health; the restraining of noisome and offensive trades; and the general good rule and government of the Municipality.

Power to make, alter, &c.
By-laws.

29 ALL the provisions hereof, relative to offences against this Act, punishable upon summary convictions, shall be taken to apply to all offences committed in breach of any by-law or regulation made by virtue of this Act.

30 THE Council may also make by-laws for the establishment, maintenance, and regulation of public libraries, museums, botanical gardens, or other public places of recreation, and may, if approved by

And for libraries, gardens, &c.

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the Governor, with the advice aforesaid, grant money from the corporate funds in aid of any such establishment.

And respecting any commonage rights.

31 THE Council may also make by-laws for regulating the rights and privileges to be enjoyed by the inhabitants of any Municipality over any common or reserve already or hereafter set apart or leased for the use of such inhabitants of the city or township, or other defined locality of which the Municipality forms a part.

By-laws to be enforced by penalty.

32 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 approved by Governor in Council, and gazetted.

33 SUCH by-laws as aforesaid shall all be consistent with the provisions of this Act, and shall not be repugnant to any Law in force; and when confirmed by the Governor, with the advice aforesaid, 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.

Powers as to nuisances.

34 THE Council shall have power by themselves or their officers to abate and remove all nuisances within the Municipality, or to cause and compel such nuisances to be abated and removed by the owners or occupiers of the premises upon, from, or in respect of which the nuisance shall exist or have arisen, and also to cleanse and keep cleansed, or cause and compel to be cleansed and kept cleansed, by such owners or occupiers, every or any such nuisance. And also to abate and remove any inflammable building, or any pile or stack of firewood, or other material dangerous to the adjoining or contiguous property; but due notice of such removal shall be served on the owner or person in charge thereof, prior to any abatement or removal.

Definition of nuisances.

35 THE word "nuisance" in this Act shall mean and include the following matters: any boiling down establishment, slaughter house, or other premises in such a state as to be injurious to health, any pool, ditch, gutter, watercourse, privy, urinal, cess-pool, drain or ashpit so foul as to be injurious to health, any animal or the carcase of any animal or any part thereof in such a state as to be injurious to health, and any accumulation or deposit which is injurious to health.

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36 NOTHING in the preceding sections shall be construed to prevent or affect prosecutions by information or indictment, or any other proceeding in respect of nuisances now or hereafter existing, which may be abated or made the subject of presentment or prosecution at the Common Law or under any existing Act, Statute, or Ordinance. Saving of common nuisances.

37 EVERY person who shall wilfully hinder or interrupt, or cause or procure to be hindered or interrupted, the Council or the managers, surveyors, agents, servants or workmen, or any of them, in doing or performing any of the works, or in the exercise of any of the powers and authorities authorized or vested in them by Law, shall for every such offence forfeit and pay any sum not exceeding ten pounds, to be recovered before any two Justices of the Peace. Penalty for interrupting Council or their officers.

PART VII.

FUNDS, ASSESSMENTS, &c.

38 THE moneys and funds available for the purposes of this Act shall be such as shall or may accrue from the sources following, or any of them, that is to say: the rents, issues, profits, fines, penalties, and dues of or arising from or out of or in consequence of injury done to the lands, houses, and tenements, and other property of the Corporate Body; and all fees for cart and dog licenses within the Municipality, fees on account or in respect of depasturage in the city or town reserves, pound fees, fees on timber licenses, and fees to fell, use, and sell timber, and other fees accruing within the Municipality, and heretofore payable to trustees for the city or town, and all other tolls and dues and other sources of revenue appertaining or incident thereto; and all compositions to be made or reserved in lieu thereof; all licenses, tolls, and dues which may hereafter become or be made payable at, or by reason of the use or otherwise, in respect of any lines or mode of communication, lands, tenements, markets, or woods, within the Municipality. Funds—how derived or composed.

39 AND whereas an Ordinance was passed on the 22nd day of December, 1852, to regulate the Slaughtering of Cattle and other Stock in Towns; and also an Ordinance was passed on the same day, intituled *An Ordinance to provide for the establishment of Public Slaughter-houses, and to regulate the Slaughtering of Stock therein*; Slaughter-houses, 16 V. 7.
and also an Ordinance was passed on the 13th day of April, 1853, intituled *An Ordinance to amend the Public Slaughter-house Ordinance, 1852*: And whereas an Ordinance was passed on the 4th day 16 V. 10.
16 V. 12.

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Carts and Carriages	
14 V. 14.	
17 V. 2.	
29 V. 4.	
30 V. 12.	
32 V. 6.	
Dogs	
5 V. 14.	
10 V. 5.	
Removal of Boundary Posts	
16 V. 16.	
Live Stock straying	
3 V. 2.	
6 V. 2.	
Grazing of Cattle kept in Towns,	
14 V. 8.	

of December, 1850, intituled *An Ordinance for Licensing Carts and Carriages*, explained and amended by an Ordinance passed on the 15th day of May, 1854; and also an Ordinance was passed on the 7th day of July, 1865, intituled *An Ordinance to impose certain fees on Licenses for Carriages in the City of Perth*; and also an Ordinance was passed on the 25th day of September, 1866, intituled *An Ordinance further to regulate Public Conveyances Carrying Passengers for hire, and to prevent the ill-treatment of Horses and Cattle*; and also an Ordinance was passed on the 3rd day of August, 1868, intituled *An Ordinance for Licensing Carriages in the Town of Fremantle*: And whereas an Ordinance was passed on the 29th day of July, 1841, intituled *An Ordinance to remove the annoyance occasioned by Dogs*, which Ordinance stands amended by an Ordinance passed on the 5th day of August, 1847, intituled *An Ordinance to provide further remedies for the annoyance arising from dogs*: And whereas an Ordinance was passed on the 15th day of April, 1853, intituled *An Ordinance to provide for the removal of Boundary Posts in Towns, and for the substitution of other Boundary marks*: And whereas an Ordinance was passed for a limited time, on the 28th day of October, 1839, intituled *An Ordinance to provide a remedy against Horses and other Live Stock straying in Towns, and to prevent entire horses and bulls straying in any part of the Colony*, which Ordinance now stands unlimited in its duration under the provisions of an Ordinance passed on the 21st day of July, 1842: And whereas an Ordinance was passed on the 2nd day of December, 1850, intituled *An Ordinance to regulate the Grazing of Cattle, and certain other Stock kept in Towns*: And whereas by the said several Ordinances certain powers and authorities are given to the Governor, Justices of the Peace, Collector of Revenue, Clerk of the Magistrates, and to other persons therein mentioned; and whereas it is expedient that the several Councils of the Corporate Bodies, constituted under the provisions of this Act, should have and exercise the sole control and management of all Slaughter-houses and Markets, and the regulation and licensing of Carts and Carriages, and of Dogs, the removal of Boundary Posts, the straying of Live Stock and the grazing of Cattle kept in Towns, within the limits of the respective Municipalities: Be it therefore further enacted that the Council, and no others, shall have and exercise within the Municipalities, the several powers, respecting the licensing and regulating of the same, which are given by the said several Ordinances to the Governor, and to others therein named.

40 ALL license fees, tolls, and dues, and all rents for stalls, standings, cattle-pens, or enclosures levied or recovered, and all Appropriation of fees, tolls, dues, rents, penalties, &c.

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penalties incurred and recovered for offences in respect of any of the said Ordinances, or under the provisions of the Police Ordinance, 1861, within the Municipality, shall be paid to the Treasurer of the Corporate Body, to be by him carried to the credit of the Corporate Fund, and appropriated by the Council for the public improvement of the said city or town, and the benefit of the inhabitants thereof, save such part only as by any of the said Ordinances may be payable to the informer or prosecutor:

41 THE Regulations and by-laws, if any, respecting Slaughter-houses within the Municipality, made in pursuance of any of the Ordinances aforesaid, shall remain in force only until the same may be varied or altered by any by-law or by-laws passed as hereinbefore provided for by the Council of the Corporation:

Regulations and By-laws respecting Slaughter-houses to remain in force only till altered by Council.

42 SO much only of the provisions of the several hereinbefore mentioned Ordinances respecting Slaughter-houses; Cart and Carriage Licenses; and Dog Licenses, the removal of Boundary Posts, straying of Live Stock, and the grazing of Cattle kept in Towns, as may interfere or be inconsistent with the exercise by the Council, solely and exclusively within the Municipality of the Corporate Body, of the powers and authorities hereinbefore mentioned or referred to, shall be and are hereby repealed; save as to all things lawfully done before the commencement of this Act: Provided, always, that the said several Ordinances shall be and remain in full force in all respects not inconsistent herewith.

3 V. 2.
5 V. 14.
6 V. 2.
10 V. 5.
14 V. 8.
14 V. 14.
16 V. 7.
16 V. 10.
16 V. 12.
16 V. 16.
17 V. 2.
29 V. 4.
30 V. 12.
32 V. 6.
repealed so far only as inconsistent herewith.

43 ANY Council may borrow by debentures, mortgage, or otherwise, on the credit of any land or personal estate, or annual revenues belonging to the corporation for, or towards, or incidental to the making, carrying on, or completing of any permanent improvements of their Municipality, any moneys not exceeding in the whole the estimated revenue thereof for three years; and the whole property, rates, and revenues of the Corporation shall in every such case remain charged with and liable to the debt and interest thereon, until the same shall be fully paid off and satisfied; provided that no money shall be so borrowed except with the sanction of the Governor, with the advice aforesaid, in writing under his hand; provided, also, that with the like advice and consent, the Government may be the lenders to such Council; provided, further, that when any money has been borrowed, the Council shall assess and collect a general rate, not exceeding sixpence in the pound for each half year, until the debt shall have been thereby paid; such general rate to be in addition to the annual rate hereinafter mentioned.

Council may borrow and Government may lend.

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- Form of mortgage and bond. **44** EVERY mortgage and bond for securing money borrowed by any Council shall be by deed under the Common Seal of the Municipality, and therein the consideration shall be truly stated, and every such mortgage deed or bond may be according to Schedules C and D annexed, or to the like effect.
- Forms Schedules C. and D.
- Transfer of mortgage or bond. **45** ANY person entitled to any such mortgage or bond may transfer his right and interest therein to any other person, and every such transfer shall be by deed, wherein the consideration shall be truly stated, and every such transfer may be according to the Schedule E to this Act annexed, or to the like effect; provided that within thirty days after the making of any such transfer, notice thereof shall be given by the transferor to the Council which issued the original mortgage or bond.
- Schedule E.
- Plans and estimates of work, &c., to be prepared. **46** THE Council is hereby required, prior to the first Monday of December in each year, to prepare a statement in writing, to be signed by the Chairman thereof for the time being, of the various works and improvements which it purposes to make and execute in pursuance of the provisions in or about the said Municipality during the year next ensuing, and of the estimated cost thereof, as well as a statement of the works and improvements that have been effected during the past year; and also to estimate, as nearly as may be, what amount will be required in all to meet the several liabilities of the Corporation, and how far the several Sources of Revenue, independent of Rates and Assessments, will be sufficient for that purpose, and what sum will be necessary to make up the deficiency or Total amount required; and the accounts which the Council is directed to publish shall contain a true summary of such plan, and a correct statement of the results of such estimates respectively, but it shall not be necessary to obtain the approval of the Ratepayers thereof; and in order to raise such a deficiency or sum, or any such part thereof as the Council shall in their discretion think advisable, having regard to such plan and estimates, the Council is hereby authorized and required from time to time to order a Rate or Rates to be struck within the limits of the said Municipality, and for that purpose to direct an assessment to be made, by themselves or by a Valuator, if any, to be appointed for that purpose, upon every occupied House, Store, Shop, Mill, Tenement, or other Building, Piece of Land, Allotment, Garden, or other Premises within the said limits, according to its full fair and average annual value clear of all outgoings, and also an assessment upon every Building that has been unoccupied for a period of Six months previous to the making of such valuation, and upon every unoccupied or waste piece of Land within such limits
- Mode of making assessments.

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according to or on one tenth of its full fair value, and to enter each such assessment or valuation in a Book to be kept by the Council for that purpose, which is also to be open for inspection and the taking of extracts, at all reasonable times, by every Ratepayer of the said Municipality; and the Council is hereby required, upon the completion of such assessment, to give speedy notice thereof in the *Government Gazette*, or in Two of the Local Newspapers, and that the particulars of the same may be inspected as aforesaid; and upon the assessment so made, the Council is hereby authorized and required to cause such rate or rates to be levied, not exceeding one shilling in the pound upon the valuation or sum assessed in any one year, and the same shall be declared by the Council, and the declaration be published as aforesaid, at least two weeks previous to being levied.

Assessments when made to be published.

47 THE Council shall be, and is hereby empowered and required, in case of the non-payment of any portion of such rate or rates within fourteen days after demand made on their behalf, or by the said valuator on or at the residence of the defaulting occupier of the rated premises, or (if the same be unoccupied) on the owner or his agent, or by posting upon the property, and in case no notice of appeal shall have been served as hereinafter provided, to issue a warrant under the hand and seal of the Corporate Body, 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 retaken, or that belong to the occupier and can be distrained in any part of the Colony; and in the event of no or insufficient goods being so found, taken; or distrained to satisfy such distress, the landlord or owner of his premises shall be and is hereby declared liable for the amount, which may be recovered by distress and sale of the goods and chattels of such landlord or owner, if found within any part of the Colony, or by ordinary action of debt to be brought and prosecuted against such landlord or owner, as hereinafter directed; 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 be taken; provided, also, that if any person shall think himself aggrieved by the valuation put upon his holding, or in respect of which he or his goods and chattels are rendered liable hereunder, it shall be lawful for such person to appeal against the same in the Local Court, by serving a notice to that effect on the Chairman of the Council at any time within ten days after the publication of the before-mentioned notice of such

Rates recoverable by distress.

Form—Schedule F.

Appeal to Local Court against valuation.

valuation having been made, and by depositing in the hands of such Chairman the amount of the rate assessed on such valuation and complained of by the appellant, together with a sum of two guineas to answer costs; and such Court shall have power to hear and determine all such appeals, not only as regards the subject matter thereof and the disposal of the deposit, but also to adjudicate on all the costs involved, as justice may require; provided, however, that if any owner, landlord, or occupier of premises shall consider himself wronged by any such distress as aforesaid made upon his goods or chattels, and shall, whether there has been a previous appeal against the valuation or not, lodge the amount for which such distress has been made in the hands of the Chairman of the Council, together with a sum of five guineas to cover costs, and shall serve him with notice of appeal against the distress at any time prior to sale, then, but not otherwise, it shall be lawful for such person to appeal to the said Court against such distress, and the said Court is hereby empowered to hear and finally determine the same, and to confirm or disallow the distress, and to make such other orders in the matter in all respects as it shall deem just.

Rates payable by tenant in first instance.

48 THE rates leviable under this Act shall be payable in the first instance by and recoverable from the respective occupants, if any, of the property rated; and in case there be no occupant of the said premises, then the said rates shall be levied in like manner as hereinbefore provided in case of an insufficient distress thereon.

Assessments recoverable by distress or by action at law.

49 ALL rates leviable under this Act shall be recoverable at the discretion of the Council, not only by means of Distress as hereinbefore provided, but also by action at Law; and it shall be accordingly lawful for the Council, in the corporate name, to commence and prosecute proceedings for the recovery of such rates as aforesaid.

Chairman to enter satisfaction of judgment.

50 THE Chairman shall be and is hereby required to enter up satisfaction of judgment, when the same shall be satisfied, in any Action or other proceeding under this Act.

List of defaulters to be published.

51 THAT 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 either of the hereby repealed Ordinances, and of the amounts

Municipalities.

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 sum and have priority, after Crown Debts, to every security or claim of any description against the estate real and personal of the debtors respectively.

52 THAT if any rate or rates imposed under this Act shall remain due and unpaid for the term of eighteen months in respect of any premises whatsoever, and if imposed or assessed by virtue of either of the said repealed Ordinances, shall remain due and unpaid for the term of twelve months after the passing of this Act, 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" hereunto annexed, to be signed by the Chairman and published in three successive numbers of the *Government Gazette*, or of two Local Newspapers, stating the amount of rates due upon the said premises and requiring payment of the same, and notifying that in default the said premises, or a competent part thereof, will be sold by public auction, freed and discharged from all incumbrances or other claims whatsoever, except Crown Debts, if any, at a time and place to be specified in the notice, such time not being less than one calendar month after the last publication of the notice; and if the amount be not paid on or before the expiration of the time so specified, then it shall be lawful for the Council and the Council is hereby required to cause the said premises to be sold according to the terms of the said notice, and out of the proceeds of such sale to pay all the rates chargeable on the said premises, and all costs and expenses connected with the sale, and to pay the overplus, if any, into the hands of the owner of the premises, or of any agent within this Colony holding any general authority in writing to receive moneys on account of such owner; but if there be no such agent, or if any person shall serve upon the Council a written notice stating that he claims a lien thereon by virtue of a charge which affected the premises, or of an interest therein, then the Council shall forthwith pay such overplus into the hands of the Registrar of the Supreme Court, who shall make an entry thereof in his ordinary book of account, specifying the date of payment, and in respect of what land and reputed owner and claimant if any it has been made, according to such particulars as shall be furnished to him by the Council.

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

Form—Schedule G.

Municipalities.

Chief Justice may make an order for payment of over-plus.

53 THAT it shall be lawful for the Chief Justice in a summary way, on petition presented to him by or on behalf of any person claiming the amount so deposited as last aforesaid, or any part thereof, either as owner, agent, incumbrancer, or other claimant, and of which such petition notice shall be given to the Council, to make an order for the payment thereof to the party or parties appearing to be entitled to receive the same, or such order or orders in the matter as he shall consider right.

Certificate of sale when registered to have the effect of a conveyance.
Form Schedule H.

54 THAT a certificate of the sale of any such premises as aforesaid, according to the form in the Schedule H hereunto annexed, shall be given by the Chairman to the purchaser thereof, under the Corporate Seal, and a memorial of such certificate shall be registered in the usual manner in the Deeds' Registry Office of this Colony, at the expense of such purchaser; and when so registered, the certificate shall have the effect of a valid conveyance in fee simple, or of other the owner's interest, by all necessary parties of and in such premises, freed and discharged from all claims and incumbrances whatsoever as against the purchaser, except, as aforesaid, debts to the Crown; and nothing contained in any existing Ordinance relative to auctioneers and auction duties shall be held to apply to sales under this Act. But no purchaser of lands sold under this Act, or either of the said repealed Ordinances, shall be bound to see to the application of the purchase money paid by him for such lands, or be obliged to inquire whether the conditions annexed to the power of sale under which such lands were sold have been complied with, or be affected by any impropriety or irregularity in such sale; but notwithstanding any such impropriety or irregularity, such sale shall be valid.

Exemption from rates.

55 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.

PART VIII.

FENCING AND CLEARING.

56 THAT it shall be incumbent upon the Council, by notice served upon the occupier, or posted upon some part of the premises, to require all persons whom it may concern to erect, within six months from the date of the notice, a good and suitable line of paling or wall along the frontage of any allotment, garden, or piece of ground abutting or opening upon any paved, macadamized, or otherwise artificially formed street, path, or thoroughfare within the limits of the Municipality, and which shall not be then so enclosed, and to clear such allotment of all underwood and bushes, and apprising them that if such requirement be not complied with a penalty of Five Pounds shall be thereupon incurred under this Act by the occupier, or if there be no occupier then by the owner, and informing him that the Council will, if they see fit, proceed, after the expiration of such period, to erect such 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 centum 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 distrain, sue, and sell for the repayment of those costs and expenses in like manner as directed by, or nearly as may be in accordance with, the provisions hereinbefore contained for the regulation of distresses, actions, and sales on the non-payment of rates. But if the occupier of such premises shall comply with the terms of such notice, it shall be lawful for him to deduct and set off the entire amount of his costs, charges, and expenses from and against the rent payable by him out of or in respect of such premises, until the same shall be discharged in full; and the parties affected thereby shall have a like privilege of appeal against such a distress leviable under this section as is given by the 47th Section hereof to an owner of premises under the circumstances therein mentioned.

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

PART IX.

PENALTIES, &c.

57 ANY person committing a breach of any provisions of this Act, or of any by-law made hereunder, by wilful act or refusal, or neglect to act, or otherwise, shall, when no specific penalty shall have been provided for such offence, be liable to a penalty of not exceeding Ten Pounds.

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Fines, &c., to go to Council.

58 ALL fines, penalties, forfeitures, and damages incurred under this Act, or under any by-law made hereunder, may be recovered in a summary way before any two or more Justices, and shall, together with all fees and penalties under the Ordinances No 14 of 1841, No 5 of 1847, No. 14 of 1850, No 7 of 1852, No. 10 of 1852, No. 4 of 1865, No. 12 of 1866, and No. 6 of 1868, be paid into the Corporate Fund of the Municipality in which they respectively arise and are payable.

Shortening Ordinance.

59 SECTIONS C and G of the "Shortening Ordinance, 1853," shall be incorporated in this Act, and taken to form a part thereof.

Certain roads, &c., exempted from control of Council.

60 NOTHING herein shall authorize the interference by any Council with any public railway bridge, ferry, cemetery, market, wharf, aqueduct, public place, or building whatsoever, not formed, constructed, or erected by such Council, and which may be excepted from the jurisdiction of such Council by any proclamation to be made by the Governor with the advice aforesaid; Provided that the Governor, with the advice aforesaid, may by proclamation authorize any Council to take upon itself the charge of any excepted public road, railway bridge, ferry, cemetery, market, wharf, aqueduct, public place, or building within its limits and in actual public use, which has by proclamation been excepted, upon such conditions as shall be specified in such proclamation with reference to the amount or share of any then existing debt thereon, which shall become a charge upon the corporate fund.

Short title.

61 THIS Act shall be called "The Municipal Institutions' Act, 1871."

34° VICTORIÆ, No. 6.

Municipalities.

SCHEDULE A.

BOUNDARIES OF THE CITY OF PERTH.

FIRST, OF PERTH PROPER.

Bounded on the *South* by the shores of Perth Water, and of Melville Water, and by a West line of 20 chains from the North-east corner of Swan Location No. 87; on the *West*, by a North line of 71 chains; on the *North-West* by lines extending North-east 157 chains 3 links to South corner of Location A_x, then North-east 26 chains 45 links to the East end of Lake Georgiana, and then about North 19 degrees East, 20 chains 90 links to the East corner of that location; on the *North*, by an East line to the South-west boundary of Swan Location Z, and by 14 chains 60 links of said South-west boundary, extending South-east to the original Perth-Guildford Road, at a spot 30 chains 50 links in the direction North 50 degrees West from the mouth of Walter Brook, on right bank of Swan River; and on the *East*, by said Road, extending South-westerly to the South-West corner of Swan Location A₄, then by the South boundary of that location, extending 39 chains 70 links East, to right bank of Swan River, and towards a spot 16 chains 85 links South from aforesaid mouth of Walter Brook, and by right bank aforesaid; all bearings being true or thereabouts, measurements more or less, and a squared post at each angle of the boundary lines.

SECOND, OF SOUTH PERTH.

Bounded on the *North*, by part of the Southern shore of Perth Water, extending Southward and Eastward from Point Belches; on the *West*, by part of the Eastern shore of Melville Water, extending Southward from said Point; on the *East*, by 11 chains 76 links of the South-western boundary of Swan Location No. 39, extending South-east from the shore of Perth Water aforesaid, and by the West boundary of Swan Location No. 308, extending South 63 chains 91 links to Location No. 40; and on the *South*, by 65 chains 76 links of the North boundary of said Location 40, extending East from the shore of Melville Water aforesaid: all bearings being true or thereabouts, measurements more or less, and a squared post at or near the end of each boundary line.

SCHEDULE B.

BOUNDARIES OF WARDS OF CITY.

EAST WARD.

Bounded on the *East* by right bank of Swan River; 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.

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CENTRAL WARD.

Bounded on the *South* by the north shore of Perth Water; on the *East* by the centre of Lord Street and Guildford Road: on the *North* by Swan location Z and by the north boundary of Perth Townsite; and on the *West* by the centre of William Street, Hutt Street, Roe Street, and Lake Street, and by a continuation of the centre of Lake Street to the north boundary of Perth Townsite.

WEST WARD.

Bounded on the *South* by the north and western shores of Perth Water, and by Melville Water; on the *East* by the centre of William Street, Hutt Street, Roe Street, and Lake Street, and by a continuation of the centre of Lake Street to the north boundary of Perth Townsite: and on the *North*, the *North West*, and the *West* by the north, the north west, and the west boundaries of the said Townsite.

SCHEDULE C.

FORM OF MORTGAGE DEED.

The Municipal Council of

Mortgage Number

We, the Municipal Council of _____, in consideration of the sum of _____ pounds paid to us by A. B. of _____, do assign unto the said A. B., his executors, administrators, and assigns (*or the said corporation, their successors or assigns*) all the interest of the said Municipal Council in all rates and assessments, endowments, and other revenues of the said Council coming or arising from any source whatsoever, and all the estate, right, title, and interest of the Council in the same to hold unto the said A. B., his executors, administrators, and assigns (*or the said corporation, their successors or assigns*), until the said sum of _____ pounds be repaid, together with interest for the same at the rate of _____ pounds for every one hundred pounds per annum (the principal sum to be repaid at the end of _____ years from the date hereof, *in case any period be agreed upon for that purpose*).

Given under our Common Seal this _____ day of _____ in the year of our Lord 18 _____

SCHEDULE D.

FORM OF BOND.

The Municipal Council of

Bond Number

We, the Municipal Council of _____, in consideration of the sum of _____ pounds to us in hand, paid by A. B. of _____ (*or the corpora-*

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tion of _____), do bind ourselves and our successors unto the said A. B., his executors, administrators, and assigns (*or* the said corporation of _____) in the penal sum of _____ pounds.

The condition of the above obligation is such, that if the said Council shall pay to the said A. B., his executors, administrators, or assigns (*or* the said corporation, their successors or assigns) on the _____ day of _____ in the year one thousand eight hundred and _____ the principal sum of _____ pounds, together with interest for the same at the rate of _____ pounds per centum per annum, payable half yearly on the _____ day of _____ and _____ day of _____, then the above written obligation is to become void; otherwise to remain in full force and virtue.

Given under our Common Seal this _____ day of _____ one thousand eight hundred and _____

SCHEDULE E.

FORM OF TRANSFER OF MORTGAGE OR BOND.

I, A. B., in consideration of the sum of _____ pounds, paid to me by G. H. of _____, do hereby transfer to the said G. H., his executors, administrators, or assigns a certain Bond (*or* Mortgage) Number _____ made by the Municipal Council of _____ to _____, bearing date the _____ day of _____, for securing the sum of _____ pounds and interest (*if such transfer be by indorsement, being the within security*), and all my estate, right, title, and interest in and to the money thereby secured (*and if the transfer be of a mortgage*), and in and to the rates, assessments, endowments, and other revenues thereby assigned.

In witness whereof I have hereunto set my hand and seal this _____ day of _____ one thousand eight hundred and _____

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

Schedule G.

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SCHEDULE G.

FORM OF NOTICE.

By virtue of the provisions of "The Municipal Institutions Act, 1871," notice is hereby given to all parties interested therein that the sum of £ is now due and owing for assessments chargeable upon [*here describe the building or other property*], in the Municipality of , and payment of such amount is now required; and in default thereof the said premises will be sold by public auction at at o'clock on the day of
Dated this day of 18 .

Chairman of the Municipality of

SCHEDULE H.

FORM OF CERTIFICATE OF SALE.

I, the undersigned, Chairman of the Municipality, do hereby certify, in pursuance of the provisions of "The Municipal Institutions Act, 1871," that the [*here describe the premises and the boundaries thereof accurately*] was put up to sale by public auction on the day of , and that of became the purchaser, and is hereby declared the owner thereof for the sum of £ , the receipt whereof is hereby acknowledged; and the said is entitled to hold the said premises free from all incumbrances and claims whatsoever affecting the same at the time of such sale, except debts to the Crown.

In witness, &c.

(Seal)

(Signed)

Chairman of the Municipality of

P E R T H :

By Authority: RICHARD PETHER, Government Printer.