

T A S M A N I A.



1892.

ANNO QUINQUAGESIMO-SEXTO

VICTORIÆ REGINÆ.

No. 29.

Amended 58 Vic No 121 Law
56 . . . 44
62 . . . 23

AN ACT to incorporate the Electors of the Town of *Devonport*, and to make better provision for the Administration of the Affairs of the said Town. A.D. 1892.

[21 December, 1892.]

WHEREAS it is expedient to incorporate the Electors of the Town of *Devonport*, and to amend the Law relating to the administration of the affairs of the said Town: PREAMBLE.

Be it therefore enacted by His Excellency the Governor of *Tasmania*, by and with the advice and consent of the Legislative Council and House of Assembly, in Parliament assembled, as follows:—

1 This Act may be cited for all purposes as “The *Devonport* Corporation Act, 1892.” Short title.

2 On and after the day on which this Act comes into operation, “The *Devonport* Corporation Act, 1890,” shall be and is hereby repealed: Provided that such repeal shall not affect— Repeal of 54 Vict. No. 49.

- i. Anything duly done under the Act hereby repealed before the date on which this Act comes into operation: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 Any liability accruing under such repealed Act before the date on which this Act comes into operation.

And, excepting so far as there is anything in this Act inconsistent

Devonport Corporation.

A.D. 1892.

Application of
Act to matters
and things done.

therewith, this Act shall apply to all matters and things done under such repealed Act, and of any force or effect at the date on which this Act comes into operation by virtue of the Act hereby repealed, as if made or done hereunder.

Existing Board
continued.

3 The Members of the Board of the Town of *Devonport* elected under the Act hereby repealed, and in office on the day immediately preceding the day on which this Act comes into operation, shall continue in office notwithstanding such repeal, and shall be deemed to have been elected under this Act, and shall be subject to its provisions, and shall retire in the same manner and at the same times as such Members would have retired if this Act had not been passed.

Rights, &c. of
present Board
continued.

4 All property, rights of property, and interests whatsoever vested in the Board of the Town of *Devonport* on the day immediately preceding the date on which this Act shall come into operation shall continue to vest in such Board; and all moneys due and owing to or by such Board, and all Rates levied and made by such Board and not paid when this Act takes effect, shall be payable and recoverable to, by, or from such Board; and all contracts, agreements, mortgages, bonds, covenants, and securities made or entered into with and in favour of or by or for such Board, or any person on behalf thereof, and all obligations incurred, and all Rates levied and made or to be levied and made under and by virtue of the Act hereby repealed, shall take effect and may be proceeded on and enforced by, against, and with reference to such Board, as fully in all respects as they might have been by, against, and with reference to such Board, if this Act had not been passed: Provided, that *East Devonport* shall not be liable for any money borrowed or liability incurred by the Town Board of the Town of *Formby* previous to the amalgamation of the Towns of *Torquay* and *Formby*.

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

5 The Electors of the Town of *Devonport* shall be a Body Corporate and Politic, and shall have perpetual succession, and be capable in Law to sue and be sued in all Courts by the corporate name of "The Board and Electors of the Town of *Devonport*," and shall by such corporate name be capable to take, purchase, and hold land and personal estate; and to grant, sell, alienate, assign, demise, assure, and convey the same for any estate, term, or interest; and to do and suffer all acts as a Body Corporate under the provisions of this Act; and shall have a Common Seal; and in all cases of legal proceedings service of notice thereof upon either the Chairman or Secretary for the time being shall be taken as good and sufficient service upon the Corporation: Provided, that it shall not be lawful for such Corporation to sell and dispose of, or to convey any real estate without the consent in writing of the Governor previously obtained, or to demise any such real estate for any term exceeding Twenty-one years in possession.

Custody of the
Seal and Cor-
porate Records.

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

Boundaries of
Towns.

7 The boundaries of the said Town shall be those described in the Schedule hereto, and shall so remain until altered by legislative authority.

Devonport Corporation.

- 8** That portion of the said Town of *Devonport* which is situate on the West bank of the River *Mersey* shall for the purposes of this Act be called *West Devonport*, and that portion of the said Town which is situate on the East bank of the River *Mersey* shall for the purposes of this Act be called *East Devonport*. A.D. 1892
Division of Town.
- 9** The Board of the said Town shall cause to be set up, and maintain, at the expense of the Corporation, permanent and conspicuous boundary marks of iron, wood, stone, or other durable material, in exact conformity, or as near thereto as circumstances will admit, with the metes and bounds of the Town, and in the most public and convenient places along or near the line of such metes and bounds. Boundary marks.
- 10** Any person who wilfully or maliciously destroys, pulls down, or obliterates, defaces, injures, or conceals any such boundary mark as aforesaid, shall for any such offence forfeit and pay, in addition to the value of such boundary mark, a penalty not exceeding Five Pounds. Penalty for destroying, &c. boundary marks.
- 11** The administration of the affairs of the said Town of *Devonport* shall be committed to a Board consisting of Eight Members elected as hereinafter provided, and styled "The Board of the Town of *Devonport*." Board to be elected.
- 12** Four Members of the said Board shall be elected by the Electors of *West Devonport*, and Four Members of the said Board shall be elected by the Electors of *East Devonport*. How Board elected.
- 13** Two of the Members of the Board elected by the Electors of *West Devonport* and Two of the Members of the Board elected by the Electors of *East Devonport* shall retire from office in every year; and every Member of the said Board shall, subject to the provisions of "The Town Boards Act, 1891," hold office for a period of Two years. Period of office.
- 14** Annual meetings of the Electors of *West Devonport* and *East Devonport* shall be held for the purpose of electing Members of the said Board, in accordance with the provisions of "The Town Boards Act, 1891." Annual meeting of Electors. 55 Vict. No. 41.
- 15** All the provisions of "The Town Boards Act, 1891," relating to meetings of Electors shall apply to all meetings of Electors held under this Act. Application of 55 Vict. No. 41.
- 16**—(1.) All acts which the Board is by this Act or by "The Town Boards Act, 1891," directed to perform, and all the powers and authorities vested in the Board by this Act or by "The Town Boards Act, 1891," may be done and exercised by any Five Members of the Board present at any meeting of the Board; and any such Five Members shall form a quorum. Quorum of Board.
- (2.) At all meetings of the Board all Members present shall vote, and all questions there considered shall be decided by the majority present. Majority present to decide.
- (3.) The Chairman shall be entitled to a deliberative vote only; and if there is an equal division of votes upon any question it shall be considered lost. Equal division of votes.

Devonport Corporation.

A.D. 1892.

Board to compel owners of vacant lands to erect Fence.

And in case of neglect, Board to do so at owner's expense.

17 Where no Fence or no sufficient Fence already exists, it shall be lawful for the Board from time to time, and at all times, to compel the owners of any lands abutting on any formed and metalled or gravelled street having a metalled, gravelled, or asphalted footpath adjoining such lands within the Town to erect and maintain, at their own expense, a substantial Fence along the front boundary line or lines of the same lands; and if, after Fourteen days' notice in writing, signed by the Chairman of the Board, requiring them so to do, such owners neglect or refuse to commence erecting any such Fence, and, when commenced, if they neglect or refuse to complete the same, or, when completed, afterwards to repair, or, when necessary, to re-erect the same within such time as the Board shall for any such purpose appoint, then, and in any such case, it shall be lawful for the Board, and they are hereby authorised, to erect and put up all such Fences, and from time to time to amend, repair, and re-erect the same, as occasion shall require, at the cost and expense of the owner by whom the same ought to have been done.

Recovery of cost.

18 Such cost and expense as last aforesaid shall and may be recovered in a summary way before any Two Justices of the Peace in the manner prescribed by *The Magistrates Summary Procedure Act*.

Interpretation of "Owner."

19 "Owner" shall mean, when used with reference to any property, the person for the time being in the actual receipt of or entitled to receive, or who, if such property were let to a tenant, would be entitled to receive, the rents and profits thereof, whether as beneficial owner, trustee, executor, mortgagee, in possession or otherwise, but shall not include any mesne tenant.

Board may make Special Rate.

20 It shall be lawful for the Board, at yearly, half-yearly, or such other periods as to them may seem necessary, to make and levy a Special Rate upon the Capital Value of all property situated within the limits of *West Devonport*, for the purpose of raising the necessary funds to pay the interest on money borrowed by the Town Board of the Town of *Formby* before the date on which the Act hereby repealed came into operation, and which liability is by the said Act transferred to the Town Board of the Town of *Devonport*; and the said Rate shall be made, levied, collected, and paid in the same manner, and by the same person, as if such Rate had been made and levied under the authority of "The Town Boards Act, 1891."

55 Vict. No. 41.

Provided, that such Special Rate so to be made and levied shall not in any case exceed in any one year the sum of One Penny in the Pound upon the Capital Value of the property within the limits of *West Devonport*.

Appropriation of Rate.

21 The proceeds of any such Special Rate levied as aforesaid when received shall be used and applied only for and towards the object set forth in the immediately preceding Section, and to no other object whatsoever. Such proceeds shall not for the purposes of this Act be considered as part of the revenue of the said Board.

Board may raise loan by Debentures.
45 Vict. No. 16.

22 It shall be lawful for the Board to raise by the sale of Debentures under the provisions of "The Local Bodies Loans Act," any sum or sums of money, not exceeding Ten times the income of the Board for

Devonport Corporation.

the year next preceding the *Gazette* Notice of such Loan ; and such Debentures shall be charged upon the revenues of the Board. A.D. 1892

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

23 Any sum of money heretofore borrowed by the Town Board of the Town of *Formby*, the liability of which is now vested in the Board of the Town of *Devonport*, shall not for the purposes of this Act be considered to have been borrowed by the last-mentioned Board. Amount borrowed
by *Formby* Town
Board.

SCHEDULE.

TOWN OF DEVONPORT.

West Devonport.

Bounded on the south by 65 chains and 16 links or thereabouts easterly crossing the Crown reservation and along Lots 5063 and 5275 purchased by James Sayer and James Monaghan Dooley respectively, commencing at the River Don, on the west by 51 chains and 96 links or thereabouts southerly also along the last-mentioned lot and along Lot 1754 purchased by Andrew Lyell and John Henry, again on the south by 104 chains or thereabouts easterly along Lots 4873 and 278 purchased by Hester Charlotte Thomas and Jocelyn Thomas respectively, and crossing the Crown reservation to the River Mersey, thence crossing that river to the south-west angle of East Devonport, thence by East Devonport to low water on Bass Straits, and thence by Bass Straits and the River Don aforesaid to the point of commencement. Sect. 7.

East Devonport.

Commencing at a point at low water on Bass Straits being the extremity of a line in continuation northerly of the west boundary of a grant to Robert Stewart, and bounded on the east by 119 chains 20 links southerly across a Crown reservation of 100 feet and along the aforesaid grant to Robert Stewart, on the south by 31 chains 60 links westerly also along that grant and across a similar reservation to Port Frederick, by Port Frederick northerly to low water on Bass Straits aforesaid, and by those Straits to the point of commencement.

