

Act No. 23, 1897.

An Act to consolidate the Laws relating to MUNICIPALITIES.
Municipalities. [6th December, 1897.]

BE it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows:—

PART I.

PRELIMINARY.

1. This Act may be cited as the "Municipalities Act, 1897," Short title and
and is divided into parts, divisions, and subdivisions, as follows:— division.

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2. The Acts mentioned in the First Schedule to this Act are hereby repealed: Repeal of Acts.
First Schedule.

Provided that such repeal shall not affect property vested, acts and things validated or authorised, powers and protection acquired, and indemnities given under any of the Acts hereby repealed.

And notwithstanding the repeal of the Acts hereby repealed:—

All aldermen and officers in office at the commencement of this Act shall remain in office as if this Act had been in force at the time they were elected or appointed, and they had been elected or appointed hereunder, and this Act shall apply to them accordingly. Existing officers, &c.

All by-laws in force at the commencement of this Act shall continue in force until they are respectively repealed hereunder, and this Act shall apply to all such by-laws as if they were the corresponding enactments mentioned in this Act. Existing by-laws.

All rates which, under the Acts hereby repealed, or any of them are, at the commencement of this Act, due or payable to or leviable by or for any municipality, shall be paid, received, levied, and recovered as if this Act had not passed. Rates due.

All books and documents made evidence shall continue evidence to the same extent as if this Act had not passed. Documents made
evidence.

All works and undertakings authorised to be executed and engagements existing at the commencement of this Act shall be carried on under this Act. Works, undertakings,
and engagements.

All municipal rolls in force at the commencement of this Act shall be deemed to have been made under this Act, and any municipal rolls in course of preparation at the commencement of this Act may be completed under this Act, and this Act shall apply to all such rolls accordingly. Municipal rolls.

Save so far as there is anything in this Act inconsistent therewith, this Act shall apply to all matters and things made, done, or commenced under any Act hereby repealed, and at the commencement of this Act of any force or effect or capable of acquiring any force or effect by virtue of any Act hereby repealed as if this Act had been in force at the time they were made, done, or commenced, and they were made, done, or commenced hereunder. Application of Act
to matters and things
done.

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Interpretation
section.
31 Vic. No. 12, s. 201.

3. In the construction of this Act—

- (I) The term “municipality” shall include the terms “borough” and “municipal district”:

Provided that where the context so requires, the term “municipality” shall mean “borough” or “municipal district,” as the circumstances of the case and the nature and extent of this Act demand.

Ibid. s. 202.

- (II) The term “current year” or “municipal year” when applied to any matter of assessment, rate, or account, or to the municipal roll shall mean the year commencing the first Tuesday in February.

Ibid. s. 201.

- (III) The following terms in inverted commas shall, unless inconsistent with the context or subject matter, have the respective meanings hereby assigned to them—

“Adjoining municipalities”—Municipalities whose boundaries touch at any point or points, but such point or points need not be common to all:

“Capital value”—The current market value of any freehold or leasehold estate or interest whatsoever in property capable of being rated for the purposes of this Act assessed as hereinafter provided:

“Council”—The council of any municipality:

“Council clerk”—The council clerk, town clerk, or other person authorised by the council to perform the duties of council or town clerk:

“Electoral officer”—Any person appointed under subsection three of section eleven of this Act:

“Existing municipality”—Any municipality constituted under any Act heretofore in force in this Colony relating to Municipalities:

“Justice”—Any justice of the peace for the Colony of New South Wales:

“Minister”—The Colonial Secretary:

“Municipal roll”—The roll or book of electors made in pursuance of this Act for any municipality or ward, as the case may be:

“Prescribed”—Prescribed by this Act, or by any by-law made under this Act or any Act hereby repealed:

“Returning officer”—Any officer duly appointed to preside at and take the poll in a municipal election:

“Town”—Any collection of houses adjoining or near to each other with frontage to streets regularly laid out and formed, the inhabitants of which do not number less than five hundred souls:

“United

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“United municipality”—A municipality formed by the union of two or more adjoining municipalities according to the provisions of this Act, or of the Acts hereby repealed:

4. (i) The boroughs and municipal districts heretofore constituted shall be and remain boroughs and municipal districts respectively; and shall, so far as is necessary, be deemed to have been constituted under this Act, but the boundaries thereof may be altered under the provisions of this Act. Existing municipalities.

(ii) The electors for the time being of every existing municipality and all succeeding electors thereof entitled to vote as such under this Act shall be and remain a body corporate under such name as the Governor has, in the proclamation constituting such municipality, directed, and shall by such name have perpetual succession and a common seal, and be capable in law of suing and being sued, and of purchasing, holding, and alienating land, and of exercising all such corporate functions, and doing and suffering all such acts and things as by law and in conformity with this Act they may be entitled to exercise, do, and suffer.

(iii) The electors of any existing municipality which is not at the time of the commencement of this Act in actual operation may proceed to the election of aldermen and auditors in accordance with the provisions of this Act.

PART II.

THE CONSTITUTION OF MUNICIPALITIES GENERALLY.

5. The electors for the time being of every municipality proclaimed as hereinafter directed shall, immediately upon the publication of the proclamation as hereinafter mentioned, become, and all succeeding electors thereof entitled to vote as such under this Act, shall be a body corporate under such name as the Governor shall in such proclamation direct, and shall by such name have perpetual succession and a common seal, and be capable in law of suing and being sued, and of purchasing, holding, and alienating land, and of exercising all such corporate functions, and doing and suffering all such acts and things as by law and in conformity with this Act they may be entitled to exercise, do, and suffer. Municipality incorporated.
31 Vic. No. 12, s. 25.

6. The council of every municipality shall, subject to the provisions of this Act, consist— Council how composed, &c., for original municipalities.

- (i) Where the municipality contains a population amounting to five hundred, but not exceeding one thousand, of six aldermen ; *Ibid.* s. 26.
- (ii) Where the municipality contains a population exceeding one thousand, but less than four thousand, of nine aldermen ; and

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(III) Where the municipality contains a population of four thousand or upwards, of twelve aldermen.

Number of aldermen
to each ward.
31 Vic. No. 12, s. 28.

7. In every municipality which at the time of its incorporation is divided into wards in the manner hereinafter mentioned, there shall be three aldermen to each ward, elected as hereinafter directed by the electors of each such ward.

Council to be sole
representatives of the
body corporate.
Ibid. s. 27.

8. The council of every municipality shall, in and for all such acts, matters, and things as by law and in conformity with this Act may be done or suffered, be the sole representatives of the body corporate of such municipality, and all the acts and proceedings of such council shall be deemed to be the acts and proceedings of such body corporate.

Action of disqualified
person not to
invalidate pro-
ceedings.
Ibid. s. 49.

9. All proceedings of the council or of any person acting as mayor, alderman, or auditor shall, notwithstanding it is afterwards discovered that there was some defect in the election, or any disqualification of such person, be as valid as if every such person had been duly elected and qualified to be mayor, alderman, or auditor respectively.

PART III.

CONSTITUTING AND ALTERING THE CONSTITUTION OF MUNICIPALITIES.

DIVISION I.—*New Municipalities.*

Boroughs and
municipal districts
may be constituted.
Ibid. s. 8.

10. The municipalities constituted under this Act shall be divided into two classes to be designated respectively "boroughs" and "municipal districts"—

(I) A borough may consist of—

- (a) Any city or town with or without its suburbs or country immediately adjacent thereto;
- (b) Any suburb of the City of Sydney according to the boundaries for the time being of the said city;
- (c) Any populous country district.

But every such borough shall have a population of not less than one thousand souls, and shall not upon its first incorporation contain an area of more than nine square miles, of which area no one point shall be more than six miles distant from any other point.

(II) A municipal district may include any part of the Colony not containing a municipality heretofore or hereafter constituted, and may comprise upon its first incorporation an area not exceeding fifty square miles, of which area no one point shall be more than twenty miles distant from any other point:

Provided that every such municipal district shall contain a population of not less than five hundred souls.

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11. (i) The Governor, on receipt of a petition signed by not fewer than fifty persons who would, upon the incorporation thereof, be liable to be assessed for municipal taxes in respect of property or household residence within any proposed municipality, whether actually resident within the same or not, sufficiently setting out the boundaries and stating the number of the inhabitants resident therein, and praying that the same may be declared a borough or municipal district under this Act, may cause such alterations as may appear expedient to be made in the boundaries set out in such petition, and may cause the substance and prayer of such petition with such alterations, if any, to be published in the Gazette, and in some newspaper circulating in or near the proposed municipality.

How constituted.
31 Vic. No. 12, s. 10.
58 Vic. No. 9, s. 2.

(ii) Unless a counter-petition, signed by a greater number of persons in like manner liable to be assessed, is received by the Minister within three months from the date of such publications, the Governor may by proclamation published in like manner, declare such proposed municipality to be a borough or municipal district, as the case may be, by a name to be mentioned in such proclamation, and define in accordance with the boundaries published in the Gazette as aforesaid the limits and boundaries of such borough or municipal district, which, on such publication, shall be constituted accordingly, subject, however, to the provision hereinafter contained for the revocation of certain proclamations.

(iii) The Governor shall in and by such proclamation appoint some person to be the electoral officer of such borough or municipal district.

(iv) The production of the Gazette containing such proclamation shall, in all proceedings on behalf of the municipality, be conclusive evidence of the legality of the constitution of such municipality.

12. The signatures so appended to any such petition or counter-petition shall be verified by the solemn declaration, appended thereto, made before any justice, of some householder (not being a female or under age) resident within the proposed municipality, in the form and to the effect set forth in the Second Schedule hereto, and signed by him, and if such householder shall make any such declaration falsely, or shall forge any such petition, or signature, or declaration, or shall utter any such petition, signature, or declaration being forged, knowing the same to be forged, he shall be guilty of a misdemeanour.

Signatures to be
verified.
Ibid. s. 11.

Second Schedule.

13. (i) If it is credibly represented to the Minister—

Scrutiny of
signatures.

- (a) That any of the signatures to any petition or counter-petition, under the preceding provisions, are not the signatures of the persons whose signatures they purport to be ; or

Ibid. s. 12.
37 Vic. No. 15, s. 2.

(b)

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- (b) That any of such signatures are those of persons not being persons liable to assessment for municipal taxes as hereinbefore provided within the limits of the proposed municipality to which such petition or counter-petition refers ; or
- (c) In any case where a petition and counter-petition, under and for the purposes of the eleventh section, is received by the Governor, that certain persons have signed both the petition and the counter-petition ; or
- (d) That in any other respect the provisions hereof with regard to such petition or counter-petition have not been complied with ; or

(11) If it seems expedient to ascertain the truth of any matter to which such petition or counter-petition refers ; the Minister may cause such inquiry to be made with respect to the particulars aforesaid as may seem necessary in that behalf, and the consideration of the matter by the Governor shall be deferred until the person appointed by the Minister to prosecute such inquiry as aforesaid has submitted his report.

Power to take evidence.

31 Vic. No. 12, s. 13.

14. For the purpose of every such inquiry such person as the Minister appoints in that behalf may hear, receive, and examine evidence, and may by summons under his hand require all such persons as he thinks fit to appear personally before him at a time and place to be appointed in such summons, and to produce before him all such books and papers in their possession or under their control as may appear necessary for their examination and other the general purposes of the inquiry.

Report.

Ibid. s. 14.

15. The results of such inquiry shall, within one month after such appointment as aforesaid, be embodied in a report to the Minister and submitted to him by the person so appointed. And after consideration of such report the Governor may take such further proceedings in connection therewith under the provisions herein contained as may be deemed necessary.

First costs of election out of public funds.

Ibid. s. 98.

16. All expenses of and incidental to the incorporation of any municipality, the preparation and revision of the first municipal list and roll, and the first elections of aldermen and auditors for any such municipality shall, if certified under the hand of the returning officer, be paid out of the Consolidated Revenue Fund by warrant under the hand of the Governor directed to the Colonial Treasurer.

DIVISION 2 -- *Union of Municipalities.*

Adjoining municipalities may be united.

Ibid. s. 19.

17. On receipt of a petition from, and sealed with the corporate seals, and signed by at least two-thirds of the members of the several councils of any two or more adjoining municipalities in each of which an assessment has been made as hereinafter provided, or from and signed

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signed by at least two-thirds of the ratepayers of each such municipality, praying that the said municipalities may be united, and form one municipality, the Governor may, after a like publication of such petition as aforesaid, declare by proclamation as aforesaid such municipalities to be united and to form one municipality by a name, and according to boundaries in the same or some subsequent proclamation to be mentioned and described. And any existing division of the said municipalities or any of them into wards shall thereupon be abolished.

But if a division into wards has been requested in the said petition for union the Governor may, by the said proclamation of union or by any subsequent proclamation published as aforesaid, declare such united municipality to be and the same shall be accordingly divided into wards according to the following scale, that is to say: If the respective councils of the said municipalities are, taken together before union, composed of twelve members and less than fifteen, the united municipality formed by such union as aforesaid shall comprise three wards—if of fifteen members and less than twenty-four, four wards—if of twenty-four members and less than thirty, five wards—and if of thirty members or more, six wards—and thereupon such municipalities shall become and be one municipality within the meaning and for all the purposes of this Act:

Provided, however, that those members of the council of any of the municipalities so united as aforesaid whose term of office has not, at the time of such union, expired shall remain in office as aldermen until the ordinary time of retirement as hereinafter provided:

Provided also that no such union shall take place within thirty days of the day hereinafter appointed for holding any election of aldermen.

18. (I) All land, property, and moneys at the time of any such union vested in or belonging to the body corporate or bodies corporate of any of the municipalities so united as aforesaid shall, on such union, be vested in the body corporate of the united municipality.

Property, rights, and liabilities of several municipalities to vest in united municipality.

31 Vic. No. 12, s. 22.

(II) All rates due, all rights, liabilities, contracts, and engagements existing, and all actions, suits, and prosecutions pending at the time of such union as aforesaid by or against the body corporate of any of such several municipalities shall on such union be paid to and levied and recovered by and attach to and be carried on and prosecuted by and against the body corporate of the said united municipality, and be of the same force and effect to all intents and purposes with regard to the united municipality as they would have been severally with regard to each of the said municipalities before union.

19. Whenever upon the union of any municipalities the councils of the municipalities so united consist of—

As to council of united municipalities.

Ibid. s. 26.

(I) Twelve but less than fifteen aldermen then the council of the united municipality shall consist of nine aldermen;

(II)

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- (II) Fifteen but less than twenty-four aldermen then the council of the united municipality shall consist of twelve aldermen;
- (III) Twenty-four but less than thirty aldermen then the council of the united municipality shall consist of fifteen aldermen; and
- (IV) Thirty or more aldermen then the council of the united municipality shall consist of eighteen aldermen;

and one of such aldermen in each such municipality shall be elected mayor thereof in the manner hereinafter directed:

Provided that all aldermen of such municipalities so united as aforesaid in office at the time of such union shall be and remain aldermen of such united municipality until the time of their retirement as hereinafter directed, notwithstanding that the number of aldermen of such united municipality is thereby for the time being in excess of the number herein prescribed.

Retirement of aldermen in united municipalities where numbers in excess.

31 Vic. No. 12, s. 41.

20. If in any municipality formed by the union of municipalities in accordance with the provisions of this Act, there be upon the first Tuesday in February next after such union for such first-mentioned municipality or for any ward thereof a number of aldermen greater than that assigned by this Act as the ordinary number of aldermen for such municipality or ward, then in addition to the aldermen for such municipality or ward who go out of office on that day, under the provisions hereof, a number of aldermen for such municipality or ward, equal to the excess above such number so assigned, shall go out of office at the same time and in the like order and manner.

Who shall be mayor of united municipality upon union.

Ibid. s. 43.

21. The council of every municipality formed by the union of municipalities, or a majority of such council shall assemble at a time and place to be named by the Governor in the proclamation of such united municipality or in some subsequent proclamation published as hereinbefore directed, and shall then determine by such mode of voting as they may deem expedient which of the persons who is, at the time of such union, holding the office of mayor of one or other of the municipalities so united, shall be mayor of the united municipality, and he shall be such mayor accordingly, and if from any cause there is at the time but one such mayor, then he shall on such union be mayor of the municipality formed by such union, and every person having been so chosen or having been mayor of the said united municipality shall be deemed for all purposes to have been elected as herein provided in ordinary cases.

Auditors in office at time of union of municipalities.

Ibid. s. 46.

22. Upon the union of municipalities, the auditors who are in office in each of the several municipalities shall remain in office as auditors of the municipality formed by such union until the first Tuesday in February after such union.

By-laws in force on union of municipalities.

Ibid. s. 161.

23. Upon the union as herein provided of any municipalities, the Minister shall declare what by-laws of those in force for such several municipalities at the time of such union shall be the by-laws of

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of the united municipality. And such by-laws so declared to be the by-laws of the united municipality shall be in full force therein until such by-laws are amended, altered, or repealed by the council thereof, and such amendment, alteration, or repeal has been confirmed and published as herein directed. And all other by-laws previously in force in the said municipalities so united as aforesaid, or any of them shall, after such declaration by the Minister as aforesaid, become null and void :

Provided that all acts or things done or had, and all fines, penalties, and forfeitures imposed under or by virtue of any by-law so become null and void shall be of the same force and effect and be recovered in like manner as if such union had not taken place and such declaration by the Minister had not been made :

Provided also that the council of every united municipality shall have the same power as to the enforcement of any by-laws in force or enforceable in such municipality under the provisions hereof as if such by-laws had been made by such council.

24. In every case where municipalities have been united, and the Minister has declared as aforesaid what by-laws are to be in force as the by-laws of the united municipality, such by-laws so declared to be in force shall be published in the Gazette, and the production of such Gazette with such by-laws so published therein shall be as sufficient evidence as hereinafter provided that such by-laws are in as full force for such united municipality as if the same had been made by the council thereof, and had been confirmed and published as hereinafter enacted.

By-laws of united municipality to be gazetted and to be proved by Gazette.
31 Vic. No. 12, s. 162.

DIVISION 3—*Severance of Municipalities.*

25. On receipt of a petition signed by at least two-thirds of the electors resident or owning ratable property in any defined area of any municipality praying that such area may be separated from such municipality and be constituted a separate municipality, the Governor after publication of such petition as aforesaid may by like proclamation declare such municipality to be so divided, and by the same or any other proclamation so published as aforesaid may define the boundaries of each division, and state the number of wards of which each division shall consist, and thereupon each such division shall become and be a municipality within the meaning and for all the purposes of this Act :

Municipality may be divided into two or more municipalities.
Ibid. s. 18.

Provided that the division of any municipality so made shall be consistent with the provisions of the tenth section of this Act :

Provided also that before any such separation as aforesaid, the debts and other liabilities then attaching to the entire municipality shall be by or to the satisfaction of the Minister proportionally adjusted as between such proposed divisions :

Adjustment of liabilities and mutual claims before division of municipalities.

Provided

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Provided further that there shall be in every such case a like adjustment of all mutual claims between the two proposed divisions or municipalities as to the relative proportions of revenue and expenditure, in, for, or in respect of each such proposed division or municipality, and if on such adjustment any balance is found due from one of such proposed divisions or municipalities to the other, such balance shall be recoverable at law after such division by the municipality to whom it is so found due from the municipality by whom it is so found payable.

By-laws in force on
division of
municipalities.
31 Vic. No. 12,
ss. 160-161.

26. Upon and after any division of any municipality in manner aforesaid, and the constitution of the parts so divided into distinct municipalities, the by-laws in force in such first-named municipality at the time of such division shall be the by-laws of each such municipality after such division until such by-laws are amended, altered, or repealed by the council thereof, and such amendment, alteration, or repeal has been confirmed and published as herein directed:

Provided that in every such case of division the council of every municipality created on and by such division shall have the same power as to the enforcement of any by-laws in force or enforceable in such municipality under the provisions hereof as if such by-laws had been made by such council:

Provided further that in the case of any road dividing two or more municipalities the Governor shall have power to declare and determine which set of by-laws of the municipalities so divided shall be in force on such road.

DIVISION 4.—*Annexation to a Municipality.*

Adjacent area may
obtain annexation.
Ibid. s. 17.

27. The Governor, on the receipt of a petition signed by not fewer than twenty persons, either resident householders or owners of ratable property within the boundaries of any area adjacent to a municipality, or signed by a majority of such persons in case the said area does not contain a greater number in the aggregate than thirty, sufficiently setting out the boundaries of the said area, and praying that the same may be annexed to the adjoining municipality, shall cause the substance and prayer of such petition to be so published as aforesaid, and unless a counter-petition signed by a greater number of persons as aforesaid is received by the Minister within three months from the date of such publication, may, with the consent of the council of such municipality, declare by a proclamation published as aforesaid such area to be united with and form part of such municipality, and upon such proclamation such union shall take place accordingly.

DIVISION

*Municipalities.*DIVISION 5.—*Division into Wards.*

28. If any petition under section eleven contains a request that the municipality be divided into wards, or if, in the case of a municipality already constituted, a petition containing a like request is at any time after the passing of this Act presented to the Governor from the council, or from and signed by not fewer than fifty electors of such municipality duly qualified as hereinafter defined, the Governor may, by the first or by a subsequent proclamation, as the case may be, published as aforesaid, declare such municipality to be and the same shall accordingly be divided, if the population thereof is not less than five hundred but does not exceed one thousand, into two wards, if it exceeds one thousand and does not exceed four thousand, into three wards, and if it exceeds four thousand, into four wards.

Municipalities may be divided into wards.
31 Vic. No. 12, s. 16.

29. Where a municipality has been divided into wards after the incorporation of such municipality, and after aldermen have been elected as for the whole undivided municipality, one alderman for each ward shall as hereinafter directed be elected at each ensuing annual election of aldermen, and the retiring aldermen although elected as for the whole undivided municipality shall for the purposes of this Act be regarded as retiring aldermen for the several wards thereof.

Election of aldermen after division into wards.
Ibid. s. 23.

DIVISION 6.—*General provisions.*

30. Every borough and municipal district shall be described by means of certain boundaries to be set forth in manner hereinbefore mentioned.

Boundaries to be set forth.
Ibid. s. 9.

31. In all cases of annexation to an adjoining municipality, union of one or more municipalities, or division of any municipality, the signatures to all petitions and counter-petitions shall be verified in conformity with the twelfth section of this Act.

Signatures to all petitions to be verified.
Ibid. s. 20.

32. The Governor may refuse compliance with any petition for the incorporation of any new municipality, or for the union of two or more municipalities, or for the annexation to or division of any municipality, if after due inquiry there appears to be sufficient ground for such refusal, although no counter-petition against such incorporation, union, annexation, or division has been received by the Minister.

Governor may refuse compliance with petitions for incorporation, &c.
Ibid. s. 21.

33. Whenever, in consequence of the division of a municipality, or of the union of municipalities, the number of aldermen or of wards or of both in any such municipality requires readjustment, or whenever the population of any municipality has increased so as to require in accordance with the provisions hereinbefore contained a proportionate increase in the number of aldermen, and of wards, if the same has been divided into wards, the Governor, on the receipt of a petition from the council of such municipality praying for such increase

Readjustment of the number of wards and aldermen.
Ibid. s. 23.

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or readjustment as aforesaid, may in like manner as hereinbefore mentioned, and by proclamation so published as aforesaid, declare the number of wards and aldermen to which such municipality shall be entitled, or may readjust such wards according to the scale hereinbefore prescribed.

Inaccuracy in
proclamation no
objection.

31 Vic. No. 12, s. 24.

34. No misnomer, inaccurate description, or omission in any proclamation made under this Act, or purporting to be so made, by virtue of which any municipality shall have been constituted, divided, united, readjusted, or otherwise dealt with, shall in anywise suspend or impair the operation of this Act with respect to the matter so misnamed, misdescribed, or omitted.

As to revocation of
defective and sub-
stitution of new
proclamation.

Ibid. s. 15.

35. Whenever it is proved to the satisfaction of the Minister that any proclamation made and published in pursuance of the provisions herein, or purporting so to be, is so inaccurate, defective, or informal, by reason of some misstatement, misdescription, error, omission, or other fault or insufficiency, as to cause reasonable doubts to be raised respecting its validity, it shall be lawful for the Governor to revoke and cancel such proclamation, and within a reasonable time to publish in substitution thereof a new proclamation in accordance with the provisions herein contained.

Effect of certain
proclamations made
before the 4th
December, 1894.

58 Vic. No. 9, s. 1.

36. Every proclamation by the Governor, published in the Gazette before the fourth day of December, one thousand eight hundred and ninety-four, and made or purporting to be made under the Municipalities Act of 1867, and declaring an area therein mentioned or described to be a municipality or a borough or municipal district by a name mentioned therein, shall, whether the procedure appointed and the conditions imposed by the said Act were followed and complied with or not, have and be deemed to have had from the date thereof the effect of constituting the same accordingly for the purposes and within the meaning of this Act, subject, however, to the provisions herein contained for the revocation of certain proclamations, and the production of the Gazette containing such proclamation shall in all proceedings on behalf of the municipality be conclusive evidence of the legality of the constitution thereof:

Provided always that nothing in this section shall affect or have any application in respect of any proceeding, either at law or in equity, instituted before the tenth day of September, one thousand eight hundred and ninety-four.

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PART IV.

THE MUNICIPAL COUNCIL.

DIVISION 1.—*Qualification of mayor, aldermen, and auditors.*

37. Every male elector of any municipality, or if the same is divided into wards, of any ward thereof, who is a natural born or naturalised subject of her Majesty and is not otherwise disqualified as herein prescribed, shall be capable of being elected mayor, alderman, or auditor thereof :

Provided that no alderman shall be capable of being elected an auditor in and for the municipality of which he is an alderman.

38. (1) Every person—

- (a) being or serving as a Judge of the Supreme Court or any District Court ; or
- (b) being an officer on full pay or a non-commissioned officer or private in the naval or military service of Her Majesty other than the volunteer force of this Colony ; or
- (c) being of unsound mind ; or
- (d) being an uncertificated insolvent or bankrupt, or under composition with his creditors by any deed of assignment duly executed by him ;

shall be disqualified from taking or holding office as mayor, alderman, or auditor of any municipality.

(11) And every person—

- (a) holding any office or place of profit under or in the gift or disposal of the council of any municipality ; or
- (b) being directly or indirectly by himself or any partner engaged or interested in any contract or employment with, by, or on behalf of the said council ;

shall, save as provided in the next succeeding section, be disqualified from taking or holding any of the said offices within and for such municipality :

Provided that such disqualification shall not be extended to any elector by reason of his being a proprietor or shareholder not being a director of any joint stock company contracting with the council for any one of the aforesaid offices whereof or in connection wherewith he is a candidate.

39. (1) The following contracts and agreements shall be excepted from the provisions of sections thirty-eight and forty-four of this Act,—that is to say, contracts and agreements between the council of a municipality and any person—

- (a) for the supply by the council of water, gas, or electricity to premises ;

(b)

Who may be elected mayor, &c.

31 Vic. No. 12, s. 32.

Disqualifications.

Ibid. s. 33.

Contracts excepted from the provisions of the next preceding section.

58 Vic. No. 20, s. 1.

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- (b) for the performance by the council of any work or services in connection with the paving or asphaltting of footways, or the kerbing or guttering of roads, the removal of nightsoil, or the carrying out by the council of other sanitary measures within the municipality;
- (c) for the payment of money by any person for permission granted to him by the council to occupy footways in the municipality during the erection of buildings;
- (d) for the payment of a deposit of money as security for any damage to footways within the municipality;
- (e) relating to any lease already granted of any land belonging to or under the control of the council;

Contracts excepted from the provisions of sections 33 and 38 of the Municipalities Act of 1867.

(II) The contracts and agreements mentioned in the next preceding subsection shall be deemed to have been excepted from the provisions of sections thirty-three and thirty-eight of the Municipalities Act of 1867, and no costs shall be awarded to or recoverable by a plaintiff or complainant in any proceedings commenced before the eleventh day of June, one thousand eight hundred and ninety-five, for the recovery of any penalty incurred or moneys forfeited under, nor shall any penalty be recoverable for, nor any disqualification result from the breach of any of the provisions of the Municipalities Act of 1867 in respect of a contract or agreement deemed to have been excepted as aforesaid.

Supervening disqualifications.
31 Vic. No. 12, s. 37.

40. Any person holding the office of mayor, alderman, or auditor having his estate placed under sequestration as bankrupt, or having executed any deed of assignment as aforesaid, or (in the case of an alderman) being absent without leave from the meetings of the council for more than three successive months shall thereby become disqualified and shall cease to hold such office.

And in each such case of disqualification through absence without leave the person so disqualified shall be liable to the same fine as if he had refused to accept such office unless he has ceased to dwell permanently within the municipality or unless it is certified by two duly qualified medical practitioners that his absence has been occasioned by illness, or unless it is proved to the satisfaction of the council that such absence has been occasioned by some extreme emergency:

Provided, however, that every person becoming disqualified as aforesaid by reason of the sequestration of his estate or the execution of any deed of assignment as aforesaid shall, on obtaining his certificate or on payment of his debts in full or obtaining an absolute release from his creditors, be capable of being re-elected.

Declaration of office by mayor, &c.
Ibid. s. 34.

41. No mayor, alderman, or auditor shall act as such until he has before a commissioner of the Supreme Court or a justice made and
subscribed

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subscribed a declaration in the form of the Third Schedule hereto, and has delivered or transmitted the same to the returning officer, who shall deliver or transmit all such declarations to the council clerk.

42. Every person duly qualified for and duly elected to the office of mayor, alderman, or auditor shall accept such office by making, subscribing, and delivering or transmitting the declaration aforesaid within fourteen days after notice in writing of his election has been delivered to him personally or left at his usual or last known place of abode, or in default thereof pay a fine of twenty-five pounds. And such office shall be deemed vacant on the fourth day after the expiration of such fourteen days without such delivery of such declaration. And it shall be the duty of the returning officer for the time being to give or cause to be given the notice in writing herein required within two days after each such person has been declared duly elected :

Third Schedule.
Penalty for not accepting office after election.
31 Vic. No. 12, s. 35.

Provided that if the said returning officer was the mayor, or some other person acting for such mayor as herein prescribed, and if a new mayor has been elected before the delivery or transmission of such declaration as aforesaid it shall be sufficient if the same is delivered or transmitted within the time herein prescribed to such new mayor.

43. Provided that no minister of religion and no person disabled by deafness, blindness, or other permanent infirmity of body, nor any person above the age of sixty years, or who has already served the like office within three years next before the day on which he is elected, or has paid the fine for not accepting or for resigning such office, or for absence therefrom within the same period, nor any member or officer of the Legislative Council or Legislative Assembly, nor any person whose usual place of abode is not situated within the municipality for which he has been elected, shall be liable to any fine or penalty for neglecting or refusing to serve as alderman or mayor.

Persons exempt from office.
Ibid. s. 36.

44. Every person being a mayor, alderman, or auditor under this Act who continues to be or becomes directly or indirectly by means of partnership with any other person or otherwise howsoever wilfully or knowingly engaged or interested in any contract or agreement or employment (other than any contract or agreement mentioned in section thirty-nine) with, by, or on behalf of the council, except as proprietor or shareholder not being a director of any joint stock company contracting as aforesaid, shall be liable to a penalty not exceeding one hundred pounds and not less than fifty pounds, and shall be for seven years after commission of such offence disqualified from holding any office in or under the council.

Penalty on mayor, alderman, or auditors taking a contract.
Ibid. s. 38.

45. Any person acting as mayor, alderman, or auditor of any municipality without having made the declaration hereby required, or not being duly qualified at the time of making such declaration, or acting in or holding any such office after he ceases to be qualified according to this Act shall, for every such offence, forfeit the sum of

Penalty on disqualified person acting as mayor, &c.
Ibid. s. 48.

fifty

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fifty pounds, to be recovered, together with full costs of suit, by any elector of such municipality who sues for the same within three months after the commission of the offence.

DIVISION 2.—*Retirements and vacancies.*

Retirement of aldermen.

31 Vic. No 12, s. 40.

46. In each municipality, if the council consists of six aldermen, two shall retire, and if of nine aldermen three shall retire, and if of twelve aldermen four shall retire, and if of fifteen aldermen five shall retire, and if of eighteen aldermen six shall retire on the first Tuesday in February in each and every year; the first to retire being the two, three, four, five, or six who had the smallest number of votes at the first election until all then elected have retired, and in any case of doubt created by an equality of votes or by an election without a poll the decision shall be by lot, and thereafter the alderman longest in the council shall first retire, and every retiring alderman shall if still qualified be capable of being re-elected :

Provided that in every municipality which has been divided into wards one of the aldermen for each ward shall retire on the day aforesaid in each and every year, such retiring aldermen being those who had the smallest number of votes at the first election in their respective wards or who had been longest in the council, and in any case of doubt as aforesaid it shall be decided by lot which of such aldermen shall retire.

Extraordinary vacancies.

Ibid. s. 31.

47. (I) If any mayor, alderman, or auditor dies or resigns his office in the manner hereinafter prescribed, or neglects or refuses to accept such office in the manner and within the time hereinbefore prescribed, or is by any rule or order of the Supreme Court, to be made as hereinafter provided, declared ousted of such office, or otherwise becomes disqualified as herein described, then the office of the same shall be and become vacant, and every such vacancy shall be deemed to be an extraordinary vacancy within the meaning of this Act.

Ibid. s. 84.

(II) Every alderman elected to supply an extraordinary vacancy in the office of alderman shall hold office until the time when his predecessor's term of office would have expired and shall then go out of office, but may be re-elected if still qualified.

Resignation of office.

Ibid. s. 39.

48. Every person elected mayor, alderman, or auditor under this Act may at any time resign such office by letter under his hand addressed to the council clerk, or if there is no council clerk to the mayor, and the resignation shall be held to be complete from the date of the receipt of such letter by such council clerk or mayor :

Provided that every person so resigning shall be liable to a penalty of twenty-five pounds, unless he is entitled to claim exemption from such fine under any provision herein contained, or unless he has since his election become a minister of religion, or disabled by deafness, blindness, or other permanent infirmity of body or mind.

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49. All aldermen and auditors in office at the time of each successive annual election herein provided for shall remain in office until their successors are elected.

Retiring aldermen, &c., to continue in office until successors elected.

31 Vic. No. 12, s. 29.

DIVISION 3.—Election and privileges of Mayor.

50. Within seven days after the first election and each subsequent annual election, on a day and at an hour to be fixed at the first election by the returning officer (who shall preside thereat), and at subsequent elections by the council clerk, and to be notified to the whole of the aldermen in the same manner as an ordinary summons to a council meeting not more than four days nor less than twenty-four hours previously, such aldermen, or a majority of them, shall meet after the first election at such place as the returning officer has notified, and after all subsequent annual elections at the office or ordinary place of meeting of the council, and shall choose and appoint, by such mode of voting as they deem expedient, some one member of the council to be mayor, who shall, subject to the provisions of section fifty-two, go out of office at the next annual election of aldermen, but may then be re-elected :

Election of mayor.
Ibid. s. 42.

Provided that in case of an equality of votes at the first election of mayor the returning officer shall have a casting vote.

51. Upon any extraordinary vacancy in the office of mayor the council clerk shall summon a meeting of the council within seven days after the occurrence of such vacancy, giving not less than twenty-four hours' notice of the same to each alderman as in the case of an ordinary meeting of the council ; and at such meeting the aldermen, or a majority of them, shall elect one of their number to be mayor for the remainder of the then current term of office.

Extraordinary vacancy of mayor.
Ibid. s. 44.

52. Every person elected mayor of a municipality shall (although his term of office as alderman has expired) continue to hold office as mayor until the election of his successor, and shall preside at all meetings of the council holden in pursuance of this Act for the election of such successor, and shall have power to adjourn any meeting in the absence of a quorum. And for the purposes of such election the mayor shall (if he has ceased to be an alderman) have a casting vote only, but if his term of office as alderman has not expired, such mayor shall have and exercise an original but not a casting vote.

When mayor to retain office until election of his successor.
37 Vic. No. 15, s. 3.

And in case the mayor of any municipality dies or becomes subject to any of the disqualifications mentioned in the fortieth section of this Act, and his office as mayor is thereby vacated, the Governor may (if he thinks it expedient so to do) appoint any one of the aldermen of such municipality, or such other person as he thinks fit, to preside as chairman at any meeting of the council for the election of a mayor called in pursuance of the provisions of this Act.

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Act. And such chairman (if he is not an alderman) shall have and exercise a casting vote only, but if he holds office as alderman he shall be entitled to an original but not to a casting vote, and shall have power in either case to adjourn any meeting at which a quorum is not present :

Provided that where an equal number of votes is given for any two or more candidates, it shall be determined by lot which of such candidates shall be declared to have been elected as mayor.

Council to decide
as to payment of
mayor.

31 Vic. No. 12, s. 50.

53. The council may determine whether any and what remuneration shall be allowed any person executing the office of mayor.

DIVISION 4.—*The Municipal Roll.*

(1.) *Qualification of electors.*

Qualification of
electors for first
elections.

54. (I) Every person of the full age of twenty-one years who, at the date of the publication of the proclamation constituting any municipality under section eleven of this Act, is the occupier, lessee, or owner of any ratable property within such municipality, and liable to be rated for the same as such occupier, lessee, or owner, shall be entitled to be enrolled upon the first municipal roll of such municipality, and being so enrolled shall be an elector thereof, and shall be entitled to one vote at and for the first election of aldermen and auditors for such municipality, and at and for any other such election until the enrolment of the municipal electors as hereinafter directed.

Enrolment where
municipality is
divided into wards.

(II) When by any such proclamation as aforesaid the municipality thereby constituted is divided into wards, every person who, under the provisions hereinbefore contained, would be entitled to be enrolled and to vote as an elector of such municipality at and for such first elections as aforesaid, shall be entitled to be enrolled in like manner for the ward or wards wherein the ratable property in respect of which he is so entitled is situated, and upon being so enrolled, shall be entitled to vote at and for such first elections and such other elections as aforesaid to be held in and for such ward or wards, and the said provisions shall, as to each such ward, be construed as applying thereto and not to the whole municipality.

Electoral officer to
make municipal list.

Fourth Schedule.

(III) The electoral officer shall, within thirty days of his appointment, make or cause to be made an alphabetical list in the form contained in the Fourth Schedule hereto, to be called the municipal list, of all persons who appear entitled as aforesaid to be enrolled upon the first municipal roll of such municipality.

Inspection of lists.

(IV) The electoral officer shall forthwith, after the municipal list has been made out as aforesaid, notify by public advertisement in some newspaper circulating within or near such municipality the fact that a copy of such list is in his custody and open to inspection by any person

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person interested therein, at a place to be mentioned in such advertisement, and shall keep such list or a copy thereof at such place to be inspected by any such person, and permit such inspection without fee at all reasonable hours for a period of seven days from the publication of such advertisement.

(v) Any person whose name has been omitted from any such municipal list who claims to have his name inserted therein shall, on or before the seventh day after the publication of such advertisement as aforesaid, give to the electoral officer notice thereof in writing according to the form in the Fifth Schedule hereto or to the like effect; and every person whose name has been inserted in any such municipal list may object to any other person as not being entitled to have his name retained therein; and any person so objecting shall, on or before the said seventh day after the publication of such advertisement as aforesaid, give to the electoral officer, and also to the person objected to, or leave at the premises in respect of which his name appears to be entered in the said list, notice in writing of such objection according to the form in the Sixth Schedule hereto, stating the ground of such objection and attaching his signature thereto; and the electoral officer shall include the names of all persons so claiming as aforesaid in a list according to the Seventh Schedule hereto, and shall include the names of all persons so objected to as aforesaid in a list according to the form of the Eighth Schedule hereto, and shall sign and keep the said lists, or copies thereof respectively, to be inspected and perused by any person without fee at all reasonable hours during the week preceding the fourteenth day after the publication of such advertisement as aforesaid.

(vi) An open court for the purpose of revising such municipal list shall be held by a justice or other person appointed by the Governor to hold such court, hereinafter called the presiding officer, at such place within the municipality and at such time between the fourteenth and twenty-first days after the publication of such advertisement as aforesaid as the Governor shall, by notification published in the Gazette, and in some newspaper circulating within or near the municipality, appoint:

Provided that such notification shall be published not less than three nor more than seven days before the day on which such court is to be held.

Every such court may be adjourned for sufficient cause: Provided that no such court shall be adjourned beyond the twenty-first day after the publication of such advertisement as aforesaid.

(vii) The electoral officer shall himself, or by some person on his behalf, if he is unavoidably prevented from so doing, attend such revision court and produce to the said court the municipal list, and also copies of the lists of the persons who have sent in claims, and of the persons who have been objected to as aforesaid, and shall produce

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to the said court all books, papers, and documents in his possession connected with the preparation of the municipal list, and shall answer on oath all such questions as the court may put to him touching any matters necessary to be ascertained for the said revision of the municipal list.

Sections 62 to 66 to apply to compilation, &c., of first municipal list and roll.

(VIII) The provisions of sections sixty-two to sixty-six of this Act, both inclusive, shall, subject to the following alterations, apply to the compilation, revision, and completion of the first municipal list and roll of every municipality, that is to say—

the words “presiding officer” shall be read in place of the word “mayor”; and

the words “electoral officer” shall be read in place of the words “council clerk”

in each place respectively in which such words occur.

Declaration by electoral officer and presiding officer.

(IX) Every electoral officer and every presiding officer shall, before acting as such, before a commissioner of the Supreme Court or a justice, subscribe a solemn declaration that he will perform his duties impartially and shall give or transmit such declaration to the Colonial Secretary.

Alteration or extension of periods.

(x) In any case in which it appears to the Governor that the period allowed by this section for the doing of any act is insufficient, and an alteration or extension of such period and any alteration of periods consequent thereon is shown to be necessary, he may, by notification in the Gazette, declare that such alteration or extension, and the alteration of periods consequent thereon, shall be made, and thereupon the same shall be made and take effect accordingly.

Electors.

31 Vic. No 12, s. 52.

55. Every person of the full age of twenty-one years who, on the seventh day of January in any year, is the occupier, lessee, or owner of any ratable property within any municipality, and liable to be rated for the same as such occupier, lessee, or owner shall be entitled to be enrolled according to the provisions hereinafter contained upon the municipal roll of the municipality for the ensuing municipal year, and being so enrolled shall be an elector thereof, and shall be entitled, subject as hereinafter mentioned, to vote in all elections of aldermen and auditors for the municipality occurring whilst such municipal roll is in force in the manner following—

Cumulative votes.

(I) If the occupier, lessee, or owner of property assessed at an annual value not exceeding twenty-five pounds, he shall be entitled to one vote :

(II) If the occupier, lessee, or owner of property assessed at an annual value over twenty-five and not exceeding seventy-five pounds, he shall be entitled to two votes :

(III) If the occupier, lessee, or owner of property assessed at an annual value over seventy-five and not exceeding one hundred and fifty pounds, he shall be entitled to three votes :

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(iv) If the occupier, lessee, or owner of property assessed at an annual value over one hundred and fifty pounds, he shall be entitled to four votes :

Provided that only the person who pays the rates for such ratable property shall be entitled to vote in respect thereof, and no person who is at the time of claiming to vote in arrears on account of any such rates shall be entitled to vote in respect of the property rated at any election in such municipality :

Provided also that no person shall be allowed to vote without first making and subscribing a declaration in the form contained in the Ninth Schedule hereto:

Ninth Schedule.

Provided further that where any ratable property is jointly occupied, jointly leased, or jointly owned by more persons than one, only one of such joint occupiers, joint lessees, or joint owners shall be an elector as aforesaid, unless the assessed annual value of such ratable property so jointly occupied, leased, or owned as aforesaid exceeds twenty-five pounds, in which case a second joint occupier, joint lessee, or joint owner shall be admissible as an elector; and if the assessed annual value of such ratable property exceeds seventy-five pounds, then a third joint occupier, joint lessee, or joint owner (if there be one), shall be admissible as an elector; and if the assessed annual value exceeds one hundred and fifty pounds, then a fourth joint occupier, joint lessee, or owner (if there be one) shall be admissible as an elector. And the person or persons so admissible as aforesaid in cases of joint occupancy, joint lease, or joint ownership shall be the person or persons first named in the rate-book, and shall not in any case be entitled to a cumulative vote; and the giving of any joint vote by such person or persons shall render any other person claiming to vote in respect of the same ratable property incapable of giving a cumulative vote in that election.

Joint occupiers and owners.

31 Vic. No. 12, s. 52.

56. Where any municipality is divided into wards, every person who under the provisions hereinbefore contained would be entitled to be enrolled and to vote as an elector of such municipality shall be entitled to be enrolled in like manner for the ward or wards wherein the ratable property in respect of which he is so entitled is situated, and, upon being so enrolled, shall be entitled to vote in all elections of aldermen and auditors to be held in and for such ward or wards as hereinafter provided, and the said provisions shall, as to each such ward, be construed as applying thereto and not to the whole municipality.

Electors after division into wards to vote in the ward in respect of which their qualification arises.

Ibid. s. 53.

(2.) *Making and Revision of Municipal Roll.*

57. The council clerk of every municipality shall, during the week ending on the seventh day of January in each year, make or cause to be made out according to the form in the Tenth Schedule hereto

Council clerk to make out municipal list from list of ratepayers.

Ibid. s. 54.

Tenth Schedule.

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hereto annexed from the rate-books of such municipality and from all other books and documents connected therewith an alphabetical list to be called the "municipal list" of the names of all persons who appear entitled as aforesaid to be enrolled upon the municipal roll for the ensuing municipal year, and shall state in such list against the name of each person the several particulars indicated in the several columns of the said Schedule, as the same appear in or from the said rate-books and documents as aforesaid; and for the purpose of making the said list, every person rated in respect of any ratable property shall be presumed to have been of full age, and the occupier or owner, as the case may be, of such property at the time of the making of such municipal list, and liable to be rated as such owner or occupier respectively, subject however to the provisions hereinafter contained as to objections.

Inspection of lists.

31 Vic. No. 12, s. 55.

58. The council clerk shall forthwith, after making out the said alphabetical list, notify by public advertisement in some newspaper circulating within or near the municipality, the fact that a copy of such list is in his custody and open to inspection by any person interested therein, and shall keep such list or a copy thereof to be inspected by any such person, and permit such inspection without fee at all reasonable hours between the seventh and fourteenth days of January in each year.

Claims by persons omitted.

Ibid. s. 56.

Eleventh Schedule.

Objection to names inserted.

Twelfth Schedule.

Thirteenth Schedule

Fourteenth Schedule

59. Any person whose name has been omitted from any such municipal list who claims to have his name inserted therein shall, on or before the fourteenth day of January, give to the council clerk notice thereof in writing according to the form in the Eleventh Schedule hereto annexed or to the like effect, and every person whose name has been inserted in any such municipal list may object to any other person as not being entitled to have his name retained therein, and any person so objecting shall, on or before the said fourteenth day of January, give to the council clerk, and also to the person objected to, or leave at the premises in respect of which his name appears to be entered in the said list, notice in writing of such objection according to the form in the Twelfth Schedule hereto, stating the ground of such objection and attaching his signature thereto; and the council clerk shall include the names of all persons so claiming as aforesaid in a list according to the form in the Thirteenth Schedule hereto; and shall include the names of all persons so objected to as aforesaid in a list according to the form in the Fourteenth Schedule hereto; and shall sign and keep the said lists or copies thereof respectively to be inspected and perused by any person without fee at all reasonable hours during the week (Sundays excepted) preceding the twenty-first day of January in such year.

Revision court.

Ibid. s. 57.

60. The council of every municipality shall hold an open court at the council chamber for the purpose of revising the municipal lists thereof,

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thereof, and such revision shall take place at such time as the mayor shall appoint between the twenty-first and twenty-eighth days of January in every year, and the mayor shall give three 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 the council chamber of the said municipality, and by advertisement in some newspaper circulating within or near such municipality, and every such court may, for sufficient cause, be adjourned by the mayor or, in his absence, by the council :

Provided that no such court shall be adjourned beyond the twenty-eighth day of January in any year.

61. The council clerk shall himself, or by some person on his behalf if he is unavoidably prevented from so doing, attend the revision court and produce to the said court the municipal list, and also copies of the lists of the persons who have sent in claims, and of the persons who have been objected to as aforesaid, and of the lists (if any) of defaulters as hereinafter described. And the valuers hereinafter mentioned and all collectors of rates under this Act shall also attend the said court and shall produce to the said court all books, papers, and documents in their possession connected with such their respective offices, and shall answer on oath all such questions as the court may put to them touching any matters necessary to be ascertained for the said revision of the municipal list.

Council clerk, valuers, and collectors of rates to attend.
31 Vic. No. 12, s. 58.

62. The revision courts shall have authority to hear, receive, and examine evidence, and by summons under the hand of the mayor to require all such persons as the court may think fit to appear personally before the said court, at a time and place to be named in such summons, to give evidence and to produce to the said court all such books and papers in their possession or under their control as appear necessary for the purpose of their examination, and the said court shall, upon hearing in open court, determine by the decision of a majority upon the validity of all claims and objections as hereinafter mentioned. And any person failing to obey the summons of the said court shall be liable to a penalty not exceeding ten pounds recoverable before any two justices.

Power to summon witnesses.
Ibid. s. 59.

63. The revision court shall insert in the lists under revision the name of every person who has claimed as aforesaid, and is proved to the satisfaction of the court to be entitled to have his name inserted on the municipal roll as aforesaid, and shall retain on the said lists the names of all persons to whom no objection has been duly made as hereinbefore directed, and shall also retain on the said lists the name of every person who has been objected to by any person, unless the party so objecting appears by himself or by some one on his behalf in support of such objection, and proves the service of the several notices hereinbefore required, and when the name of any person inserted in

Revision of the lists.
Ibid. s. 60.

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any list has been duly objected to as hereinbefore directed, 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 stated as aforesaid and no more, and in case such qualification as aforesaid is not proved to the satisfaction of the court, the said court shall expunge the name of every such person from the said list.

And the court shall also expunge the name of every such person who is proved to the court to be dead, and shall correct any mistake or supply any omission which is proved to have been made in any of the said lists in respect of the name or place of abode of any person which is included therein, or in respect of the situation and description of any ratable property :

Provided always that no person's name shall be inserted by the said court in any such lists, or shall be expunged therefrom, except in the case of death, unless notice has been given as hereinbefore described in each of the said cases.

Certificate, &c., of
revision.
31 Vic. No. 12, s. 61.

64. The mayor 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, and the mayor shall there and then sign such certificate.

Construction of pre-
ceding sections after
division of municip-
ality into wards.
Ibid. s. 62.

65. Where any municipality is divided into wards the preceding sections and the next succeeding section hereof relating to the compilation and completion of the municipal list and roll shall be read with reference to such municipality in manner following, that is to say :—Instead of the municipal list and roll being made out for the whole municipality such list and roll shall be divided into separate parts according to the number of wards contained in the municipality, and the council clerk shall insert therein under the proper ward the names of those persons who, under the provisions hereinbefore contained, appear to be entitled for the time being to be enrolled on the municipal roll for such ward, and omit or expunge therefrom the names of all persons who do not as hereinbefore provided appear to be so entitled. And the municipal list, so divided as aforesaid, when signed by the Mayor after revision and delivered to the council clerk as hereinafter directed, shall be the municipal roll for each and every ward, and shall continue in force therein until another municipal roll has duly come into force hereunder.

Roll to be made out.
Ibid. s. 63.

66. The list so signed and certified shall be forthwith delivered to the council clerk who shall copy the names of the electors in alphabetical order in a roll or book, and shall set a number against each

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each name according to its order in such roll or book according to the form in the Fifteenth Schedule hereto, and each such roll or book shall be the electoral roll of the municipality or ward as the case may be for all the purposes of this Act, and shall continue in force until a new roll has been made hereunder. And any copy purporting to be a copy of such roll and certified by the mayor to be correct shall be evidence of such roll and of the contents thereof.

Fifteenth Schedule.

Certified copy of roll to be evidence.

67. Whenever any municipality in which such roll of electors has been revised and made up as aforesaid is so divided as to constitute two municipalities, or is divided into wards, or whenever there is any readjustment of wards in any such municipality, or whenever two or more such municipalities being adjoining municipalities are united in manner aforesaid, the then existing roll or rolls of the electors of such municipality or municipalities shall by the council clerk or council clerks thereof be divided into separate rolls of electors for such municipalities or wards, or made up into new rolls for such readjusted wards, or into a roll or rolls for such united municipality as the case may require :

Rearrangement of municipal rolls on division of municipalities or subdivision into wards, &c. 31 Vic. No. 12, s. 64.

Provided that in every such rearrangement of the roll or rolls of municipal electors there shall be no other change than such changes in numbering, or such transpositions of the names of electors from one municipality to another or from one ward to another as the circumstances of the case require, and every roll which has been so rearranged as aforesaid shall, by the mayor of the municipality to which it appertains, be examined and compared with the original roll or rolls so revised and made up as aforesaid, and the mayor shall at the foot or end of such rearranged roll of electors cause a certificate to be written to the effect that he has examined the same and that it is correct, and shall date and sign such certificate, and such roll so rearranged and certified as aforesaid shall be the roll of electors for the municipality or ward as the case may be, and shall continue in force until a new roll has been made for such municipality or ward under the provisions of this Act ; and any copy purporting to be a copy of such roll so rearranged and certified as aforesaid, and signed by the mayor, shall be evidence of such roll and of the contents thereof.

Certified copy of rearranged roll to be evidence.

DIVISION 5.—*The Election of Aldermen.*

(1.) *Time of holding elections and number of aldermen.*

68. The first election of aldermen for any newly proclaimed borough or municipal district shall take place on a day at noon, and at a place to be notified by the Governor, within three months after its incorporation, and all succeeding annual elections in such municipality and in all municipalities where an election has already been held shall take place on the first Tuesday in February in each year.

Date of election. Ibid. s. 65.

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Extraordinary
vacancies.
31 Vic. No. 12, s. 84.

69. On the occurrence of any extraordinary vacancy in the office of alderman or auditor, the mayor or any alderman appointed by the council as returning officer shall, within ten days after the occurrence of such vacancy, give fourteen day's notice in some newspaper circulating in or near the municipality of a day on which an election to supply such vacancy shall be holden in manner hereinafter mentioned.

Election of additional
aldermen where
numbers have been
increased by this
Act.
Ibid. s. 85.

70. In any municipality which under such readjustment as aforesaid has become entitled to a greater number of aldermen than the number of aldermen to which it has theretofore been entitled or which it has possessed, there shall be elected in the manner and with the like notices as in the case of extraordinary vacancies a sufficient number of other aldermen to make the number of the council of such municipality equal to the number to which it has become entitled under this Act. And such additional aldermen shall in turn go out of office annually in rotation with the other retiring aldermen, according to the number of votes which each has obtained or otherwise as hereinbefore provided.

In united municipi-
palities no extra-
ordinary vacancies
to be filled up while
numbers in excess.
Ibid. s. 86.

71. If in any united municipality there is, upon such union, for such municipality or for any ward thereof, a number of aldermen greater than that assigned by this Act as the ordinary number of aldermen for such municipality or ward, no extraordinary vacancy for such municipality or ward shall be filled up, until the whole number of aldermen for such municipality or ward has been reduced below such ordinary number, and then only so as to complete such ordinary number.

(2.) *Who shall hold elections.*

Returning officer.
Ibid. s. 65.

72. The returning officer at any first election shall be nominated by the Governor, and at every succeeding election the returning officer shall be the mayor, or, in his absence or in the event of such mayor being a candidate for re-election as an alderman, any alderman of the municipality appointed for that purpose by the council.

Appointment of
returning officer in
certain cases.
37 Vic. No. 15, s. 4.

73. (I) Where by reason of the occurrence of extraordinary or ordinary vacancies, or both, in the offices of aldermen in any municipality, the number of aldermen for such municipality is reduced below the number prescribed by this Act as a quorum, or where in any such case there is no council clerk for such municipality, the Governor may appoint any one of the remaining aldermen, or such other person as in his discretion he thinks fit, to perform the duties of returning officer for the purposes of holding an election of aldermen and of mayor for such municipality; and such returning officer shall in such election for mayor have and exercise a casting but not an original vote.

Appointment of
council clerk in
certain cases.

(II) The Governor may also, in any case where the aldermen of a municipality are reduced below the required quorum as aforesaid

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aforesaid and there is no council clerk, appoint a council clerk for such municipality. And any person so appointed by the Governor shall, until the completion of such elections but no longer, hold office as council clerk to all intents and purposes as fully and effectually as if he had been appointed under this Act, and shall be remunerated by such fee, payable from the funds of the municipality, as the Governor may appoint.

(III) All other expenses incident to such elections shall be payable from the said funds in like manner as the expenses of subsequent elections. Expenses of certain elections.

(IV) No municipality shall, by reason of the occurrence of any or all of the events mentioned in this section, be deemed at law or in equity to have become dissolved or to have lapsed. Municipality saved from dissolution in certain events.

(3.) *Manner of conducting elections.*

74. The election of candidates to the office of alderman under this Act shall be conducted in manner following:— Mode of nomination.
31 Vic. No. 12, s. 66.

- (I) Any two electors entitled to vote in any municipality, or in any ward of any municipality, may nominate a candidate for election, or any number of candidates not greater than the number of aldermen to be elected, by delivering to the returning officer for the time being seven days at least before the day appointed by the Governor or fixed by this Act as aforesaid for the first election and all subsequent elections, and hereinafter designated the “day of nomination,” a document signed by such electors containing the name or names in full of the candidate or candidates they may wish to propose, setting forth also the occupation and residence of such candidate or candidates, and also similar particulars respecting the two electors so nominating.
- (II) The returning officer for the time being shall give not less than fourteen days notice of the day of nomination by advertisement in some newspaper circulating in or near such municipality.
- (III) On the day appointed for the nomination, and at the place appointed, the returning officer shall, at twelve o’clock at noon, publicly read the names of the candidates so proposed, together with the names of their nominators. And in the event of there being no greater number of candidates than the number of aldermen to be elected, the returning officer shall then and there declare the said persons to be duly elected; but in the event of there being more candidates than the number of aldermen to be elected, the returning officer shall advertise in some newspaper circulating as aforesaid the names of the candidates, the day of poll, and the polling-places.

(IV)

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(iv) Provided that it shall be in the power of any individual so nominated as a candidate, by a notice in writing signed by him and addressed to the returning officer, and delivered to such returning officer at any time before the day of nomination, to withdraw from such candidature.

Contested elections
by ballot and when.
31 Vic. No. 12, s. 70.
50 Vic. No. 24, s. 5.

75. Every contested election of aldermen or auditors shall be by ballot, and shall take place on the seventh day next after the day of nomination, or on any earlier day at the discretion of the returning officer not less than two days after such day of nomination. And the voting at every such election shall commence at eight o'clock in the forenoon, and shall finally close at five o'clock in the afternoon of the same day.

Arrangements for
polling and polling-
places.
31 Vic. No. 12, s. 71.

76. At every election the returning officer shall appoint such other presiding officers, and such polling clerks as may be required for taking the poll, and may make and enforce all necessary regulations not inconsistent with this Act, and shall fix the polling-places and provide proper and convenient rooms or booths for polling:

Provided always that no election shall be holden nor any voting take place in any church, chapel, or other place of public worship.

Extent of operation
of sections 78 and 79.
50 Vic. No. 24, s. 2.

77. (i) The provisions of sections seventy-eight and seventy-nine of this Act shall apply to the municipalities of Alexandria, Ashfield, Balmain, Burwood, Camperdown, Canterbury, Darlington, East Saint Leonards, Five Dock, Granville, Hunter's Hill, Kogarah, Leichhardt, Macdonaldtown, Manly, Marrickville, Newtown, North Willoughby, Paddington, Parramatta, Petersham, Randwick, Redfern, Ryde, Strathfield, Saint Leonards, Saint Peters, The Glebe, Victoria, Waterloo, Waverley, West Botany, and Woollahra, and to every municipality to which the operation of the Municipalities Act of 1867 Amendment Act of 1886 was extended by the Governor prior to the repeal of the said Act.

(ii) The provisions of the said sections shall apply to such other municipalities, and at such dates respectively, as the Governor from time to time appoints by proclamations published in the Gazette.

Returning officer
may appoint a poll-
ing place in the
city of Sydney.
Ibid. s. 3.

78. Every returning officer at all contested elections of aldermen or auditors for the municipalities referred to in the next preceding section, may appoint a polling-place within the boundaries of the city of Sydney, or such other city or place as the Governor shall from time to time appoint in addition to the polling place or places to be appointed by such returning officer under the provisions of sections seventy-four and seventy-six of this Act, and thereupon every elector entitled to vote at such election shall be at liberty to vote at such polling-place in the city of Sydney, or other city or place as aforesaid, in lieu of voting at the polling place or places appointed for such election in accordance with the provisions of the said seventy-fourth and seventy-sixth sections.

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79. At any polling-place appointed under the provisions of the next preceding section, the returning officer shall exercise and execute the several powers, authorities, and duties provided by this Act for carrying into effect contested elections of aldermen or auditors.

Returning officer to execute at such polling-place the several powers of this Act.
50 Vic. No. 24, s. 4.

80. In case the returning officer or any other presiding officer is prevented from attending to any of his duties by illness or other sufficient cause, he may, or in case of his refusal or inability the council clerk shall, by writing under his hand, appoint a substitute to act for such returning or other presiding officer, and such substitute shall thereupon for the time being have all the power and authority of the officer for whom he has been so substituted.

Substitutes for returning or presiding officers.
31 Vic. No. 12, s. 72.

81. Every candidate for election, or in his absence any two of the electors by whom he has been nominated, may appoint one person at each polling-place to be scrutineer at the election.

Scrutineers.
Ibid. s. 73.

82. Every returning officer, presiding officer, poll clerk, and scrutineer shall, before acting, make and subscribe before a justice or a commissioner of the Supreme Court or, in the case of any scrutineer, before the returning officer of the election then pending, a declaration in the form of the Sixteenth Schedule hereto.

Declaration of office.
Ibid. s. 74.

Sixteenth Schedule.

83. Every returning officer and presiding officer shall have power and authority to maintain and enforce order and keep the peace at any election or polling held by him; and for that purpose and without any other warrant than this Act, to cause to be arrested and taken before a justice any person reasonably suspected of knowingly and wilfully making a false answer to any of the questions hereinafter mentioned, or of personating or attempting to personate any voter, or of attempting unlawfully to vote more than once at the same election, or wilfully entering or remaining in a polling-room or compartment, or any person who causes a disturbance at any election.

Power of returning or presiding officer to preserve order, &c.
Ibid. s. 75.

Every returning officer and presiding officer shall also have power and authority to cause any person to be removed who obstructs the approaches to any polling-room, or conducts himself in a disorderly manner.

And all constables and peace officers shall aid and assist such returning officer and presiding officer in the performance of their duties.

84. At every polling-place there shall be provided and set apart a separate ballot-room or compartment into or in which no person may enter or remain except electors while preparing their ballot-papers as hereinafter provided but no longer, and the polling clerk shall cause pencils or pens, ink, and blotting-paper to be placed in the said room or compartment. Every person otherwise than as aforesaid wilfully entering or remaining in the said room or compartment shall be guilty of a misdemeanour.

Balloting-room.
Ibid. s. 76.

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Ballot-papers.

31 Vic. No. 12, s. 77.

Seventeenth
Schedule.

85. Before and in time for every election by ballot the returning officer shall cause to be printed or written ballot-papers according to the form of the Seventeenth Schedule hereto, and shall on the morning of the day of poll or on the day next preceding, but not sooner, deliver to the presiding officer of each polling-place so many of such ballot-papers signed by himself on the back thereof as are fully equal to the number of enrolled electors entitled and likely to vote at such polling-place, and shall sign in like manner and keep for himself a like sufficient number for the polling-place at which he is to preside.

Ballot-box and mode

of voting.

Ibid. s. 78.

86. (I) The returning officer shall provide for each polling-place a ballot-box, the front of which shall be of glass and on the top of which there shall be an opening sufficient to receive the ballot-papers folded as hereinafter mentioned.

(II) Such box being previously locked by the returning officer with a key which shall be kept by himself, and of which it shall be unlawful for any other person to possess a counterpart, shall be placed on a table before the presiding officer.

(III) Every elector on applying in person, if entitled to record one vote, shall receive one of the ballot-papers, signed as aforesaid, and if entitled to record two or more votes as hereinbefore provided shall receive a corresponding number of the ballot-papers as aforesaid, and shall, in the ballot-room aforesaid without leaving the same, strike through the names of all persons named in such ballot-paper or ballot-papers, as the case may be, except the names of each person for whom he intends to vote, and shall then fold up the paper or papers so as to conceal the interior and disclose only the returning officer's name so signed upon the back, and shall then return to the polling-table, and there, openly, in the presence of the presiding officer, poll clerk, and scrutineers present, deposit such ballot-paper or ballot-papers in the ballot-box.

(IV) Provided that in the case of any elector who is blind or cannot read, the presiding officer shall in the presence of such scrutineers as may then be in attendance strike through upon such ballot-paper the names of all persons so nominated, except such as the elector declares his intention of voting for:

(V) Provided also that before any ballot-paper is deposited in the box, the presiding officer or poll clerk shall, upon a certified copy of the electoral roll, write his initials against the name of the person then voting, which initial shall be prima facie evidence of the identity of such voter with the person whose name is so initialled on such roll, and of the fact of his having voted at such election:

(VI) Provided further that if any elector entitled to two or more votes fails to record all his votes on his first application, it shall not be lawful for him to vote a second time.

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87. If any voter suffers to remain upon his ballot-paper a greater number of names not struck out than the number of aldermen or auditors to be elected, the vote given on and by such paper shall be void and of no effect.

Certain indefinite votes to be void.
31 Vic. No. 12, s. 79.

88. In the event of any two or more candidates of whom one or more is to be elected being found to have obtained an equal number of votes, the returning officer shall have a casting vote, and shall state in writing which of such candidates is declared to be duly elected: and except as herein provided the returning officer shall not vote.

Returning officer shall only vote in case of equality of votes.
Ibid. s. 80.

89. No inquiry shall be permitted to be put to any person applying to vote except by the presiding officer at the request of a scrutineer, and such inquiry shall be limited to the questions following:—

Questions which may be put to voters.
Ibid. s. 81.

- (1) Are you the person whose name appears as A.B., number —, in the electoral roll for this municipality (*or* ward) ?
- (2) Have you the same qualification for which your name appears on the electoral roll for this municipality (*or* ward) as A.B., number — ?
- (3) Have you already voted at the present election ?

No person who refuses to answer such questions, or who fails to answer the first and second of such questions in the affirmative, and the third in the negative, shall be permitted to vote at such election. Whosoever makes a false answer to any such question shall be guilty of a misdemeanour.

90. Each presiding officer shall immediately on the close of the poll transmit to the returning officer the ballot-box, still locked, and shall also send, carefully sealed up, the electoral roll initialled at his polling-place as aforesaid, and signed by him and the poll clerk—the remainder of the ballot-papers delivered to him by the returning officer and not used, and all books and official memoranda kept by him during the polling, with an exact statement of the number of electors who have voted—the number of ballot-papers originally delivered to him—the number thereof used—and the number left unused and returned. And such statement shall be signed by himself and the poll clerk, and verified by the signatures of the scrutineers then present.

Ballot-boxes to be transmitted to the returning officer.
Ibid. s. 82.

91. The returning officer immediately after receiving the ballot-boxes and sealed-up documents and papers as aforesaid, shall in the presence of the presiding officers and such of the scrutineers as may then be in attendance open the ballot-boxes and examine the ballot-papers, and thereby ascertain the result of the election, and he shall then publicly announce the state of the poll, and on the next following day he shall officially declare at the place of nomination, and at an hour of which public notice shall have been given by him on the day of nomination, the names of the candidates who have been duly elected:

Ascertainment and declaration of poll.
Ibid. s. 83.

Provided

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Adjournment
thereof.

Provided that if from the non-arrival or late arrival of any such ballot-boxes and sealed-up documents and papers as aforesaid, or from any other sufficient cause it is found impossible to examine the ballot-papers and ascertain the result of the election on the same day that the poll has been taken, the returning officer may adjourn such examination until some hour on the next following day earlier than the hour already fixed, and notified as aforesaid for the official declaration of such result. And such ballot-boxes and sealed-up documents shall remain, until the time of such examination, in the custody of the returning officer or in such custody as he may appoint, but shall be further secured by the seals of any such two of the presiding officers or scrutineers as the majority of such presiding officers and scrutineers then present may designate for that purpose, or if no more than one or two of such presiding officers or scrutineers be present, then by the seals of such one or both of such presiding officers or scrutineers.

Disposal of ballot-
papers and
documents.
31 Vic. No. 12, s. 87.

92. The returning officer shall forthwith, after the declaration of the result of the poll, seal up all the ballot-papers and other documents as aforesaid in one or more parcels as may be found convenient, and shall cause the same to be delivered to the council clerk of the municipality, to be by the said clerk safely and secretly kept for six months after such delivery of the same, and such clerk shall, after the expiration of such period of six months, cause such ballot-papers and documents to be destroyed.

Penalty for breaking
seal or opening
parcel.
Ibid. s. 88.

93. If any person knowingly and wilfully breaks the seal of or opens any such sealed parcel of ballot-papers and documents as aforesaid, unless by the command of some competent court or other authority he is required so to do, or to produce some portion of the contents of such parcel, he shall be guilty of a misdemeanour.

Penalty for divulging
the name of
candidate for whom
any person may vote.
Ibid. s. 89.

94. (I) If any returning officer, presiding officer, poll clerk, or scrutineer in the discharge of his duties under this Act, at or concerning any election, learns or has the means of learning for what candidate any person votes or has voted at such election, he shall not by word or act or any other means whatsoever, directly or indirectly, divulge or discover or aid in divulging or discovering the same, save in answer to some question which he is legally bound to answer.

(II) Every such returning officer, presiding officer, poll clerk, or scrutineer, who knowingly and wilfully offends against the provisions of this section shall be guilty of a misdemeanour.

Adjournment of
polling for riot, &c.
Ibid. s. 90.

95. When the proceedings at any election under this Act are interrupted or obstructed at any place by any riot or open violence, the returning officer or presiding officer, as the case may be, shall not finally close the poll, but shall adjourn the taking of the poll at the polling-place at which such interruption or obstruction has happened to the day following, and, if necessary, such returning officer or
presiding

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presiding officer shall further adjourn such poll until such interruption or obstruction has ceased, when such returning officer or presiding officer shall again proceed with the taking of the poll at the place at which the same was interrupted or obstructed.

96. If, from some other cause not being such as lastly mentioned, after a poll stands appointed for any election, no such poll is taken on the day appointed for the same, the election shall stand adjourned until the same day of the following week, and the returning officer shall give not less than three days' public notice thereof, by advertisement in some newspaper circulating in the municipality or ward, or by placards affixed in public places in or near such municipality or ward. And in all such cases of adjournment, the examination of the ballot-papers and final declaration of the result of the poll hereinbefore provided for shall stand adjourned until after the close of such poll, and such ballot-papers and other documents as aforesaid shall be secured and kept in such custody as is hereinbefore required.

Adjournment when from some other cause no election on day appointed.

31 Vic. No. 12, s. 91.

97. All the acts enumerated as acts of bribery and treating in any Electoral Act in force for the time being, with reference to elections of members to the Legislative Assembly, shall be deemed to be acts of bribery and treating with reference to all elections under this Act. And every person committing any such act shall be deemed guilty of a misdemeanour. And the acts of all authorised agents of a candidate shall be held to be acts of their principal, if proved to have been committed with his consent.

Bribery and treating. Ibid. s. 95.

98. Every person who having or claiming any right to vote at any election of mayor, alderman, or auditor, asks or takes any money or other reward by way of gift, loan, or other benefit, or agrees or contracts for any money, gift, office, employment, or other reward, to give or to forbear to give his vote in any such election, and every person who by himself or by any other person employed by him, by any gift or reward, or by any promise of or any agreement or security for any gift or reward, corrupts or procures, or offers to corrupt or procure, any other person to give or to forbear to give his vote in any such election shall for every such offence be liable to a penalty of fifty pounds.

Penalty for receiving or offering reward as to vote. Ibid. s. 96.

99. Every person who votes or offers to vote a second time at the same election in the same municipality, or if the municipality is divided into wards in the same ward, or who personates or attempts to personate any other person for the purpose of voting at any such election shall be guilty of a misdemeanour.

Penalty for voting twice or personation. Ibid. s. 97.

100. Any mayor of any municipality, or any person having been duly appointed hereunder to act as returning officer, presiding officer, or poll clerk at any election, and having undertaken so to act, who is guilty of any gross misfeasance or wilful act of commission or omission contrary to any of the provisions herein contained, shall upon conviction forfeit and pay for every such offence a penalty not exceeding fifty pounds.

Misfeasance, &c., of returning or presiding officer, poll clerk, &c.

Ibid. s. 100.

101.

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Elections to fill
extraordinary
vacancies.

31 Vic. No. 12, s. 84.

101. All elections for the supply of extraordinary vacancies in the office of alderman shall be conducted as nearly as may be in the same manner as the annual elections of such officers.

(4.) Proceedings validated.

Election not to be
questioned for defect
of title, &c.

Ibid. s. 93.

102. No election under this Act shall be liable to be questioned by reason of any want or defect of title of any person by or before whom such election has taken place, if such person has really acted at such election, nor by reason of any formal error or defect in any declaration or other instrument, or in any publication under this Act or intended so to be, nor by reason of any such publication being out of time.

Invalidity of election
no plea to action.

Ibid. s. 94.

103. No advantage shall be taken of the invalidity of any election under this Act in any action or suit by or against the corporation, but every such action or suit shall be tried as if no such objection existed.

DIVISION 6.—Appointment of aldermen and auditors by Governor.

Governor may
appoint aldermen
and auditors in
certain cases.

Ibid. s. 92.

104. If at the time fixed as aforesaid for any municipal election there are no candidates named, or a less number of candidates than there are aldermen or auditors to be elected, the Governor may appoint any persons not disqualified to be aldermen or auditors, as the case may be, who shall by virtue of such appointment be as fully such as if duly elected.

PART V.

AUDITORS.

Auditors.

Ibid. ss. 30 and 50.

105. (I) There shall be two auditors in and for every municipality.

(II) The council may determine whether any and what remuneration shall be allowed any person executing the office of auditor.

Retirement of
auditors.

Ibid. s. 45.

106. The auditors shall retire on the first Tuesday in February in each and every year, but each retiring auditor shall, if still qualified, be capable of being re-elected.

Election of auditors.

Ibid. s. 67.

107. (I) The election of auditors shall be conducted in like manner as the election of aldermen except as hereinafter provided.

(II) The first election of such auditors in any municipality shall take place on the day fixed for the first election of aldermen in the said municipality, and all subsequent annual elections of auditors in such municipality and in all municipalities where an election has already been held shall take place on the day fixed for the annual election of aldermen.

(III)

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(III) The returning officer at any first election of auditors in any such municipality shall be the officer so nominated as aforesaid to conduct the first election of aldermen in such municipality, and at every succeeding election the mayor or in his absence any alderman of the municipality appointed for that purpose by the council.

(IV) Provided that all elections of auditors for any municipality, whether the same is divided into wards or not, shall be conducted as for and in respect of the whole municipality and not for and in respect of any ward or wards thereof.

108. (I) All elections for the supply of extraordinary vacancies in the office of auditor shall be conducted as nearly as may be in the same manner as the annual elections of such officers. Extraordinary vacancies.
31 Vic. No. 12, s. 84.

(II) Every auditor elected to supply an extraordinary vacancy in the office of auditor shall hold office until the time when his predecessor's term of office would have expired, and shall then go out of office, but may be re-elected if still qualified.

PART VI.

OUSTER OF MAYOR, ALDERMEN, OR AUDITORS.

109. Upon affidavit that any person declared elected to be mayor or an alderman or auditor of any municipality has been unduly elected, or that any person has been elected to or holds or exercises such office of mayor, alderman, or auditor, being incapable under the provisions hereof of being or continuing such mayor, alderman, or auditor, it shall be lawful for the Supreme Court or any judge thereof to grant a rule or order calling upon such person to show cause to the court why he should not be by the said court ousted of the said office, and where upon the return of such rule or order it appears to the court that such person so elected, or holding or exercising such office respectively, was unduly elected, or was, at the time of his election or while holding or exercising such office, incapable under the provisions hereof of being or continuing such mayor, alderman, or auditor, as the case may be, the court may make such rule or order absolute, or if the matter does not so appear may discharge such rule or order, and in either and every such case with or without the payment of costs to or by either party as the court deems meet. And the person against whom any rule is made absolute as aforesaid shall be deemed thereby to be ousted of such office accordingly : Disputed elections or exercise of office.
Ibid. s. 99.

Provided that no such order or rule shall in any case be granted if at the time of the application for such rule or order more than three months have elapsed after the election or the time when the person against whom such application is made was disqualified.

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PART VII.

PROCEEDINGS OF THE COUNCIL.

Meetings to be held
monthly.

31 Vic. No. 12, s. 102.

Special meetings.

Ibid. s. 103.

Members to be
summoned and
notice given of a
business.

Ibid. s. 104.

Council clerk to
prepare and transmit
summonses.

Ibid. s. 105.

Notice of business.

110. The council shall meet at least once in every month, and such meetings shall be held at such hours and on such days as shall be determined by any by-law under this Act, or until such by-law is in force by any resolution of the council.

111. The mayor may call a special meeting of such council as often as he thinks proper, and if he refuses or delays to call any such meeting after receiving a requisition for that purpose signed by at least two aldermen, such aldermen may call a meeting of the council by giving such notice as is hereinafter directed to the other members thereof.

112. In every case a summons to attend any intended meeting of the council, specifying the business proposed to be transacted at such meeting, shall be left at or sent by post to the usual or last known place of abode or place of business of each alderman, or to such address as he may have indicated for that purpose, so that there shall be time for his receiving such summons twenty-four hours at least before the time appointed for such meeting, and no business shall be transacted at any such meeting other than is stated in such summons :

Provided that no summons shall be necessary for any adjourned meeting, and that no business of which notice has not already been given as aforesaid shall be transacted at such meeting.

113. The council clerk shall prepare and serve or transmit all such summonses as aforesaid, and shall give notice in each such summons for each monthly meeting of the council of any business of which any alderman has, by writing under his hand, delivered to such council clerk not less than four days before the day appointed for such monthly meeting, given notice, or which any alderman has, in manner aforesaid, required to be brought before the council at such meeting. And in each summons for each such special meeting as aforesaid the council clerk shall give notice of such business as the mayor or the alderman calling such meeting directs to be notified :

Provided that it shall not be necessary in any such summons to give notice in extenso of any proposed by-laws or other business to be considered at such meeting, but it shall be deemed a sufficient compliance with this Act if the nature and intent of such business is clearly indicated :

Provided also that where any business of which notice has been given for one monthly meeting or for any special meeting has been postponed until another monthly or special meeting, it shall only be necessary to indicate in general terms in the summons that such business so postponed as aforesaid from a previous meeting is to be considered.

114.

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114. (1) All acts authorised or required by law to be done, and all questions to be decided by the council shall be done and decided by the majority of the members present at any meeting duly held, and a majority of the whole number of members of such council, when such number is odd, or a moiety when such number is even, shall be a quorum : Quorum at meetings. 31 Vic. No. 12, s. 101.

Provided that if there is not a quorum present within half an hour after the time appointed for the holding of any meeting, or if it appears at any time during the holding of any meeting that there is not a quorum of members present, the mayor shall have power to adjourn such intended meeting or meeting to some other day.

(11) All meetings of the council shall be held with open doors unless it becomes necessary to exclude strangers on account of their disorderly conduct : Meetings to be held with open doors, but with power to exclude strangers in certain cases.

Provided, however, that the council shall have the power of excluding strangers while a mayor is being elected, or while any tenders or applications for any work, office, or employment under the council are being opened, examined, or considered, or while any complaint against any officer or servant of the council is being inquired into. But in all such cases the result of all such elections and of all such considerations of tenders or applications and of all such inquiries shall be announced or stated with open doors, and an entry of such result shall be made in the minute book to be kept as hereinafter provided.

115. The mayor, if present, shall preside at all meetings of the council, and in his absence, or if after being present he retires, such alderman as the members present may choose shall preside. And in case of an equality of votes the person so presiding shall have a casting vote in addition to his original vote as a member of the council : Who to preside at council meetings. Ibid. s. 106. Casting vote.

Provided, however, that no such mayor or presiding alderman shall, by any by-law or resolution of the council, be compellable to give such original vote as a member of such council.

116. Minutes of the proceedings of every meeting of the council shall be taken by the council clerk, and being fairly transcribed into a book to be kept for that purpose, shall be read at the then next meeting of the council, and shall, after confirmation thereby, be signed by the mayor or presiding alderman. Minutes of meetings. Ibid. s. 107.

117. Any elector or any creditor of the municipality may, at all reasonable times without fee, make any copy of, or take any extract from the minute book, and any council clerk or other person having the custody of the said book who does not, on reasonable demand of any such elector or creditor, permit such copy or extract to be made or taken shall be liable to a penalty of not more than five pounds for every such offence. Copies and extracts from minutes. Ibid. s. 108.

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Committees may
be appointed.
31 Vic. No. 12, s. 109.

118. (I) The council may appoint out of their own body such and so many standing or occasional committees, of either a general or special nature, consisting of not fewer than three of their members, as may be deemed necessary, and may delegate to any such committee any inquiry, negotiation, or arrangement, or power to do any emergent act, or to carry out any work which such council has ordered, agreed to, or directed.

(II) The council may fix the quorum of any such committee and may give such directions to any such committee as from time to time may be found expedient, and may increase, alter, or dissolve any such committee.

(III) Every such committee shall report all its proceedings to the council at the earliest possible opportunity.

Meetings,
Chairman, &c., of
committees.
Ibid. s. 110.

119. (I) Every committee so appointed may meet from time to time, and may adjourn from place to place, as they think proper for carrying into effect the purposes of their appointment, but no business shall be transacted at any meeting of such committee unless the quorum of members (if any) fixed by the council, or if no quorum be fixed, a majority of the members of such committee is present.

(II) At all such meetings the mayor, if a member of the committee, shall preside, or if he is not a member then such alderman shall preside as a majority of the members of the committee have appointed permanent chairman thereof, and in the absence of the mayor or of the permanent chairman respectively, such chairman as the members present appoint.

(III) All questions shall be determined by a majority of votes, and in cases of an equality of votes, the member presiding shall have a casting vote besides his original vote as a member of the committee.

Place and days of
business and office
hours to be appointed
and notified.
Ibid. s. 111.

120. (I) The council shall appoint a place within the municipality, and shall fix certain days and times at and during which the council clerk or other person duly authorised by them in that behalf shall attend for the purpose of receiving payments of rates and transacting the ordinary business of the council :

Provided that no such appointment of days for business shall include Sundays, Christmas Days, Good Fridays, or days appointed for general holidays or public fasts or thanksgivings.

(II) Notice of the situation of the office of the council, and of the days and hours on and during which attendance is given there, shall be given by the council by advertisement or placards, in such manner that the same may be generally known in the municipality.

(III) No council clerk or other officer or servant of the council shall, unless otherwise specially ordered by such council, be compellable to produce any books or transact any other business as herein directed at any other place and time than at the place and within the time so appointed as aforesaid.

121.

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121. The common seal and all charters, deeds, muniments, and records of the corporation or relating to the property thereof shall be kept in such place and in such custody as the council shall direct. Custody of seal and records.
31 Vic. No. 12, s. 112.

122. Every entry in the minute book, purporting to be a minute of the business transacted at any meeting of the council, and signed as aforesaid by the mayor or other presiding alderman at the next meeting of such council, which has been holden after such first-named meeting, shall be *prima facie* evidence that such business as is therein recorded was transacted at such meeting, without proof of the meeting to which the same refers having been duly convened or held, or of the persons attending such meeting having been or being aldermen, or of the signature of the mayor or other presiding alderman, or of the fact of such mayor or presiding alderman having been or being such mayor or alderman. Minute book to be evidence.
Ibid., s. 113.

123. (i) The names of all mayors, aldermen, and auditors elected under this Act, and of all officers appointed by the council shall, as soon as conveniently may be after each such election or appointment, be notified in the Gazette. Mayors, &c., to be gazetted.
Ibid., s. 114.

(ii) Such notice shall in the case of a mayor be signed by the council clerk, or if there is no council clerk, by two of the aldermen; and in the case of aldermen and auditors, by the returning officer; and in the case of an officer or officers appointed by the council, by the mayor. Signature to notice.

(iii) The production of the Gazette with any such notice shall be *prima facie* evidence that the person named therein, as having been elected or appointed as aforesaid, has been duly elected and appointed, without proof that the returning officer, council clerk, alderman, or mayor, by whom such notice purports to have been signed, did in fact sign such notice or cause the same to be published, or of the fact of his or their having been or being such returning officer, council clerk, alderman, or mayor. Gazette to be evidence of appointment.

124. No proceeding of the council or of any committee shall be invalidated or be illegal in consequence of there being any vacancy in the number of aldermen at the time of such proceeding, provided that at any meeting of such council or committee at which such proceeding has been taken or ordered a quorum of the members of such council or committee as herein required were present. Vacancy in council or committee not to invalidate proceedings.
Ibid., s. 115.

125. The mayor or presiding alderman, as the case may be, shall have power and authority to preserve order and prevent interruptions at any meeting of the council or of any committee, or at the sitting of any court held hereunder for the revision of any municipal list or roll; and without any other warrant than this Act, may cause to be arrested and taken before a justice any person whomsoever, not being Power of mayor, &c. to prevent interruption and to repress disorder.
Ibid., s. 116.

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being a member of such council, who interrupts the business of such meeting or sitting, or causes a disturbance thereat. And all constables and peace officers shall aid and assist such mayor or presiding alderman in the performance of his duty.

PART VIII.

OFFICERS AND SERVANTS APPOINTED BY THE COUNCIL.

Power to council to
appoint and
remunerate officers.
31 Vic. No. 12. s. 149.

126. The council of every municipality shall appoint such officers and servants as in their discretion they may deem necessary for the execution of the powers and duties hereby vested in such council, and shall assign remuneration to such officers and servants by way of salaries, allowances, or wages which shall be in lieu of all fees, perquisites, and other emoluments whatever.

Officers or servants
exactng or accepting
fees.
Ibid. s. 150.

127. Every officer employed by the council who exacts or accepts on account of anything done by virtue of his office or in relation to the matters to be done under this Act any fee or reward whatever other than the salary or allowance allowed by the council shall be liable to a penalty of not less than ten pounds nor more than one hundred pounds.

Officers entrusted
with money to give
security and to
account.
Ibid. s. 151.

128. (I) Every officer or servant who, by reason of his office or employment under the council, is entrusted with the custody or control of any moneys shall—

- (a) Give such security for faithfully and duly accounting for the same as the council may think sufficient;
- (b) Within seven days after having received any moneys or within such shorter time as the council may appoint, pay over the same to the treasurer of the municipality or into some bank selected by the council;
- (c) As and when the council may direct, deliver a list signed by him containing the names of all persons who have neglected or refused to pay any sums due by them;
- (d) When and as required by the council, make out and deliver a true and perfect account in writing under his hand and signature of all moneys received by him for the purposes of this Act, distinguishing how and to whom and for what purposes such moneys have been disposed of;
- (e) Together with such account deliver the vouchers or receipts for all payments made by him, and shall pay over to or receive from the said treasurer or the mayor the balance of such accounts (if any).

(II)

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(11) If any such officer or servant fails to render such Penalty. account or to produce and deliver up all vouchers and receipts in his possession or power or to pay over any such moneys or balance as aforesaid, or if, for the space of seven days after being thereunto required, he fails to deliver up to the council all books, papers, writings, property, effects, matters, and things in his possession or power belonging to the council, he shall, on proof thereof before any justice, and on his still failing or refusing to do such or any other required act relating to the premises, be liable, on summary conviction before a justice, to be imprisoned for any term not exceeding three weeks or until he has done such act.

And if it appears that he has failed to pay over such moneys as aforesaid, and he still fails or refuses so to do the justice may cause any such moneys as aforesaid to be levied by distress upon his goods and chattels, and in default of any sufficient distress may commit him to gaol without bail for any time not exceeding three months unless such moneys be sooner paid :

Provided that upon proof on oath to any justice that there is probable cause for believing that any such officer or servant so charged is about to abscond, such justice may, without summons, cause him to be forthwith apprehended upon warrant, and may, upon *prima facie* proof on oath of the charge, require him to give bail for his subsequent appearance to answer the same :

Provided also that no such proceeding shall relieve any surety of the offender from any liability whatsoever, nor any such offender from being held to answer any criminal information, charge, or proceeding whatsoever.

129. (1) The mayor may suspend from office at any time any officer or servant of the council who may, in his opinion, be guilty of misconduct or neglect, and if necessary may temporarily appoint, and may take security from another officer or servant to fulfil the duties of such officer or servant so suspended as aforesaid : Mayor may suspend officers.
31 Vic. No. 12, s. 152.

Provided that at the then next meeting of the council the mayor shall report the matter to the council, and if the officer or servant so suspended is dismissed by the council no salary or wages shall be due or payable to him from or after the date of his suspension.

(11) Every officer or servant so temporarily appointed shall only hold office and receive remuneration (which remuneration shall in no case exceed that paid to the suspended officer or servant) until the council decides whether the person suspended shall be reinstated or shall be dismissed and a successor appointed in his stead.

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PART IX.

BY-LAWS.

Council may make
by-laws generally.
31 Vic. No. 12, s. 153.

130. The council of any municipality may make by-laws for the following matters, so far as the same are not herein expressly provided for, and may by other by-laws alter or repeal any such by-laws, namely, for—

- (I) Regulating their own proceedings, and the duties of their officers and servants, and preserving order at council meetings.
- (II) Determining the times and modes of collecting and enforcing payment of their rates, either current or in arrear.
- (III) Preventing and extinguishing fires.
- (IV) Suppressing houses of ill-fame and gaming-houses.
- (V) Preventing or regulating and licensing exhibitions held or kept for hire or profit, bowling-alleys, and other places of amusement.
- (VI) Compelling residents to keep their premises free from offensive or unwholesome matters.
- (VII) Regulating and licensing porters, public carriers, carters, water-drawers, and vehicles plying for hire, and the sale of butchers' meat.
- (VIII) Regulating markets, market dues, fairs, and sales.
- (IX) Opening new public roads, ways, and parks.
- (X) Aligning, kerbing, paving, guttering, gravelling, and cleansing roads and streets.
- (XI) Regulating the supply and distribution of water.
- (XII) Sewerage and drainage.
- (XIII) Lighting with gas or otherwise.
- (XIV) Causing vacant building lots in towns to be enclosed where public safety is likely to be endangered.
- (XV) Regulating the interment of the dead.
- (XVI) Planting and preserving trees and shrubs.
- (XVII) Generally controlling and managing public reserves.
- (XVIII) Regulating free libraries and free infant schools.
- (XIX) Collecting and enforcing special rates for water supply, free libraries, and free infant schools.
- (XX) Preventing or regulating the bathing or washing the person in any public water near a public thoroughfare.
- (XXI) Preserving public decency.
- (XXII) Providing for the health of the municipality, and against the spreading of contagious or infectious diseases.
- (XXIII) Collecting and managing tolls, rates, and dues upon roads, bridges, wharfs, jetties, and markets.
- (XXIV) Generally maintaining the good rule and government of the municipality.

And

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And also, subject to the provisions of the *Noxious Trades and Cattle Slaughtering Act*, 1894, for—

(xxv) Suppressing nuisances.

(xxvi) Restraining noisome and offensive trades.

131. The council may also make by-laws for the establishment, maintenance, and regulation of hospitals for the care of the destitute poor and sick, and of asylums for the protection, support, and moral and religious instruction of destitute or deserted children. And may take over any existing hospital or asylum with the consent of the managers thereof, and make by-laws for it in like manner. And for hospitals, asylums, &c.
31 Vic. No. 12, s. 154.

132. The council may also make by-laws for the establishment, maintenance, and regulation of infant schools, public libraries, schools of arts, museums, botanical gardens, public baths and washhouses, or other public places of recreation or improvement, and may, with the approval of the Governor, grant money from the corporate funds in aid of any such purpose. And for libraries, gardens, &c.
Ibid. s. 155.

133. 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 dedicated for the use of such inhabitants. And respecting commonage rights.
Ibid. s. 156.

134. Any by-laws made under this Act may state some minimum and maximum penalty for any neglect or breach thereof respectively, and may also fix minimum penalties in case of successive convictions in respect of the same offence: By-laws to be enforced by penalty.
Ibid. s. 157.

Provided that no such maximum penalty shall exceed fifty pounds.

135. All or any such by-laws, being consistent with the provisions of this Act and not repugnant to any other Act or law in force within the Colony of New South Wales, shall have the force of law when confirmed by the Governor and published in the Gazette, but not sooner or otherwise. And copies thereof shall be laid before both Houses of Parliament forthwith if Parliament be sitting, and if not then within fourteen days after the opening of the next session. By-laws to be approved by Governor-in-Council and gazetted.
Ibid. s. 158.

136. The production of the Gazette with any such by-law so published as aforesaid shall in any suit or proceeding whatsoever be sufficient evidence that such by-law has been made, confirmed, and published, as is herein required: By-laws to be proved by production of the Gazette.
Ibid. s. 159.

Provided that no objection to the validity of such by-law which may be sustained on the ground of its repugnancy to this Act or to any Act or law as aforesaid shall be affected by anything in this section contained.

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PART X.—RATES.

RATES.

DIVISION 1.—*Ratable property.*

Definition of ratable
property.

31 Vic. No. 12, s. 163.

137. All lands, houses, warehouses, counting houses, shops, and other buildings, tenements, or hereditaments within any municipality shall be ratable property within the meaning and for all the purposes of this Act, save as is next hereinafter excepted, that is to say—

- (i) Land the property of Her Majesty and unoccupied, or used, or reserved, or vested in trustees for public purposes.
- (ii) Land and buildings in the occupation of the Imperial Government, or the Government of New South Wales, or of the council of the municipality.
- (iii) Hospitals, benevolent institutions, and buildings used exclusively for public charitable purposes.
- (iv) Churches, chapels, and other buildings used exclusively for public worship.
- (v) All schools subject to the provisions of the *Public Instruction Act of 1880*, colleges and universities.

DIVISION 2.—*Valuation of ratable property.*

Annual valuation of
ratable property.

Ibid. s. 172.

138. (i) The council of each municipality shall cause a valuation to be made in each year of all ratable property within such municipality by two competent persons to be styled valuers :

Provided, however, that as to property which has been already assessed and rated the valuation of the last year may be used with such alterations (if any) as may appear necessary to the valuers, and shall be taken to be the valuation for the then current year.

(ii) Every valuer before acting as such shall, before a commissioner of the Supreme Court or a justice, subscribe a solemn declaration to make such valuation impartially and truly according to the best of his judgment, and shall give or transmit such declaration to the mayor.

Entry of premises by
valuer.

Ibid. s. 173.

139. Every valuer shall, for the purpose of making such valuation as aforesaid, have power to enter at all reasonable hours in the day-time into and upon any ratable property within the municipality without being liable to any legal proceedings on account thereof.

Valuer empowered to
make inquiries.

Ibid. s. 174.

140. Any valuer may put to any person in occupation or charge, or being the owner of any ratable property which such valuer has been authorised, under the provisions hereof, to value questions upon all such matters as are necessary for the purpose of ascertaining the particulars required by this Act to be transcribed in the ratebook with regard to the said property, and if, after being informed by such valuer of his purpose in putting such questions, and
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of his authority under this Act to put the same, any such person in occupation or charge, or any such owner refuses or wilfully omits to answer the same to the best of his knowledge and belief, or wilfully makes any false answer or statement in reply to any such question, such person shall, on conviction, forfeit and pay a penalty not exceeding ten pounds.

DIVISION 3.—*General Rates.*

141. The council of each municipality shall annually, within three months after the election of the mayor thereof, make, or cause to be made, an estimate of the probable amount which will be required for the then current year in addition to any tolls, rates, or dues levied, or authorised to be levied, within the municipality, and to any probable income from fines, voluntary contributions, endowments, or any other source of revenue to carry on the fencing, making, and repairing of any roads, bridges, punts, wharfs, piers, or other public works in the said municipality, and any other expenses necessary in carrying into effect the provisions of this Act, and shall within the said three months raise the amount so estimated by an assessment and rate upon all ratable property within such municipality, assessing the same at nine-tenths of the fair average annual rental of all buildings and cultivated lands or lands which are or have been let for pastoral, mining, or other purposes, whether such buildings or lands are then occupied or not, and at the rate of five pounds per centum upon the capital value of the fee simple of all unimproved lands, such average rental and capital value of all such ratable property to be estimated by valuers as is hereinbefore provided.

Annual estimate,
assessment, and
rates.
31 Vic. No. 12, s. 164.

And notice of such assessment and rate shall be served, if the property is occupied, upon the occupier by a notice addressed to such occupier and left at or sent through the post to the premises, and if unoccupied, by a notice addressed to the lessee or owner of such property and left at or sent through the post to his last known residence or place of business in the Colony. And as to any ratable property which is unoccupied and the owner of which is not known to the council, notice of such assessment and rate upon such last-mentioned property shall be advertised twice at least in two successive weeks in some newspaper circulating in the municipality :

Service of notice of
assessment.

Provided that no such rate shall exceed one shilling in the pound on the assessed value of all such ratable property, calculated and determined as hereinbefore directed. And the rate so imposed as aforesaid shall be payable by the occupier of the property for which such rate is payable if occupied, and if unoccupied, then by the lessee or owner :

Provisos.

Provided also that nothing herein contained shall prevent any private arrangement between landlords and tenants as between themselves with respect to their ultimate liability to rates respectively :

Provided

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Provided further that in any notice by advertisement, as herein required, of the assessment and rate upon property of which the owner is unknown to the council it shall not be necessary to describe such property by metes and bounds, but only to state in general terms so that the same may be intelligible, its situation, and estimated area, and the name or names of the original grantee or grantees.

And provided also that nothing herein contained shall prevent the council from collecting their rates by half-yearly instalments if they think fit.

Time for making
assessment, &c., may
be extended.

31 Vic. No. 12, s. 187.

142. If from any cause any assessment or rate is not made within the time herein prescribed, the Governor may, by proclamation in the Gazette, extend the time for making such assessment or rate for any further period not exceeding three months beyond such first-mentioned time.

DIVISION 4.—*Special rates.*

Special rates for
sewerage, water, &c.
Ibid. s. 165.

36 Vic. No. 26, s. 1.

143. The council of any municipality may—

(a) for the purpose of constructing and maintaining any works for or relating to the draining of lands, water supply, sewerage, or lighting with gas or otherwise, and

(b) for the purpose of lighting with gas or otherwise, establish special rates, and may levy the same upon the owners or occupiers of any property within the municipality deriving any benefit or advantage from such works :

Provided that such special rates so levied shall not in the aggregate in any one year exceed one shilling in the pound on the annual value of the rated property assessed as aforesaid :

Provided, however, that the council of any municipality may in order to provide funds for the watering of any street or road within such municipality, establish a special rate or charge on the ratable property in such street or road, not exceeding sixpence in the pound in any one year on the assessed annual value of such property, and may levy the same upon the owners or occupiers thereof, in addition to any special rate for drainage, water supply, or lighting which may have been established and levied as aforesaid.

Special water rates.

31 Vic. No. 12, s. 166.

144. The council of any municipality may, for the purpose of constructing and maintaining waterworks and ensuring a supply of pure water, establish special water rates in towns, and may levy the same upon the owners or occupiers of all houses in streets where the water mains are laid down :

Provided that no such special water rate shall exceed five shillings per annum for every separate room in a dwelling-house.

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145. The council of any municipality may, for the purpose of Educational rate. establishing and maintaining free libraries and free infant schools or 31 ic. No. 12, s. 167. either of them, establish a rate or rates and levy the same on the owners or occupiers of any property within the said municipality :

Provided that any such rate or rates shall not in any one year exceed threepence in the pound on the annual value of the rated property assessed as aforesaid.

DIVISION 5.—General provisions as to rates.

146. The special and general rates taken together for any munici- Limitation of rates. pality shall not at any one time exceed two shillings in the pound of Ibid. s. 168. the assessment of the ratable property, and no special rate shall at any time be made so that together with any special rates theretofore made and for the time in force it shall exceed one shilling in the pound of such assessment for the time being.

147. (I) Every such assessment and rate shall be fairly tran- Form of rate and how notice to be given. scribed in a book to be kept for that purpose and to be called the Ibid. s. 169. “ratebook,” and may be in the form or to the effect of the Eighteenth Schedule hereto, and every such rate shall contain an account of every particular set forth at the head of the respective columns, so far as the same can be ascertained, and shall be sealed with the seal of the municipality.

(II) Notice of such assessment and rate having been made shall be advertised once in each week for two weeks after the making thereof, in some newspaper circulating in or near the municipality, and the book containing the same shall be open to the inspection of any person rated or interested in such rate at all reasonable times, and any such person may take copies or extracts from such book without fee.

(III) Any person having the custody of such book who refuses or does not permit any person so rated or interested to take copies or extracts therefrom, shall for every such offence be liable to a penalty not exceeding five pounds.

148. The council may amend any rate made in pursuance of Amending rate. this Act, by inserting therein and transcribing into the said book the Ibid. s. 170. name of any person claiming and entitled to have his name therein as owner or occupier, or by inserting therein the name of any person who ought to have been rated, or by raising or reducing the sum at which any person has been rated if it appears to them that such person has been underrated or overrated, or by making such other amendments therein as will make such rate conformable to this Act, and no such amendments shall be held to avoid the assessment or rate :

Provided that every person aggrieved or affected by any such Appeal from amend- ment of rate. alteration shall have the same right to appeal therefrom as he would have had if his name had been originally inserted or no such alteration had

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had been made, and as respects every such person the assessment and rate shall be considered to have been made at the time when he received notice of such alteration, and every person whose rates are altered shall be entitled to receive seven days' notice of such alteration before the rate shall be payable by him.

Words "the owner"
enough if name
unknown.

31 Vic. No. 12, s. 171.

149. Whenever the name of any owner liable to be rated under this Act is not known to the council, it shall be sufficient to rate such owner in the ratebook by the designation of "the owner" without stating his name.

DIVISION 6.—Appeals from assessment and rates.

Appeal from assess-
ment and rates.

Ibid. s. 175.

150. If any person thinks himself aggrieved by the value at which his property has been assessed for any year he may, on some day to be fixed annually by the council for the purpose of such appeals, and notified by advertisement in some newspaper circulating within the municipality, appeal against such assessment to two or more justices in petty sessions held within or nearest to the municipality in which the property is situated, such day not being earlier than fourteen nor later than twenty-one days after such service of notice as aforesaid; and such justices shall have power to hear and determine the same, and to award such relief in the premises as the justice of the case may require, and such decision shall be final as regards the matter of such appeal, and the ratebook aforesaid shall if necessary be amended in accordance with such decision:

Provided that the person so appealing shall give notice in writing to the council of his intention to appeal against the assessment seven days at least before the holding of such petty sessions:

Provided also that in the case of any amendment of the rate as aforesaid any person aggrieved or affected by such amendment shall have a right of appeal to such petty sessions in manner aforesaid at any time after the day so annually fixed as aforesaid, on giving notice of such intended appeal as aforesaid, within fourteen days after he has received notice of such amendment:

Provided also that no mayor or alderman or any magistrate who has any personal interest in any such appeal shall act in the hearing or decision thereof.

And provided also that no such notice of appeal shall prevent the receiving of any rate before such appeal is decided.

DIVISION 7.—Recovery of rates.

Recovery of rates by
distress.

55 Vic. No. 33, s. 2.

151. If any person, rated under the provisions of this Act, fails to pay any of the rates due from him for the space of thirty days after demand thereof, made in writing by the council clerk of the municipality, or by a collector duly authorised in that behalf by the council
of

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of such municipality, or after publication in some newspaper circulating in the neighbourhood of a notice requiring such payment to be made, the mayor may issue his warrant for levying the amount with costs according to the prescribed scale by distress and sale of goods and chattels found on the premises for which such rate is due, and which are in the occupation of the person on whom such demand has been made. And such warrant shall authorise the person executing the same, or his assistant, to remain on the premises during the interval between such distress and sale, whether such authority is expressed or not in such warrant. And for the purposes of this section the publication of the notice herein referred to shall be deemed to be a valid demand.

152. Notwithstanding the provisions of the last preceding section, the council may, at their discretion, withhold or abandon proceedings by distress and sale, and may after default as aforesaid or in the absence of any or a sufficient distress, recover the amount of rates due from the person rated for the same in the court of petty sessions or district court for the district within which the assessed property is situated, or in any other court of competent jurisdiction; and all amounts due as rates by the same person may be included in one proceeding.

Recovery of rates otherwise than by distress.
55 Vic. No. 33, s. 3.

153. Notwithstanding the provisions of the last two preceding sections when any ratable property is rated and the rate remains unpaid by the person rated for the same for three months after the same has become due, the council or their collector, notwithstanding any judgment or order of any court for the recovery of such rate from any other person, may at any time thereafter by personal service of a notice in writing or by notice published in some newspaper circulating in the municipality, demand the amount of such rate or any part thereof from the owner for the time being of such ratable property; and on non-payment thereof within one month from the service or publication of such demand may recover the same from such owner in the court of petty sessions or district court for the district within which the assessed property is situated, or in any other court of competent jurisdiction.

Owner to pay rates under this Act in default of occupier.
Ibid. s. 4.

154. All rates hereafter to be made under the provisions of this Act shall until payment be and remain a charge upon such property, and may notwithstanding any statute of limitations or anything contained in this Act at any time be recovered from the owner of such property.

Unpaid rates to remain a charge upon the property.
Ibid. s. 5.

155. If on the request of the council, or on the request of any collector of the said rates duly authorised by such council as such, the occupier of any property refuses or wilfully omits to disclose or wilfully misstates to the council or collector making such request the name and address of the owner of such property, or of the person receiving or authorised to receive the rents of the same, such occupier shall be liable to a penalty not exceeding five pounds.

Occupier refusing to give name of owner liable to penalty.
31 Vic. No. 12, s. 177.

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Ratebooks to be
evidence.
31 Vic. No. 12, s. 178.

156. In any proceeding to levy or recover or consequent on the levying or recovering of any rate under this Act, the ratebook aforesaid and all entries made therein as aforesaid shall upon the production thereof alone, and without any proof of the seal of the municipality having been affixed, be and be held to be conclusive evidence of such rate and of the contents thereof for all intents and purposes.

PART XI.

ENDOWMENT.

Proportionate
endowment to be
made by Govern-
ment.
Ibid. s. 189.

157. (i) On or before the thirty-first day of March and the thirtieth day of September in every year the council of every municipality shall cause to be prepared and transmitted to the Colonial Treasurer a detailed account of all sums of money actually raised therein by rates, and all subscriptions paid up for corporate purposes, during the last past half of the late year, or of the current year, or the fraction of a year, as herein provided for, such account to be signed by the mayor and countersigned by the treasurer of the municipality.

(ii) Upon receipt of such account the Governor may, by warrant under his hand, addressed to the Colonial Treasurer, direct him to pay from the Consolidated Revenue to the treasurer of the municipality, by way of endowment for corporate purposes according to the provisions of this Act, any sums of money equal to but not exceeding the following proportions, that is to say—

- (a) In each of the first five years after the incorporation of such municipality a sum equal to but not exceeding the whole amount actually raised by rates or assessments and subscriptions so paid up as aforesaid for the general purposes in the one hundred and forty-first section mentioned in the year last past;
- (b) In each of the next succeeding five years a sum equal to but not exceeding one moiety of the amount so paid up in the year last past; and
- (c) In each of the next succeeding five years a sum equal to but not exceeding one-fourth part of the amount so paid up in the year last past.

And thenceforth all contribution from public funds by way of endowment shall absolutely cease except as hereinafter mentioned.

(iii) All such sums from the Consolidated Revenue shall be payable half-yearly, and the Colonial Treasurer shall from time to time be allowed credit for any sum or sums of money paid by him in
pursuance

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pursuance of any such warrant or order in writing as aforesaid, and the receipt of the treasurer of the municipality, or other proper officer acting as such treasurer, under his hand, countersigned by the mayor, shall be a sufficient discharge for the Colonial Treasurer.

PART XII.

LOANS.

DIVISION 1.—*General provisions as to loans.*

158. The council of any municipality may borrow by debentures, mortgage, or otherwise, on the credit of any land, personal estate, or annual revenues, actual or prospective, belonging to the body corporate of such municipality, for or towards or incidental to the making, carrying on, or completing of any permanent improvements within the municipality, any moneys not exceeding in the whole the estimated revenues thereof for five years.

Council may borrow money.
31 Vic. No. 12, s. 190.

Provided that—

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- (I) No money shall be so borrowed except with the sanction of the Governor in writing under his hand.
- (II) With the like sanction the Government may be the lenders to such council.
- (III) Before any loan is so contracted the council shall, by advertisement in some newspaper circulating within the municipality, give fourteen days' notice of their intention to borrow, and shall at the same time state in such notice—
 - (a) The amount of the proposed loan;
 - (b) The rate of interest to be paid in respect thereof;
 - (c) The purposes to which it is intended to be applied;
 - (d) The time, place, and manner of payment of the principal and interest due thereon; and
 - (e) The nature and estimated amount of the proposed security for such loan.
- (IV) When any money has been borrowed as aforesaid on the security of the general rate the council shall assess and collect such general rate to the full extent of one shilling in the pound per annum, being the maximum hereunder, until the debt has been therefrom paid off.
- (v) When any such debt has been contracted on the security of any special rate hereby authorised to be levied the amount of such special rate shall not be reduced until such debt has been paid off.

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Securities for loan.

31 Vic. No. 12, s. 191.

Nineteenth Schedule.

When receiver may
be appointed.Duties, powers, &c.,
of receiver.

159. (I) For securing the payment of the principal and interest of any loan contracted hereunder the council of any municipality may, by deed under their common seal, wherein the consideration shall be truly stated, mortgage or otherwise bind and charge all general and special rates, or either of them, already levied or to be levied within the municipality, subject, however, to the proviso hereinbefore contained, and the debentures in the next preceding section hereof mentioned, and such lastmentioned mortgage deed or bond may be according to forms A, B, and C, respectively, in the Nineteenth Schedule hereto, or to the like effect. And any person may transfer his right and interest in such lastmentioned mortgage deeds or bonds to any other person by deed wherein the consideration shall be truly stated according to form D in the Nineteenth Schedule hereto, or to the like effect:

Provided that within thirty days after the making of any such transfer notice thereof shall be given by the transferror to the council which gave the said mortgage or bond.

(II) After default for the period of three months made by any council in the payment of the principal sum and interest secured by any debenture, mortgage deed or bond made hereunder, or under the provisions of the Acts hereby repealed, or any of them, or purporting to be so made, upon the rates and other revenues of the said council, it shall be lawful for the mortgagee to make application to the Supreme Court that a receiver of the said rates and other revenues of such council may be appointed.

(III) When appointed under the direction of the said court such receiver shall pay over to the said mortgagee, from and out of the produce of such rates and revenues, at such times and in such proportions as may be ordered by such court, the sum which such court has found to be due to the said mortgagee under the said mortgage deed, and the said receiver shall in all respects have the same powers and be subject to the same obligations and liabilities as a receiver appointed under the equitable jurisdiction of the said court, and shall continue to receive the rates and other revenues of such council so mortgaged as aforesaid, and to pay them under such direction until such time as the said mortgage debt is fully paid off, and although the period of five years for which the revenue of such council may have been estimated according to the provisions hereinbefore set forth has already elapsed before the payment of the said debt.

DIVISION 2.—*Loans for construction of town halls and council chambers.*

Councils may borrow
money for town halls and
council chambers.Security therefor.
52 Vic. No. 9, s. 1.

160. The council of any municipality may borrow at any time, or from time to time, any sum or sums of money for the purpose of defraying the cost of a site for a town hall or council chambers, wholly
or

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or in part, and of defraying wholly or in part the cost of erecting on such site any town hall or council chambers within any such municipality, and whether any such building has been erected, or such borrowing takes place before or after the purchase of such site, or before or after the erection of any such town hall or council chambers :

Provided that no money shall be borrowed under this section, unless the sanction of the Governor has first been obtained.

161. The council of any municipality may sign, seal, deliver, and execute all acts, deeds, mortgages, or documents necessary for effecting any such mortgage or charge or which may be necessary to secure any sum or sums borrowed under the authority of the next preceding section and interest.

Council may execute mortgages, &c.
52 Vic. No. 9, s. 2.

162. The receipt of the mayor or chairman for the time being of any municipality shall be a sufficient discharge to the mortgagee or person lending any such money for any sum so borrowed, and shall wholly exonerate such mortgagee or person from any liability as to the misapplication or non-application of any such money or any part thereof, or of seeing to the application thereof.

As to discharge of mortgages.
Ibid. s. 3.

163. An account of all moneys borrowed by any Council under the authority of section one hundred and sixty shall be included in the account of revenue and expenditure required by this Act.

Accounts of loans under this Act.
Ibid. s. 4.

164. Nothing in the next preceding four sections shall prejudice or affect the borrowing powers conferred on the council of any municipality by any other section of this Act.

Act not to prejudice other statutory borrowing powers.
Ibid. s. 5.

DIVISION 3.—Loans for repayment of former loans.

165. (I) The council of any municipality may from time to time borrow any moneys for the purpose of repaying moneys borrowed whether before or after the passing of this Act by the council of that municipality, provided that the moneys borrowed under the authority of this section shall not in any case exceed the amounts authorised by the Act or Acts under which the moneys were first borrowed.

Council may borrow moneys for repayment of loans.
56 Vic. No. 32, s. 1.

(II) A council borrowing moneys under the power conferred by this section may give the security and do the things authorised by the Acts under which the moneys were first borrowed by the council; and the said power of borrowing shall be subject to such of the conditions, limitations, and provisions contained in the said Acts as are applicable in the circumstances.

(III) All loans contracted by the council of a municipality before the thirteenth day of June, one thousand eight hundred and ninety-three, for the purpose of repaying any moneys borrowed by the council of that municipality, and all securities given and things done in and about those loans shall be and are hereby declared to have been

Validation of certain loans.
Ibid. s. 3.

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to the amount authorised by the Acts under which the moneys were first borrowed, as valid and effectual as if those loans had been contracted for the purposes authorised by the said Acts.

Application of
proceeds of loan.
56 Vic. No. 32, s. 2.

166. The council of any municipality may apply the proceeds of any loan heretofore or hereafter borrowed towards the payment of any moneys advanced to such council prior to the obtaining of such loan and used for the same purposes as those for which such loan was obtained.

DIVISION 4.—*Loans for repayment of proportion of debts upon division of a municipality.*

On division separate
municipalities may
borrow to repay
their respective
proportions of the
debt.
Act No. 10, A. D. 1897,
s. 1.

167. (1) Where under the Municipalities Act of 1867, or this Act, any municipality has been or is hereafter divided, and the two divisions have been constituted separate municipalities within the meaning of the Municipalities Act of 1867, or this Act respectively (the debts and other liabilities attaching to the divided municipality having been previously duly adjusted in accordance with the Municipalities Act of 1867, or this Act), the council of a municipality constituted as aforesaid may borrow moneys—

- (a) for the purpose of repaying its proportion of the debts and other liabilities appearing upon the adjustment aforesaid to be due by or attaching to that municipality; or
- (b) for the purpose of repaying moneys advanced to such council and used for repaying the proportion of the said debts and other liabilities:

Provided that any borrowing under this section shall be subject to such of the provisions of the Acts under which the said proportion of the debts or other liabilities was incurred by the council of the divided municipality as are applicable in the circumstances.

(11) A council borrowing under the provisions of this section may give the security and do the things which might have been given and done by the council of the divided municipality under the Acts by virtue of which the said proportion of the debts or other liabilities was incurred by the council of the last-mentioned municipality:

Provided that the security so given shall be subject to any charge or security given by the council of the divided municipality in respect of a loan to the said council which has not been paid or discharged, and to any rights thereunder.

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PART XIII.

ACCOUNTS AND AUDIT.

168. All moneys of the council amounting to twenty pounds and upwards shall, within seven days after they have come to the hands of the treasurer or other proper officer of the council, be paid into such bank as the council shall from time to time have appointed for that purpose, and no such money shall be drawn out of such bank save by cheque signed by the mayor and any one or more alderman or aldermen authorised from time to time by the council in that behalf and countersigned by the council clerk.

Bank account.
31 Vic. No. 12, s. 180.

169. The council shall cause books of account to be provided and true and regular accounts to be entered therein of all sums of money received and paid in accordance with the provisions of this Act, and of the several purposes for which such sums of money have been received and paid, which books shall at all reasonable times be open to the inspection of any of the aldermen or ratepayers, and any creditor of the body corporate, without fee or reward, and the aldermen and persons aforesaid, or any of them, may take copies of and extracts from the said books without paying anything for the same; and any council clerk or other person having the custody of the said books who does not on any reasonable demand of any alderman, ratepayer, or creditor as aforesaid, permit him to inspect the said books or to take such copies or extracts as aforesaid, shall be liable to a penalty of not more than five pounds for every such offence.

Books of account and
inspection by persons
interested.
Ibid. s. 181.

170. The council shall in every case in which they make or levy any such special rate as aforesaid, cause a separate and distinct account to be kept of all moneys collected and received, and of all payments and disbursements in respect of such rate, and shall apply the said moneys for the several purposes in respect of which they have been hereby authorised to make and levy such rate and not otherwise.

Separate account to
be kept of special
rate.
Ibid. s. 182.

171. Every council shall, not later than the fifteenth day of March and the fifteenth day of September in every year, exhibit to the auditors all books of account and all vouchers or other documents in support thereof in their possession or power, together with a detailed account of the revenue and expenditure of such council for the then next past half of the late year or of the current year, as the case may be, or for the fraction of a year hereinbefore provided for, certified by the mayor to be correct and to correspond with the books of account and vouchers or other documents exhibited to them. And no endowment as hereinbefore provided shall be paid to any council until the accounts in the form and subject to the requirements hereby imposed have been certified by the auditors to be correct, and an abstract of such account, similarly certified, has been published in the Gazette and in some newspaper circulating in or near the municipality.

Accounts to be
audited and
published.
Ibid. s. 183.

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Special auditors may
be appointed.
31 Vic. No. 12, s. 184.

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

Accounts to be
balanced for special
audit, and books of
account, &c., to be
laid before auditors.
Ibid. s. 185.

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

Expenses of special
audit.
Ibid. s. 186.

174. (i) If any such special audit has been required by electors as aforesaid the council shall defray the expenses thereof.

(ii) If any such special audit has been required by any creditor or creditors of the municipality such creditor or creditors shall defray the expenses thereof.

(iii) If any such special audit has been required by the Minister the expenses thereof shall be defrayed from the Consolidated Revenue Fund.

PART XIV.

ROADS, BRIDGES, FERRIES, AND PUBLIC PLACES.

DIVISION 1.—*Construction and management of roads, &c.*

Roads, &c., under
the control of the
council.
Ibid. s. 117.

175. The council shall, within the boundaries of the municipality, have the care, construction, and management of public roads other than the main roads of the Colony, and of public streets, lanes, ferries, wharfs, jetties, and public thoroughfares except as hereinafter provided; and shall adopt such means as may seem to them desirable for the establishment and management of places of public recreation, public cemeteries, public baths, and wash-houses, and for securing the supply and distribution of water for domestic or sanitary purposes or for irrigation, and for lighting and sewerage or other drainage, and may purchase or rent land for public recreation, or lands or buildings for

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for public baths or wash-houses within the municipality, or lands either within or without such municipality for public cemeteries, and may make any contracts for the supply of water from places either within or without the municipality, or any contracts for or in respect of lighting or sewerage or other drainage.

For the purposes of this Act all roads, streets, lanes, or other thoroughfares, and all ferries, wharfs, and jetties dedicated to public use, or in, over, and upon which a legal use or enjoyment exists in favour of, or is vested in, the public shall be deemed and taken to be public roads, streets, ferries, wharfs, jetties, and thoroughfares:

Provided that no municipality shall be compelled to take the charge or management of any new road or street laid down by any proprietor upon or through his own land which is less than forty feet in width, or if the same is more than forty feet and less than sixty-six feet in width unless and until the same has been fully made and completed to the satisfaction of the council:

Provided also that no municipality shall be compelled to take the charge or management of any new road or street laid down by any proprietor, not being the Crown, upon or through his own land, which is of any lawful width, until a plan of such proposed road or street has been submitted to and approved of by the council of such municipality, and unless and until such street or road has been cleared of stumps, timber, underwood, rocks, boulders, and all other obstacles whatever to the satisfaction of the council of such municipality. But nothing herein contained shall be construed to relieve proprietors from the obligation of making and completing certain roads and streets of a less width than sixty-six feet pursuant to the provisions of the next preceding proviso:

176. Nothing herein contained shall authorise the interference of any council with any public road, railway, bridge, ferry, cemetery, market, wharf, aqueduct, public place or building whatsoever not formed, constructed, erected, or established by such council, and which may be excepted from the jurisdiction of such council by any proclamation made or to be made by the Governor, or respecting which separate provision shall have been or shall be made by any Act:

Provided always that the Governor may by proclamation authorise any council to take upon itself the charge of any such public road, railway, bridge, ferry, cemetery, market, wharf, aqueduct, public place, or building within the limits of the municipality as aforesaid; but before the issue of any such proclamation transferring to the council as aforesaid the charge of any such public road, railway, bridge, ferry, cemetery, market, wharf, aqueduct, public place, or building as aforesaid, there shall be such an adjustment to the satisfaction of the Minister of any then existing debt, securities, or other arrangements for, upon, or in respect of such public road, railway, bridge,

New roads laid down by proprietor in municipalities to be cleared before being taken over.

51 Vic. No. 20, s. 2.

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

31 Vic. No. 12, s. 118.

But such control may be given in certain cases and on certain conditions.

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bridge, ferry, cemetery, market, wharf, aqueduct, public place, or building, as the circumstances of the case may require. And upon any such proclamation as last aforesaid, any existing trust or other provision for the management, control, or other dealing with any such public road, railway, bridge, ferry, cemetery, market, wharf, aqueduct, public place, or building as aforesaid, created in pursuance of any Act then in force or by other competent authority, shall thereupon and thereafter cease and determine.

Necessary powers of
the council for im-
provements, &c.
31 Vic. No. 12, s. 119.

177. (I) Any council or person authorised by any council may, for any purpose of this Act at all reasonable times in the day-time, enter upon and lay out or conduct through, or make upon or under any private land within the municipality, any sewers or other drains, water-courses, wells, pumps, pipes, or any other necessary works, and may search for, dig, and remove with horses, carts, or otherwise any stone, gravel, or other road-making material for the making or repairing of any road, bridge, or aqueduct without payment for the same, except as hereinafter enacted :

Provided that—

- (a) all holes, pits, or quarries shall be filled up, and all fences which may have been moved for ingress and egress to or from any such pit or quarry for the purposes aforesaid shall be made good at the expense of the council.
- (b) for the purpose of obtaining road-making material as aforesaid it shall not be lawful to enter upon any enclosed land, or to carry away stone from any quarry actually worked as such on private property.

Suits for compensa-
tion.

(II) Every person affected by the construction of any such drain, water-course, well, pump, pipe, or other necessary work as aforesaid, or by any other work executed by order of the council, or suffering any loss or damage whatsoever under the powers herein conferred may recover compensation from such council in any court of competent jurisdiction in such amount as such court finds to be justly due; and such court may in every case make such order as to costs as the justice of the case requires :

Provided that in every case where a reasonable claim for compensation has been refused, the party aggrieved shall be entitled to double costs of suit.

Houses to be
spouted.
Ibid. s. 135.

178. All proprietors of houses in any town having a frontage to a street formed with foot-paths by the municipality wherein the same is situate shall be bound to have such frontage sufficiently spouted so as to prevent the drip of water on the foot-paths, and when any such spouting is effected by the tenant of any such houses, the cost thereof may be deducted from the rent.

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179. If any part of a public road or street as aforesaid lies along and upon or is adjacent lengthwise to the limits of any municipality, but a portion of the whole of the breadth of such part is outside such municipality, and if such part is not as to the breadth so lying outside within the limits of the City of Sydney, or of any other municipality, the council of such first-named municipality shall have power to form, macadamise, and otherwise make good, and to repair and maintain such part of such road or street in like manner as any public road or street within the municipality.

Council may form street adjoining to municipality.
31 Vic. No. 12, s. 120.

180. Every person who encroaches by making or causing to be made any building, hedge, ditch, or other fence, or any drain on any street or other public thoroughfare within any municipality shall on conviction forfeit for every such offence any sum not exceeding five pounds, and the council shall cause such building, hedge, ditch, fence, or drain to be taken down or filled up or otherwise made good at the expense of the person by or to whom the same has been made or belongs, and such expenses may in default of payment be recovered by the council before any two justices.

Encroachment upon streets.
Ibid. s. 136.

DIVISION 2.—*Boundary roads, bridges, and ferries.*

181. If any part of a public road or street as lastly before mentioned is as to the breadth of such part so lying outside such municipality adjacent to or within any limit of the City of Sydney or of any other municipality, and if such road or street has not as to such part theretofore been formed, macadamised, or otherwise made good, or is out of repair, the council of such first-mentioned municipality may cause to be given to the council of the said city or other municipality a notice stating the desire of the council giving the notice that such part of such road or street as aforesaid, and described in such notice, may be formed, macadamised, or otherwise made good or repaired, and offering to treat and agree with the council receiving the notice with respect to the performance by either party of the whole or part of such work, and the future maintenance and repair of such part of the said road or street. And such agreement may be made accordingly; and every such council giving or receiving such notice shall for the purpose of carrying out any such agreement have power to perform any such work or any part thereof, and to provide for such maintenance and repair.

If such street form boundary also of another municipality council may give notice to treat with respect to it.
Ibid. s. 121.

182. If for the space of one month after the receipt of any such notice any such council receiving the same does not treat and agree with the council giving such notice as to the subject matter thereof, it shall be lawful for such last-mentioned council at any time afterwards to apply to the court of quarter sessions holden for the district in which such road or street is situated for a summons calling on

Court of Quarter Sessions may summon council failing to treat.
Ibid. s. 122.

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on the council so having omitted to treat or agree to show cause to such court at the sitting of the same for the said district to be holden next after the expiration of fourteen days from the issuing of such summons why the work mentioned in such notice should not be executed.

Court may apportion work and order execution.

31 Vic. No. 12, s. 123.

183. The court of quarter sessions holden as lastly hereinbefore mentioned upon proof of the giving of such notice, and upon the appearance of both parties or proof if the party so summoned does not appear of the due service upon such party of such summons shall have power to hear and determine the matter in question, and to divide as nearly as practicable such road or street transversely across the length thereof into two equal lengths, and to order that each party shall execute in respect of and upon one such separate length the works mentioned hereinbefore and described in the notice aforesaid, or, if the case so require, shall in future undertake and provide for the maintenance and repair thereof.

On omission either party may execute, and recover expense.

Ibid. s. 124.

184. If either such party as aforesaid omits to comply with so much of any such order as applies to such party it shall be lawful for the other party from time to time, after one month's notice to the party so omitting of their intentions so to do, to carry out and perform the whole or any part of the matters or things enjoined by such order upon the party so omitting, and to recover the expense of so doing from such party in any court of competent jurisdiction.

Bridges and ferries at boundary of municipality.

Ibid. s. 125.

185. If the council of any municipality desires to construct or establish any bridge or ferry over any river or creek at a place where one bank lies, but the whole breadth and both banks do not lie, within such municipality, and if there is in such case no other council or body corporate duly empowered, as herein provided, to treat with such first-named council with respect to the opposite bank, then the said council may, with the approval of the Governor, at their own expense, construct or establish such bridge or ferry, and the approaches thereto, in the same manner as though the whole breadth and both banks were within such municipality.

And if there is any such council or body corporate as lastly mentioned, then the council of such municipality may treat and agree with such council or body corporate with respect to such work, and may execute such work according to the tenor of such agreement.

Governor may give control of bridge or ferry at such boundary to the council.

Ibid. s. 126.

186. The Governor may appoint that any bridge or ferry which has been or may hereafter be placed or provided at the boundary of any municipality, on or over any river or creek whereof the whole breadth and both banks shall not, at the site of such bridge or ferry, lie or be within such municipality, shall be under the control of the council of such municipality:

And shall do so if it be constructed at their own expense, &c.

Ibid. s. 126.

Provided that if any such bridge or ferry, or the approaches thereto, shall have been constructed or formed by the council of any municipality

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municipality at their own expense, or in pursuance of any contract as herein provided with any other council or body corporate, whereby it has been stipulated that the control of such bridge or ferry shall be vested in such first-mentioned council, then in every such case the Governor shall give the control thereof to such council.

PART XV.

MUNICIPAL GASWORKS.

DIVISION 1.—*Establishment of gasworks.*

187. Any council may use the ordinary corporate funds for the purpose of obtaining plans, estimates, or reports as to the cost of purchasing, establishing, or constructing gasworks :

Council may use ordinary corporate funds.

48 Vic. No. 20, s. 2.

Provided that in the event of such works being proceeded with the preliminary expenditure shall be charged to the gas account.

188. For the purpose of constructing or purchasing gasworks any council may borrow moneys by way of special loan, notwithstanding the limitation contained in the one hundred and fifty-eighth section of this Act, in manner provided by Division 1 of Part XII of this Act; and such moneys may be borrowed upon the credit of all or any general or special rates or rate which such council is authorised to levy, and upon the security of the lands of such councils—

Special loan for gasworks.

Ibid. s. 3.

50 Vic. No. 7, s. 1.

A separate account shall be kept of all moneys received and expended on account of such loan, and it shall not be lawful to expend any such moneys in the maintenance or repair of or for current expenses connected with the gasworks, or for any purpose other than the construction thereof, not being a purpose mentioned in the one hundred and ninetieth section of this Act: Provided always that such loan may be lawfully charged with the payment of interest due thereon, during the course of construction of such works.

The gasworks may be a security or part security for any such loan, in which case such loan shall be a first charge upon such gasworks.

All such gasworks shall be vested in the council.

189. Any council may do all things necessary to light the streets and public places of a municipality with gas, and to supply gas to the inhabitants thereof, and in connection with such purposes may—

Council may establish gasworks.

48 Vic. No. 20, s. 4.

- (I) Acquire land, construct works, or erect buildings within or without the municipality.
- (II) Procure and construct all machinery and plant necessary for gasworks.
- (III) Lay pipes under the streets and public places of the municipality.
- (IV)

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- (iv) Alter any drains or waterpipes thereunder in such manner as may be necessary, but so as not to injuriously affect the same or to foul any water conveyed thereby.
- (v) Erect lamp-posts, with all requisite fittings thereto, in the streets; and in case the supply of gas is at any time insufficient may use kerosene, or any material whatever, for lighting purposes.
- (vi) Do all things necessary to keep the gasworks and everything appertaining to the supply of gas in good repair.

Council may
purchase gasworks
out of loan.
48 Vic. No. 20, s. 21.

190. The council may, out of any moneys which are applicable to the construction of gasworks under this Part, purchase any gasworks, mains, and lamp-posts, which when so purchased shall be deemed to have been constructed and established under this Part.

Gas companies may
sell works to council.
Ibid. s. 22.

191. The directors of any gas company, in pursuance of a special resolution passed by a majority of three-fourths in number and value of the shareholders present, either personally or by proxy, at a meeting specially convened with notice of the business to be transacted, may sell and transfer to any council, on such terms as may be agreed upon, all the rights, powers, and privileges, and all or any of the lands, premises, works, and other property of the company, but subject to all liabilities attaching to the same at the time of purchase.

Power to purchase
existing gasworks.
Ibid. s. 34.

192. Whenever any council has determined to construct gasworks under this Part, such council shall have power to purchase any existing gasworks within the municipality owned by any company or individual at a price to be fixed by arbitrators mutually appointed—such price to be ascertained by them by reference to the average dividend or profits for the then last three years; or, if the works have not been in existence three years, then at a price not exceeding ten per centum advance on the cost of such works.

DIVISION 2.—*Supply of gas.*

Power to enter
another municipality
for laying main.
Ibid. s. 5.

193. The council of any municipality may exercise any of the powers contained in the one hundred and eighty-ninth section within another municipality through which it may be requisite to run the main from the gasworks to the first-mentioned municipality, but in such case the council exercising those powers shall replace the streets and public places through which such main runs in the same condition in which they were previously.

Private person may
be supplied with gas.
Ibid. s. 6.

194. Upon the written application of the owner or occupier of any building within one hundred yards of any main gas-pipe, the council shall lay on such service-pipes and gas-meter as are requisite to supply such building with gas and to measure the quantity consumed; and the council shall have power to charge a rent for the use of the meter, which shall be placed where the applicant desires.

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195. Every private consumer of gas shall provide such gas-fittings and appliances for the proper combustion and for preventing the escape of gas as the council may approve of, and shall keep the same in good repair; and if any person neglects to provide or to repair such fittings and appliances when required to do so by the council, the council may cut off the supply of gas from the premises of such person.

Private consumer to supply fittings.
48 Vic. No. 20, s. 7.

196. Any person acting under the authority of the council may, between the hours of eight in the forenoon and six in the afternoon on any day except Sunday, enter any premises supplied with gas under this Part in order to examine the gas-meter therein, and if such person is refused admittance or obstructed in such examination the council may cut off the supply of gas from such building.

Private buildings may be entered to inspect gasfittings.
Ibid. s. 8.

197. The council may supply persons resident or owning property outside the municipality, and not within the boundaries of another municipality with gas, upon such terms and conditions and at such rates as may be agreed on with such persons, and for such purpose shall have the same powers outside as it has within the municipality.

Gas may be supplied outside municipality
Ibid. s. 12.

198. Any council which has constructed or acquired gasworks under the authority of this Part may contract with any other council (and such last-mentioned council is hereby declared to be competent to enter into any such contract and bind its corporate revenues by the terms thereof) for the supply of gas only to such council at such rates and upon such terms as may be mutually agreed. And the council so to be supplied shall, within the limits of such municipality, have all the powers and be subject to all the obligations and liabilities conferred or imposed by this Part on councils constructing gasworks under its provisions, so far as such powers, obligations, and liabilities can be respectively exercised and incurred.

Power to council to contract with another for supply of gas.
Ibid. s. 13.

199. The council shall not construct any works or lay any pipes or anything connected therewith on or under any private property without the consent of the owner and occupier thereof, but may enter upon any such property where gas-pipes or fittings have been lawfully laid under this Part, and may alter, repair, or replace the same as it thinks fit.

Private property not to be interfered with.
Ibid. s. 14.

DIVISION 3.—*Rates and charges and gas account.*

200. The council may fix the prices at which gas shall be supplied to all private consumers, and the times when the same shall be payable, and may from time to time alter the same. And in case any person who contracts with the council or agrees to take, or takes or uses the gas of the council in any building, tenement, or place, refuses or neglects to pay to the council the sum or sums due in respect thereof, it shall be lawful for the council, without prejudice to any other

Council may fix and recover price of gas.
Ibid. s. 16.

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other remedy, to take proceedings in respect of such refusal or neglect before any justice of the peace who may issue a summons to the party so refusing or neglecting, calling on him to show cause before the court of petty sessions in the police district in which such building, tenement, or place is situated or such user took place, why he refuses to pay such sum or sums, and the said court shall hear and determine the matter, and may enforce payment of any order (together with costs if ordered) by distress and sale of the goods and chattels of the defendant.

Gas rate.

48 Vic. No. 20, s. 18.

201. The council may make and levy an annual rate as provided for in the one hundred and forty-third section of this Act upon all ratepayers in the municipality for the purpose of lighting the streets and public buildings in the municipality, but such rate shall not exceed sixpence in the pound in any one year.

Gas may be cut off from defaulter.

Ibid. s. 19.

202. If any person fails to pay any money due on account of gas or on account of any such gas-rate as aforesaid, the council may, without prejudice to any other remedy, cut off the supply of gas from the premises of such person.

Accounts of gas-works.

Ibid. s. 20.

203. A separate account to be called the "gas account" shall be kept of all moneys received from gas-rates, and for the supply of gas, and for the sale of any products therefrom, all which moneys shall be charged as follows:—

- (I) With such sums (to be transferred to an interest and sinking fund account) as shall be sufficient to satisfy the interest and principal sums payable on any loan raised under the authority of this Part.
- (II) With the cost of maintaining the gasworks in good repair, and all the expenses connected with making and supplying gas as herein provided.
- (III) With any surplus remaining thereafter, which surplus the council is hereby empowered to transfer to the credit of the general municipal fund.

DIVISION 4.—Purity, illuminating power, and pressure of gas.

Purity and illuminating power of the gas.

Ibid. s. 24.

204. The gas supplied by every council shall be absolutely free from sulphuretted hydrogen, and shall be of such minimum quality as to produce from an Argand burner having fifteen holes and a seven-inch chimney consuming five cubic feet of gas per hour a light equal in intensity to the light produced by fifteen sperm candles of six in the pound burning one hundred and twenty grains per hour.

Provision for testing

Ibid. s. 25.

205. Every council shall within twelve months after the construction of any gasworks authorised by this Part put up at some testing place, to be provided by the said council within the municipality, suitable apparatus for the purposes following—

- (I) For testing the illuminating power of the gas supplied.

(II)

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(II) For testing the presence of sulphuretted hydrogen in the gas supplied.

The said apparatus shall be in accordance with the Twentieth Schedule hereto, and shall at all times be kept and maintained in good repair and working order by the said council.

206. Every council shall appoint a proper person as gas examiner, who shall at the proper testing place test the illuminating power and purity of the gas supplied on any or every day, and such council may be represented at the testing if it thinks fit, but shall not in any way directly or indirectly interfere in the testing.

Appointment of gas examiner.
48 Vic. No. 20, s. 26.

207. The gas examiner shall on the day immediately following that on which the testing was made by him deliver to the council a report of such testing signed by him, which report shall be receivable in evidence in any court.

Gas examiner to report, &c.
Ibid. s. 27.

208. Every council supplying gas shall, except in case of accident, supply the same at such pressure as to balance from midnight to sunset a column of water not less than six-tenths of an inch in height, and from sunset to midnight a column of water not less than one inch in height.

Pressure of gas.
Ibid. s. 33.

DIVISION 5.—*Meters.*

209. No meter shall be used for ascertaining the quantity of gas sold by any council unless the same has its measuring capacity at one revolution or complete action of the meter, and also the quantity per hour it is intended to measure in cubic feet or multiples or decimal parts of a cubic foot denominated or marked on the outside thereof in legible letters or figures, and has been tested and stamped as correct by the English Warden of Standards, or by some authority declared by the Governor by notification in the Gazette to be a lawful authority for the purposes of this section.

Meters.
Ibid. s. 28.

210. An inspector of meters shall be appointed by the council, and such inspector shall at all times when authorised by the council, on the application and at the expense of any consumer of gas supplied by the council, be entitled to inspect and test the meters erected by the council in the premises of the person making such request after giving forty-eight hours' notice of such intended inspection to the council, and before such inspection the person requiring the same shall deposit in the hands of the inspector all money due or appearing to be due by such person to the council on account delivered, and in case such deposit is in excess of the sum found to be due to the council such excess shall be returned to the consumer.

Council shall appoint inspector of meters.
Ibid. s. 29.

211. No meter once tested and stamped under the provisions of this Part or of the Municipal Gas Act of 1884 shall be allowed to remain in use for more than five years from the time when it has been last so stamped, unless and until it has been retested and restamped in

Regulation of meters.
Ibid. s. 30.

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in manner aforesaid, and if any council knowingly allows any meter to be used in contravention of this section it shall be liable to a penalty not exceeding forty shillings for every such offence.

Legal standard.

48 Vic. No. 20, s. 31.

212. The legal standard or unit of measure for the sale of any council's gas by meter shall be the cubic foot containing sixty-two pounds three hundred and twenty-one thousandths of a pound (62·321) avoirdupois weight of distilled or rain water weighed in air at the temperature of sixty-two degrees Fahrenheit's thermometer, the barometer being at thirty inches.

DIVISION 6.—*Offences and penalties.*

Penalty for tampering with gas-meter.

Ibid. s. 9.

213. Any person who alters the index of or in any other manner tampers with a gas-meter with intent to defraud the council, shall be liable to a penalty of not more than fifty pounds for every such offence.

Penalty for altering position of gas-meter.

Ibid. s. 10.

214. No private consumer of gas shall alter the position of any gas-meter without giving the council three days' notice in writing of his intention, and any person making such alteration without such notice shall be liable to a penalty of not more than twenty pounds for every such offence.

Penalty for injuring gasworks.

Ibid. s. 11.

215. Any person who wilfully destroys, injures, or displaces any gas-pipe or fitting, or other thing connected with the gasworks, shall be liable to a penalty of not more than fifty pounds, and shall also be liable to pay to the council the cost of repairing any such injury.

Forging stamps.

Ibid. s. 32.

216. If any person forges or counterfeits, or causes or procures to be forged or counterfeited, or knowingly acts or assists in the forging or counterfeiting any stamp which may hereafter be used for the stamping of any meter under this Part, such person shall for every such offence be liable to a penalty not exceeding fifty pounds nor less than ten pounds, and if any person knowingly sells, utters, or disposes of, lets, lends, or exposes for sale any meter with such forged stamp thereon, such person shall for every such offence be liable to a penalty not exceeding ten pounds nor less than forty shillings, and all meters having forged or counterfeited stamps thereon shall be forfeited and destroyed.

DIVISION 7.—*Miscellaneous provisions.*

Two or more councils may act conjointly.

Ibid. s. 15.

Sale of products.

Ibid. s. 17.

217. Any two or more councils may join together in the purchase or erection of gasworks, and may conjointly exercise the powers herein conferred on them separately.

218. The council may sell or otherwise dispose of all products, refuse, or residuum obtained from their gasworks, and may sue for and recover payment for the same in the manner provided by the hundredth section of this Act.

219.

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219. No pipe, burner, lamp, meter, or other apparatus of the council set up in any building, tenement, or place shall be subject to distress for rent, or shall be taken in execution under any process or proceeding of any court of law or equity, or under any proceedings in bankruptcy, unless under process against such council.

Apparatus not liable for distress, execution, &c.
48 Vic. No. 20, s. 23.

220. Nothing contained in this Part shall prevent the council being brought under the provision of any general Act which may be passed by the Parliament of New South Wales, applying equally to councils engaged in the manufacture of gas in the colony, with reference to the manufacture and sale of gas, nor entitle the said council to compensation from the public revenue by reason of the provisions of such general Act for the purpose aforesaid being made applicable to and binding upon the council.

Council may be brought under general Act.
Ibid. s. 35.

221. All sums of money, penalties, and fines payable or recoverable by any council under this Part shall be recovered in manner provided by the two hundred and fifty-third section of this Act, and when so recovered shall be paid into and form part of the gas account of such council.

Recovery of penalties, &c.
Ibid. s. 36.

PART XVI.

MUNICIPAL WHARVES.

222. It shall be lawful for the council of any municipality, from time to time, to purchase, take on lease, or otherwise acquire from the Government of New South Wales, or from any person or persons, lands situated outside but adjoining to or abutting upon the boundaries of such municipality and forming any part of its shores, foreshores, bays, inlets, or other water frontages thereof, and, subject to the provisions of any Local Harbour Trust Act now or hereafter enacted, to erect, build, and construct thereon wharfs, jetties, piers, and landing places, with all necessary or convenient roads, ways, sea walls, and approaches thereto, and all necessary or convenient waiting-rooms, sheds, conveniences, offices, and buildings, and from time to time to effect all necessary or advisable repairs, amendments, alterations, additions, and improvements thereto; and also to take on lease, purchase, or acquire for any term, estate or interest from the said Government, or any local harbour trust, all or any wharfs, jetties, piers, or landing places erected within or adjoining to the boundaries of such municipality, and from time to time to effect all necessary repairs, amendments, alterations, additions, and improvements thereto:

Power for municipalities to acquire lands and erect wharfs, &c.
56 Vic. No. 28, s. 2.

Provided that before any such wharf, jetty, pier, or landing place is erected, built, constructed, or extended, a plan and specification thereof

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thereof shall be prepared and submitted to and approved of by the Minister for Works for the time being of the Colony of New South Wales, whose approval must also first be obtained before any of the works referred to in this section can be carried out by any council whose municipality is situated outside the jurisdiction of any harbour trust.

Power to apply rates towards purposes set out in next preceding section

56 Vic. No. 28, s. 3.

223. The council of any municipality may use and apply the rates and income of such municipality for and towards all or any of the works set out or referred to in the next preceding section in the same manner as if the said lands had been within the limits or boundaries within which such rates and income are raised by such municipality.

Power to borrow moneys for purposes referred to in the two hundred and twenty-second section.

Ibid. s. 4.

224. The council of any municipality may, in addition to the powers conferred by the one hundred and fifty-eighth section of this Act, borrow and use all moneys which may be necessary for the purpose of effecting and carrying out the works and purposes set out or referred to in the two hundred and twenty-second section of this Act, in the same manner as if all the said works and purposes had been expressly included in the said one hundred and fifty-eighth section, and in addition to the securities referred to in the one hundred and fifty-ninth section of this Act, it shall be lawful for such council to mortgage such wharf or wharfs, or any of them, as may have been leased, purchased, or acquired by them, and the tolls, rates, and dues arising therefrom for all the estate, right, title, or interest of the said municipality therein, or any less estate or interest, and all the rights, powers, and remedies given to mortgagors and mortgagees by divisions one and three of Part XII of this Act shall extend to any securities effected under the powers conferred by this Part or by the Municipal Wharfs Act of 1893.

Power to make by-laws and regulations, and to establish tolls, &c.

Ibid. s. 5.

225. The council of any municipality may—

- (I) from time to time make, alter, add to, repeal, and amend all necessary regulations and by-laws for the purpose of regulating and controlling the use of such of the said wharfs, jetties, piers, landing-places, waiting-rooms, and other erections as may have been leased, purchased, or acquired as aforesaid by such council, or as may be already in the possession of the municipality;
- (II) establish, levy, and impose, and may recover in any court of competent jurisdiction tolls, rates, dues, and charges upon and in respect of steamers and other vessels making fast to, or lying alongside of, or landing or receiving goods or passengers upon or from, or otherwise using any of the said wharfs;
- (III) erect gates, bars, and other works necessary for the collection of such tolls, rates, dues, and charges;

(IV)

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- (iv) make by-laws for the proper management and collection of such wharfs, tolls, rates, dues, and charges as in manner provided for by, and consistent with, sections one hundred and thirty-four, one hundred and thirty-five, and one hundred and thirty-six of this Act :

Provided that free access over any of the said wharfs, which are situated at the end of any public road or street, shall be allowed to all passengers landing or embarking from or on any steamers, vessels, or boats not plying for hire.

226. It shall be lawful for the council of any municipality, Power to let wharfs. from time to time, to let and demise, or otherwise grant or permit to 56 Vic. No. 23, s. 6 any person or persons the use or occupation of all or any of the said wharfs, or any portion or portions thereof, which have been leased, purchased, or acquired by such municipality aforesaid, for such time, upon such terms, and subject to such conditions, stipulations, and agreements as the said council may deem advisable. But no such lease, demise, grant, or permission shall be for any term exceeding seven years, if such wharf is constructed on land which is the absolute property of the municipality, nor if the said wharf is constructed on land held by such municipality on lease, or for a limited time, for any term exceeding the term of the said lease or the said limited time :

Provided that no such lease, demise, grant, or permission shall give exclusive use of such wharf to any person, partnership, company, or corporation.

PART XVII.

MUNICIPAL BATHS.

227. The council of any municipality may from time to time Power for municipalities to acquire lands and erect baths, &c. purchase, take on lease, or otherwise acquire from the Government of New South Wales, or from any person or persons, land situated outside 60 Vic. No. 16, s. 2. but adjoining to, or abutting upon the boundaries of such municipality, and forming any part of the shores, foreshores, bays, inlets, or other water frontages thereof, and, may, subject to the provisions of any Local Harbour Trust Act now or hereafter enacted, erect, build, and construct thereon or thereover baths, with all necessary or convenient roads, ways, sea-walls, and approaches thereto, and all necessary or convenient dressing-rooms, booths, sheds, conveniences, offices, and buildings, and may from time to time effect all necessary or advisable repairs, amendments, alterations, additions, and improvements thereto ; and may also take on lease, purchase, or acquire, for any term, estate or interest from the said Government, or any local harbour trust, or from any person or persons, all or any baths erected within or adjoining to

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to the boundaries of such municipality, and may from time to time effect all necessary repairs, amendments, alterations, additions, and improvements thereto :

Provided that before any such baths shall be erected, built, constructed, or extended, a plan and specification thereof shall be prepared and submitted to, and approved of, by the Minister for Lands, whose approval must also first be obtained before any of the works referred to in this section are carried out by any council whose municipality is situated outside the jurisdiction of any harbour trust.

Council may apply rates towards purposes set out in preceding section.

60 Vic. No. 16, s. 3.

228. The council of any municipality may use and apply the rates and income of such municipality for and towards all or any of the works set out or referred to in the next preceding section in the same manner as if the said lands had been within the limits or boundaries within which such rates and income are raised by such municipality.

Council may borrow money for purposes in 227th section.

Ibid. s. 4.

229. The Council of any municipality may, in addition to the powers conferred by the one hundred and fifty-eight section of this Act, borrow and use all moneys which may be necessary for the purpose of effecting and carrying out the works and purposes set out or referred to in the two hundred and twenty-seventh section of this Act, in the same manner as if all the said works and purposes had been expressly included in the said one hundred and fifty-eighth section, and in addition to the securities referred to in the one hundred and fifty-ninth section of this Act, such council may mortgage such bath or baths or any of them as may have been leased, purchased, acquired, or erected by them, and the tolls, rents, rates, dues, and charges arising therefrom, or all the estate, right, title, or interest of the said municipality therein, or any less estate or interest; and all the rights, powers, and remedies given to mortgagors and mortgagees by the one hundred and fifty-ninth section of this Act shall extend to any securities effected under the powers conferred by this Part.

Council may make by-laws and regulations.

Ibid. s. 5.

230. The council of any municipality may from time to time, make, alter, add to, repeal, and amend all necessary by-laws for the purpose of regulating and controlling the use of the said baths, dressing-rooms, and other erections leased, purchased, acquired, or erected as aforesaid by such council, or already in the possession of the municipality.

And such council may establish, levy, and impose, and may recover in any court of competent jurisdiction, tolls, rents, rates, dues, and charges upon users or occupiers of the said baths, dressing-rooms, booths, sheds, conveniences, offices, or buildings, and may erect gates, bars, and other works necessary for the collection of such tolls, rents, rates, dues, and charges; and may make by-laws for the proper management and collection of such tolls, rents, rates, dues, and charges.

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All such by-laws shall be made as in manner provided by and consistent with sections one hundred and thirty-four, one hundred and thirty-five, and one hundred and thirty-six of this Act.

231. The council of any municipality may, from time to time, let and demise, or otherwise grant or permit, to any person or persons, the use or occupation of all or any of the said baths, or any portion or portions thereof which may have been leased, purchased, or acquired, or erected by such municipality as aforesaid, for such time, upon such terms, and subject to such conditions, stipulations, and agreements as such council may deem advisable :

Council may let
baths.
60 Vic. No. 16, s. 6.

Provided that no such lease, demise, grant, or permission shall be for any term exceeding seven years, nor, if the said baths be constructed on or over land held by such municipality on lease, or for a limited time, for any term exceeding the term of the said lease, or the said limited time.

232. All baths with sheds, conveniences, offices, and buildings, at any time heretofore leased, purchased, acquired, or erected by the council of any municipality out of the funds of the municipality, upon or over any lands situated outside of but adjoining to, or abutting upon, the boundaries of any such municipality, and forming any part of the shores, foreshores, bays, inlets, or other water frontages thereof shall be deemed to have been duly and lawfully leased, purchased, acquired, or erected, and all contracts entered into by the council of any municipality prior to the seventh day of October, one thousand eight hundred and ninety-six, for the lease, purchase, acquisition, or erection of any such baths with sheds, conveniences, offices, and buildings as aforesaid shall be deemed good and valid contracts, notwithstanding that the erections so contracted for are upon or over land situated outside of but adjoining to, or abutting upon, the boundaries of such municipality.

Baths, &c., heretofore
leased, acquired, or
erected by council,
deemed to have been
lawfully leased, &c.,
and contracts entered
into deemed valid.
Ibid. s. 7.

PART XVIII.

IMPOUNDING.

233. The council of every municipality shall, within and for such municipality, have and exercise the following powers which by the Act *twenty-ninth Victoria number two, the Impounding Act of 1865, or any Act or Acts amending the same* may or are required to be exercised in and for any district by the court of petty sessions of such district or a majority of the justices assembled in any such court (that is to say)—all such powers conferred by the said Act or Acts as relate to—

Council to have
certain powers vested
in courts of petty
sessions, &c., by
Impounding Act of
1865.
31 Vic. No. 12, s. 127.

- (I) the establishment of public pounds ;
- (II) the appointment of poundkeepers ;

(III)

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- (III) the determination of the amount of security to be given by each such poundkeeper;
- (IV) the monthly inspection of the pound-book and instructions;
- (V) the receiving of such book and instructions from each poundkeeper on his ceasing to hold office as such; and
- (VI) the fixing of charges for the care and sustenance of animals impounded.

And with regard to the foregoing provisions the said Act shall be read as if in every case where such powers or any of them are given by such Act to any court of petty sessions or majority of justices as aforesaid, there had been a proviso that wherever a municipality had been established such powers so given to such court or majority of justices respectively should for and in respect of such municipality be alone vested in and exercised by the council thereof. And the poundkeeper shall in every such case be an officer of the council within the meaning of this Act. And all pounds already established, and all poundkeepers in office in any existing municipality at the time of this Act coming into force, or in any municipality incorporated hereunder at the time of the incorporation thereof shall be deemed to all intents and purposes to have been established and appointed on the recommendation of the council thereof.

PART XIX.

POWERS UNDER TOWNS POLICE ACTS.

Council to have
certain powers vested
in police magistrate,
&c.

31 Vic. No. 12, s. 128.

234. (I) The council of every municipality shall alone in and for such municipality have, exercise, and incur the following powers and obligations which by the Acts *second Victoria number two, eleventh Victoria number forty-four, seventeenth Victoria number twenty-five, and nineteenth Victoria number ten* respectively may, or are required to be exercised and incurred by the police magistrate, or by other justices of the peace, or by the Surveyor-General or person deputed by him, or by any magistrate or municipal officer of any town, or other person acting under the authority of the Governor, or by the police magistrate with the assistance of the bench of magistrates, or by the Colonial Treasurer or other such officer as the Governor may authorise respectively, that is to say, the powers conferred by the said Acts or either of them for or in respect of—

- (a) the enclosure of holes or foundations near any public place and the lighting of such enclosures;
- (b) the receiving of notices as to the blasting of rocks, and the giving of such directions thereon as may be deemed necessary for the public safety;
- (c)

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- (c) the granting of leave for the opening of any drain or sewer, or the removal of any turf, clay, sand, gravel, stone, or other material from any carriage-way or footway ;
- (d) the setting out and defining of carriage-ways and footways in streets and public places ;
- (e) the giving of notice for the removal or abatement of any building or erection in any street, part of a street, or public place within the distance from the kerbstone or extreme edge of the footway fixed and declared by the Governor ;
- (f) the receiving of notice of the intention to erect any house, shop, or other building in any street before such erection is commenced, and the furnishing of information as to any legal provisions relating to such proposed erection ;
- (g) the marking of names of streets upon any walls and the numbering of houses ;
- (h) causing footways to be levelled and removing or abating any flagging, steps, or other injury or obstruction therefrom ;
- (i) the receiving of notice from any person desirous of flagging, paving, gravelling, or putting a kerbstone to the footway in front of his house or premises, and the giving of directions as to the length, breadth, height, slope, and inclination of such footway ;
- (k) the framing and alteration, with the Governor's approval, of rules and regulations for the holding of markets, and the preservation of order and cleanliness therein, and of enforcing such regulations by fines or penalties ; and
- (l) the framing by public auction of any stalls or standings in any market-house ;

Provided that the said council may by any by-law made, sanctioned, and published as herein directed, delegate all or any of the said powers to any officer of such council.

(II) With respect only to the foregoing provisions the said Acts shall be severally read so far as they relate to any municipality as if the words "council of the municipality" stood in such Acts respectively, instead of the following words and descriptions respectively, namely, "police magistrate," "any justice," "justice of the peace," "one of the nearest resident justices of the peace," "said justice," "some justice of the peace," "the Surveyor-General or any person deputed by him or for any magistrate or municipal officer of any such town under the authority of the Governor," "any person appointed by the Governor," "police magistrate with the assistance of the bench of magistrates," and "Colonial Treasurer or other such officer as the Governor of the said colony shall otherwise authorise and appoint."

(III)

Municipalities.

(III) No police magistrate or justice of the peace or other officer or person as aforesaid shall be required or empowered to do any act or give any notice or direction or information, or receive any notice as hereinbefore mentioned, as to any of the said matters or things existing, arising, or occurring within the limits of any municipality.

(IV) So much of all fines, fees, and sums of money, which, by reason of the operation of the said Acts or either of them, in, for, or in respect of any municipality, shall be payable by any person, as would if this Act had not been passed be paid into the Consolidated Revenue, shall belong to the said municipality, and shall be paid to the treasurer or other proper officer of such municipality for the general purposes thereof.

PART XX.

FREE LIBRARIES.

Councils may
establish free
libraries.

31 Vic. No. 12, s. 141.

235. The council of any municipality may establish and maintain free libraries, every such library to be in a room under the control of the council, which shall be open to the public every day except Sunday, Christmas Day, and Good Friday, for a stated period to be defined in each case by by-laws and without any restriction other than what may be necessary for the preservation of the property therein and the observance of good order.

Free libraries may be
aided from the Con-
solidated Revenue.
Ibid. s. 142.

236. Wherever a free library is established by a municipality the council shall be entitled to receive a grant from the Consolidated Revenue in aid of the purchase of books in the manner and on the conditions following:—

(I) If the library is in a district where a population of at least three hundred souls can regularly make use of it, one hundred pounds.

(II) If the library is reasonably available for the use of a population of at least one thousand souls, two hundred pounds:

Provided always that the Governor shall be satisfied of the facts in each case, and the list of books to be so purchased shall be approved of by the inspector of public charities or the Minister exercising the powers of that office.

Public statutes, &c.,
to be presented to
free libraries.
Ibid. s. 143.

237. The council shall be entitled to receive without payment for the use of any such free library, a complete copy of the public statutes and copies of all publications issued from the Government Printing Office, on and after the date of the establishment of such library.

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238. The property of every free library shall be vested in the council for the permanent use of the whole of the inhabitants of the municipality, and the council acting as trustees thereof shall be competent to acquire, possess, and hold property in books, papers, and instruments on behalf of such free library, by bequest, purchase, or otherwise.

Property of free libraries to be vested in councils.
31 Vic. No. 12, s. 144.

PART XXI.

FREE INFANT SCHOOLS.

239. The council of any municipality may establish free infant schools for the instruction and industrial training of children whose parents are in prison, half-caste children, and other children who are objects of charity, and shall be competent to acquire, possess, and hold land and other property by grant from the Crown, bequest, or purchase for the purposes of such schools:

Councils may establish free infant schools.
Ibid. s. 145.

Provided always that the instruction given in any such school shall be of a character not calculated to interfere with the religious belief of any child.

240. The Minister of Public Instruction may, out of the lands, moneys, securities, and personal property, which, by section one of the Public Instruction Act of 1880, were directed to be held by the Crown under the direction, control, and authority of the said Minister, grant aid towards the maintenance of free infant schools to be determined by the number of children and other circumstances in each case, and all such schools shall be subject to the provisions of the Act *forty-third Victoria number twenty-three* in respect to the course of secular instruction to be enforced, the examination of teachers, and the inspection of schools.

Free infant schools may be aided by the Minister of Public Instruction.
Ibid. s. 146.

241. The councils of any two or more municipalities may unite in establishing free infant schools as hereinbefore provided for the common use and advantage of such municipalities, and may from time to time appoint joint committees of management for the proper conduct of the same:

Two or more municipalities may unite in establishing free infant schools.
Ibid. s. 147.

Provided that no person shall be a member of any such joint committee of management who is not an alderman of one of the municipalities so uniting in the establishment of any such school.

242. All by-laws for the regulation of any free infant school which may be established by the united action of two or more municipalities shall be confirmed by the council of each of such municipalities.

By-laws of free infant schools in certain cases to be confirmed by two or more councils.
Ibid. s. 148.

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PART XXII.

MISCELLANEOUS POWERS.

Council may impose
fixed charge on
public vehicles.
31 Vic. No. 12, s. 129.

243. The council of any municipality may, with the consent of the Governor, impose and enforce a fixed annual half-yearly or quarterly charge upon vehicles plying or carrying passengers or goods for hire within such municipality, whether such vehicles are licensed by the Metropolitan Transit Commissioners or not.

Co-operation of
councils.
Ibid. s. 130.

244. Subject to the approval of the Governor, the council of any municipality may from time to time contract, upon such terms and conditions as they may see fit, with the council of any other municipality, or with any other body corporate, or public body empowered in that behalf, for or in respect to the doing and the control and management, by either or both of the contracting parties, of any matter or thing which the council of the municipality or such other body is by law empowered to do and perform.

Composition for
breaches of contract
in certain cases.
Ibid. s. 131.

245. The council may compound with any party who has entered into any contract, or against whom any action or suit has been brought for any penalty contained in any such contract, or in any bond or other security for the performance thereof, or on account of any breach or non-performance of any contract, bond, or security for such sums of money or other recompense as the council may think proper.

Powers as to
nuisances.
Ibid. s. 132.

246. (I) The council shall have power, by themselves or their officers, to abate and remove all nuisances within the municipality; and any two justices in petty sessions, upon information or complaint made before them, may, in a summary manner, 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 exists or has arisen.

Definition of
nuisance.

(II) The nuisances referred to in the preceding subsection shall be and include the following—

- (a) any boiling-down establishment, slaughter-house, or other premises in such a state as to be a nuisance or injurious to health;
- (b) any pool, ditch, gutter, water-course, privy, urinal, cesspool, drain, or ashpit so foul as to be a nuisance or injurious to health;
- (c) any animal, or the carcase of any animal, or any part thereof in such a state, or so kept or left as to be a nuisance or injurious to health; and
- (d) any accumulation or deposit which is a nuisance or injurious to health.

Power to extirpate
weeds.
Ibid. s. 133.

247. The council of every municipality shall have power, in like manner, and by like process, in respect to districts where the lands for the most part are under cultivation, or have been cleared and enclosed by

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by fences, to order and compel the extirpation of the weeds known as the Bathurst burr and the Scotch thistle and any other noisome weeds, and generally to make by-laws and adopt the necessary means for preventing the growth of weeds detrimental to good husbandry.

248. 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. Common nuisances. 31 Vic. No. 12, s. 134.

249. The council may establish tolls, rates, and dues upon any road, street, market, bridge, ferry, wharf, or jetty within and belonging to the municipality, and erect toll-gates, toll-bars, or other works necessary for the collection of such tolls, rates, and dues, and may make by-laws for the proper collection and management of such tolls, rates, and dues. Council may establish tolls, &c. Ibid. s. 179.

PART XXIII.

LEGAL PROCEEDINGS AND MISCELLANEOUS PROVISIONS.

250. The mayor, or the council clerk, or any alderman or officer of the council of any municipality, appointed by such council in that behalf, shall have the same right and authority to represent the body corporate in the conduct of any action, suit, or other proceeding in any court of law or in equity by, for, on account of, or against such corporate body as if such action, suit, or proceeding had been brought or instituted by, for, on account of, or against such mayor, council clerk, alderman, or officer individually. Mayor or council clerk, &c., to conduct suits and proceedings on behalf of the body corporate. Ibid. s. 138.

251. If any person, against whom the council has any claim or demand, takes the benefit of any Act relating to bankruptcy, the council clerk or treasurer of the municipality, in all proceedings against the estate of such person or under any sequestration or act of bankruptcy against such person, may represent the council and act in their behalf in all respects as if such claim or demand had been the claim or demand of such council clerk or treasurer and not of the council. Proceedings in bankrupt estate. Ibid. s. 188.

252. Every person committing a breach of any provision 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 has been provided for such offence, be liable to a penalty not exceeding twenty pounds. General penalty. Ibid. s. 192.

253. All fines, penalties, and forfeitures incurred under this Act, or under any by-law made hereunder, may, unless otherwise provided for, be recovered in a summary way, before any two justices in petty sessions, according to the provisions of the Act *fourteenth Victoria number forty-three*, and the Acts therein adopted. Penalties, how recovered. Ibid. s. 193.

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Penalties, how
applied.
31 Vic. No. 12, s. 194.

Limitation of legal
proceedings for
penalties, &c.
Ibid. s. 195.

Authentication of
certain documents.
Ibid. s. 195.

Order, &c., not to be
void for informality.
Ibid. s. 196.

Service of notice,
&c., on council.
Ibid. s. 139.

Penalty for
interrupting council
or their officers.
Ibid. s. 140.

Penalties for neglect
of duties.
Ibid. s. 47.

Power of appointing
substitute for mayor,
&c., when prevented
from performing any
duty directed by this
Act.
Ibid. s. 137.

254. All fines, penalties, and forfeitures imposed and recovered as aforesaid shall, except where otherwise directed by this Act, be paid into the corporate fund of the municipality.

255. No person shall be liable to any incapacity, disability, fine, penalty, or forfeiture under this Act, unless proceedings in respect thereof are commenced within six months after such incapacity, disability, forfeiture, or penalty has been incurred.

256. Every advertisement, order, direction, summons, notice, demand, or other such document requiring authentication by the council shall be sufficiently authenticated if signed by the mayor or by the council clerk, and need not be under the common seal of the municipality. And every such document may be in writing or in print, or partly in writing and partly in print.

257. No advertisement, order, direction, notice, demand, or other such document herein required to be published, made, or given shall be held void for any want of form, provided the same is intelligible.

258. Any summons or notice, or any writ or other process, document, writing, or other matter issued according to the course of any proceeding at law or in equity, and required to be served upon the council, may be served by the same being sent through the post office directed to the council at their office, or left at such office, or by being given personally to the mayor or council clerk.

259. Every person who wilfully hinders or interrupts, or causes or procures to be interrupted, the council or their managers, surveyors, agents, servants, or workmen, or any of them, or the auditors in doing or performing any of the works, or in the exercise of any of the powers and authorities exercisable by or vested in them by law, shall for every such offence forfeit and pay any sum not exceeding ten pounds.

260. If any mayor, alderman, or auditor of any municipality neglects or refuses to do any matter or thing, which by law he is directed to perform, he shall for every such offence be liable to a penalty not exceeding ten pounds.

261. (I) Whenever, in consequence of death or absence, or other inability, any alderman, council clerk, or other officer, other than an auditor, is prevented from performing any duty, which by this Act he is directed to perform, it shall be lawful for the mayor to appoint any other alderman or person to perform the same.

(II) If for any like reason the mayor is prevented from performing any such duty the council shall appoint some other alderman to perform the same.

(III) If for any like reason any auditor is prevented from performing or refuses or neglects to perform any such duty the council shall appoint some elector of the municipality, not being an alderman thereof, to perform the same.

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All the acts and proceedings of any person so appointed as aforesaid shall have the same validity as the acts and proceedings of the mayor, aldermen, auditor, council clerk, or other officer in whose place such person has been so appointed as aforesaid would have had.

262. Whenever it becomes necessary hereunder that any matters of account or other matters should be adjusted, or any debt or other claims apportioned, or any other arrangements effected to the satisfaction of the Minister, such Minister shall have power to direct such a reference thereon to an arbitrator or arbitrators, as he may think fit, and to confirm and act upon or to amend the report of such arbitrators, or to direct a fresh reference if he does not think such report satisfactory, and the cost of such reference shall be borne by whichever of the parties the arbitrators or arbitrator may direct. And the decision of the Minister in every such case shall be final.

Power to Minister to direct reference to arbitration on matters of account, &c.
31 Vic. No. 12, s. 198.

263. Whenever any matter or thing is, by this Act or by any by-law made hereunder, directed to be done or to take place on a certain day, and that day happens to be Sunday, Good Friday, or any public holiday, such matter or thing may be performed on the next day, not being any such Sunday, Good Friday, or public holiday. And all changes of time rendered necessary by any such alteration may also lawfully be made.

Postponement of matters falling on Sundays, &c.
Ibid. s. 199.

264. Nothing herein shall affect the corporation of the city of Sydney or the powers vested in the municipal council of the said city by the *Sydney Corporation Act of 1879*.

Act not to affect Sydney Corporation.
Ibid. s. 200.

265. (I) The provisions of this Act hereinafter mentioned shall, in so far as the said provisions might be construed to control and limit the provisions of the *Country Towns Water and Sewerage Act of 1880*, be void and of no effect, that is to say:—

Limitation on the operation of this Act in respect of water supply and sewerage.
44 Vic. No. 14, s. 2.

- (a) So much of the one hundred and forty-third and one hundred and forty-fourth sections as limits the rates leviable in respect of works for water supply or sewerage to the respective amounts therein prescribed;
- (b) So much of the one hundred and forty-sixth section as declares that the special and general rates for any municipality shall not exceed the amount therein specified; and
- (c) So much of this Act as is repugnant to the provisions of the said *Country Towns Water and Sewerage Act of 1880*, in respect of the construction or maintenance of works for water supply or sewerage, the borrowing of money therefor, and the making of rates in respect thereof.

(II) This Act shall be read subject to the provisions of the *Metropolitan Water and Sewerage Act of 1880* and any Act amending the same.

43 Vic. No. 32.

SCHEDULES.

Municipalities.

Section 2.

SCHEDULES.

FIRST SCHEDULE.

| Nos. of Acts. | Titles of Acts. | Extent of Repeal. |
|---------------------|---|-------------------|
| 31 Vic. No. 12 ... | An Act to establish Municipalities... | The whole Act. |
| 32 Vic. No. 8 ... | An Act to amend the Municipalities Act of 1867 in regard to East St. Leonards. | The whole Act. |
| 36 Vic. No. 26 ... | An Act to amend the Municipalities Act of 1867... | The whole Act. |
| 37 Vic. No. 15 ... | An Act to amend the Municipalities Act of 1867... | The whole Act. |
| 48 Vic. No. 20 ... | An Act to amend the Municipal Law in relation to the supply of Gas by Municipal Corporations, and for other purposes in connection therewith. | The whole Act. |
| 50 Vic. No. 7 ... | An Act to amend the Municipal Gas Act of 1884. | The whole Act. |
| 50 Vic. No. 24 ... | An Act to amend the Municipalities Act of 1867... | The whole Act. |
| 51 Vic. No. 20 ... | An Act to amend the one hundred and seventeenth section of the Municipalities Act of 1867 in certain respects. | The whole Act. |
| 52 Vic. No. 9 ... | An Act to enable Municipal Corporations to borrow money, by way of mortgage, on land held or purchased for the erection of Town Halls or Municipal Chambers, and also to give, as security for any such Loan, the said land and any buildings already erected or hereafter to be erected upon such land. | The whole Act. |
| 55 Vic. No. 33 ... | An Act to amend the Municipalities Act of 1867... | The whole Act. |
| 56 Vic. No. 28 ... | An Act to amend the Municipalities Act of 1867; to enable Municipalities to lease and acquire lands and to erect Wharfs thereon; and for other purposes. | The whole Act. |
| 56 Vic. No. 32 ... | An Act to enable Municipal Councils to borrow moneys for the repayment of loans, and to validate certain loans. | The whole Act. |
| 58 Vic. No. 9 ... | An Act to declare valid certain proclamations issued under the Municipalities Act of 1867, and to make further provision for the constitution of Municipalities under the said Act; and for other purposes in connection therewith. | The whole Act. |
| 58 Vic. No. 20 ... | An Act to declare and enact that certain contracts and agreements shall be and be deemed to have been excepted from the provisions of sections thirty-three and thirty-eight of the Municipalities Act of 1867; and for other purposes. | The whole Act. |
| 60 Vic. No. 16 ... | An Act to amend the Municipalities Act of 1867; to enable Municipalities to lease and acquire lands, and to erect baths thereon or thereover, and to lease and acquire baths already erected; to validate the Acts of Municipal Councils which have already erected, leased, or acquired baths beyond the bounds of their Municipalities; and for other purposes. | The whole Act. |
| No. 10 (A.D. 1897.) | An Act to enable the Councils of Municipalities constituted by the division of a Municipality to borrow for the repayment of their respective portions of the debts and liabilities of the divided Municipality. | The whole Act. |

Municipalities.

SECOND SCHEDULE.

I, A.B., do solemnly declare that all the signatures affixed to the above petition are Section 12.
the genuine signatures of the persons whose signatures they purport to be, and that 31 Vic. No. 12.
such persons are persons liable to assessment for municipal taxes in respect of property Schedule A.
or household residence within the boundaries of the proposed *borough or municipal*
district as set forth in this petition.

THIRD SCHEDULE.

I, A.B., having been elected mayor, *or* alderman, *or* auditor for the Municipality Section 41.
of , do hereby solemnly declare that I accept and take upon myself the said Ibid. Schedule B.
office, and will duly and faithfully fulfil the duties thereof to the best of my judgment
and ability, in accordance with the provisions and directions of the Municipalities Act
of , and that I have not fraudulently or collusively obtained the office to which I
have been elected.

FOURTH SCHEDULE.

Section 54 (III).

MUNICIPAL LIST for the Municipality of (if for the ward of a
municipality, for the Ward of the Municipality of).

| Surname of person supposed to be entitled to vote. | Christian name of same person. | Residence. | Whether occupier, lessee, or owner. | Description and situation of property giving title to vote. |
|--|-----------------------------------|------------|--|---|
| | | | | |

(Date)

(Signed)

A.B.,
Electoral Officer.

FIFTH SCHEDULE.

Section 54 (v).

To the electoral officer of the Municipality of
I HEREBY give you notice that I claim to have my name inserted in the municipal
list for the Municipality of (or if the municipality be divided into wards,
say for the Ward, of the Municipality of) in virtue of my
qualification as under, namely [here state accurately the description and
situation of the ratable property in respect of which the right to vote is claimed, and that
the claimant is liable to be rated for the same as occupier, lessee, or owner, as the case
may be].

Dated this

day of

18 .

A.B. (Christian name and surname in full.)
of (state residence.)

SIXTH SCHEDULE.

Section 54 (v).

To the electoral officer of the Municipality of and to A.B., of
I HEREBY give you notice that I object to the name of A.B., of , being
retained for the municipal list of the Municipality of (or if the municipality
has been divided into wards, say (for the Ward, of the Municipality of
on the following grounds [here state the grounds of objection].

(Signed) C.D.

(Objector must here state his name and description as inserted in the municipal list.)

SEVENTH

Municipalities.

Section 54 (v).

SEVENTH SCHEDULE.

LIST of persons having claimed to have their names inserted in the municipal list for the Municipality of _____
 for the _____ Ward of the Municipality of _____
 (or if the municipality be divided into wards, say _____).

| Surname. | Christian name. | Residence. | Whether occupier, lessee, or owner. | Description and situation of property giving title to vote. |
|----------|-----------------|------------|-------------------------------------|---|
| | | | | |

(Date)

(Signed)

C.D.,
Electoral Officer.

Section 54 (v).

EIGHTH SCHEDULE.

LIST of persons whose names appear on the municipal list for the Municipality of _____
 (or if the municipality be divided into wards, say for the _____)
 Ward of the Municipality of _____ against
 whom objections have been sent in.

| Surname of persons objected to (in full). | Christian names of same person. | Description of persons objected to on municipal list. | Christian names and surname of objector. | Substance and ground of objections. |
|---|---------------------------------|---|--|-------------------------------------|
| | | | | |

(Signed)

C.D.,
Electoral Officer.

Section 55.

Ibid., Schedule C.

NINTH SCHEDULE.

Voter's declaration.

Voter's number—

I, A.B., do hereby solemnly declare that I am the person named in the municipal roll now in force for the Municipality of _____ (or for _____ ward), my name being numbered therein as in the margin hereto, and that I have not already voted at this election (or in this ward); and I further solemnly declare that I am a ratepayer in the said municipality (or in said ward), and that no part of any rate due by me is in arrear.

Section 57.

Ibid., Schedule D.

TENTH SCHEDULE.

MUNICIPAL List for the Municipality of _____ (if for the ward of a
 municipality, for the _____ Ward of the Municipality of _____).

| Surname of person supposed to be entitled to vote. | Christian name of same person. | Residence. | Whether occupier, lessee, or owner. | Description and situation of property giving title to vote. | Value at which property is assessed. | Number of votes. |
|--|--------------------------------|------------|-------------------------------------|---|--------------------------------------|------------------|
| | | | | | | |

(Signed)

A.B.,
Council Clerk.

(Date)

ELEVENTH

Municipalities.

ELEVENTH SCHEDULE.

Section 59.

To the council clerk of the Municipality of

31 Vic. No. 12.

I HEREBY give you notice that I claim to have my name inserted in the municipal list for the Municipality of (or if the municipality be divided into wards, say for the Ward, of the Municipality of) in virtue of my qualification as under, namely [here state accurately the description and situation of the ratable property in respect of which the right to vote is claimed, that the claimant is liable to be rated for the same as owner or occupier, as the case may be, the value at which the property is assessed to the last rate, or, if not so assessed, is valued by the claimant].

Dated this day of 18 .
 A.B. (Christian name and surname in full.)
 of (state residence.)

TWELFTH SCHEDULE.

Section 59.

To the council clerk of the Municipality of and to A.B., of

Ibid. Schedule F.

I HEREBY give you notice that I object to the name of A.B., of , being retained for the municipal list of the Municipality of (or if the municipality has been divided into wards, say for the Ward, of the Municipality of) on the following grounds [here state the grounds of objection].

(Signed) C.D.

(Objector must here state his name and description as inserted in the municipal list.)

THIRTEENTH SCHEDULE.

Section 59.

List of persons having claimed to have their names inserted in the municipal list for the Municipality of (or if the municipality be divided into wards, say Ward of the Municipality of .)

| Surname. | Christian name. | Residence. | Whether occupier, lessee, or owner. | Description and situation of property giving title to vote. | Value at which property is assessed. | Number of votes. |
|----------|-----------------|------------|-------------------------------------|---|--------------------------------------|------------------|
| | | | | | | |

(Date) (Signed) C.D.
 Council Clerk.

FOURTEENTH SCHEDULE.

Section 59.

List of persons whose names appear on the municipal list for the Municipality of (or if the municipality be divided into wards say for the Ward of the Municipality of) against whom objections have been sent in.

| Surname of persons objected to (in full). | Christian names of same person. | Description of persons objected to on municipal list. | Christian names and surname of objector. | Substance and ground of objections. | Number of votes. |
|---|---------------------------------|---|--|-------------------------------------|------------------|
| | | | | | |

(Signed) C.D.,
 Council Clerk.

Municipalities.

Section 66.
31 Vic. No. 12.
Schedule I.

FIFTEENTH SCHEDULE.

MUNICIPAL roll for the Municipality of _____ (or if the municipality
be divided into wards, say for the _____ Ward of the Municipality of _____)
for the year ending _____

| No. | Voter's surname. | Voter's Christian name. | Whether occu- pier, lessee, or owner. | Description and situation of ratable property. | Number of votes. |
|-----|---------------------|----------------------------|---|--|---------------------|
| | | | | | |

(Signed) E.F.,
Council Clerk.

Section 82.
Ibid. Schedule J.

SIXTEENTH SCHEDULE.

Declaration of office for returning officer, presiding officer, scrutineer, poll clerk.

I, A.B., duly appointed returning officer (or presiding officer or scrutineer or poll clerk) at this election do hereby solemnly declare that I will faithfully act and assist in such office, and will not attempt to ascertain for whom any elector shall vote, nor by any word or action directly or indirectly aid in discovering the same, unless in answer to any question which I may be legally bound to answer or in compliance with provisions of the Municipalities Act of _____.

Section 85.
Ibid. Schedule K.

SEVENTEENTH SCHEDULE.

Ballot-paper.

Election of aldermen (or auditors) on the _____ day of _____ 18 ____.
List of candidates for election.

Names in full as aldermen

Address.

or auditors

Section 147.
Ibid. Schedule L.

EIGHTEENTH SCHEDULE.

The Municipality of _____ }

FORM of an assessment of the annual value of all property liable to be rated in the Municipality of _____ by virtue of the Municipalities Act of 189 _____ and rate thereon after the rate of _____ in the pound by virtue of the said Act for the year commencing _____

| No. | Situation. | Name of person in occupation. | Name of lessee. | Name of owner. | Description of property. | Annual value. | The value assessed by the council. | Value as determined on appeal. | Amount of rate at _____ in the pound. | Observations. |
|-----|------------|-------------------------------------|--------------------|-------------------|-----------------------------|------------------|--|--------------------------------------|---|---------------|
| | | | | | | £ s. d. | £ s. d. | £ s. d. | £ s. d. | |

NINETEENTH

Municipalities.

NINETEENTH SCHEDULE.

FORM A.

Form of debenture.

Transferable by delivery.

Section 159.

31 Vic. No. 12.

Schedule N.

Municipalities Act of
Borough or Municipal District of

N.B.—The holder of this debenture has no claim with respect thereto upon the Government of New South Wales or the Consolidated or Public Revenue thereof.

This debenture entitles the bearer to _____ pounds sterling, which, with interest thereon at the rate of _____ pounds per centum per annum is hereby secured upon [here state fully the nature of the security or securities, if a rate describe it in like manner], such interest being payable half-yearly on the first day of April and the first day of October in every year (dividend coupons for which are annexed), at _____ and such principal money being payable on _____ day of _____, A.D. one thousand eight hundred and _____, at

Dated this _____ day of _____ 18 _____.

(Signed) _____
{ A.B. Mayor.
C.D. } Aldermen.
E.F. }

Council Clerk.

FORM B.

Form of mortgage deed.

Ibid. Schedule M.

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 one thousand eight hundred and _____.

FORM C.

Form of bond.

Ibid. Schedule O.

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 _____ A.B. [or the corporation 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 _____

Municipalities.

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.
 Given under our common seal this _____ day of _____, one thousand eight hundred and _____.

31 Vic. No. 12.
 Schedule P.

FORM D.

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, and 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 _____.

Section 205.
 48 Vic. No. 20,
 Schedule.

TWENTIETH SCHEDULE.

PART I.

Regulations in respect of testing apparatus.

(1) The apparatus for testing the illuminating power of the gas shall consist of an approved form of photometer, together with a proper meter, minute clock, governor, pressure gauge, and balance. The burner to be used for testing the gas shall be an Argand burner, having fifteen holes and a seven-inch chimney. The candles used for testing the gas shall be sperm candles of six to the pound, and two candles shall be used together.

(2) The apparatus for testing the presence in the gas of sulphuretted hydrogen shall consist of a glass vessel containing a strip of bibulous paper, moistened with a solution of acetate of lead, containing sixty grains of crystallized acetate of lead dissolved in one fluid ounce of water.

PART II.

Rules as to mode of testing gas.

(1) *Mode of testing for illuminating power.*—The gas in the photometer is to be lighted at least fifteen minutes before the testings begin, and it is to be kept continually burning from the beginning to the end of the tests. Each testing shall include ten observations of the photometer made at intervals of a minute. The consumption of gas is to be carefully adjusted to five cubic feet per hour. The candles are to be lighted at least ten minutes before beginning each testing, so as to arrive at their normal rate of burning, which is shown when the wick is slightly bent and the tip glowing. The standard rate of consumption for the candles shall be one hundred and twenty grains each per hour. Before and after making each set of ten observations of the photometer, the gas examiner shall weigh the candles, and if combustion shall have been more or less per candle than one hundred and twenty grains per hour, he shall make and record the calculations requisite to neutralize the effects of this difference. The average of each set of ten observations is to be taken as representing the illuminating power of that testing.

(2) *Mode of testing for sulphuretted hydrogen.*—The gas shall be passed through the glass vessel containing the strip of bibulous paper, moistened with the solution of acetate of lead for a period of three minutes or such longer period as may be prescribed, and if any discoloration of the test paper is found to have taken place, this is held to be conclusive as to the presence of sulphuretted hydrogen in the gas.