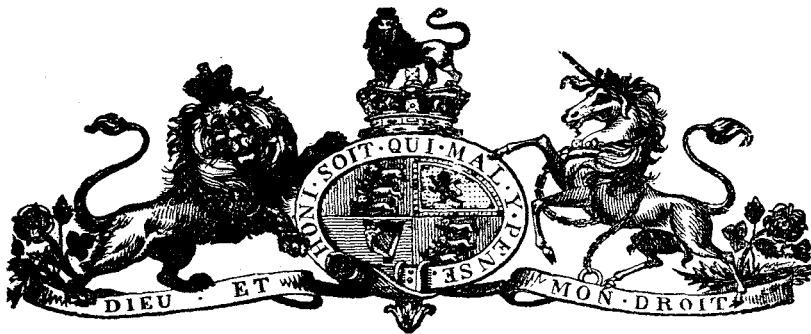


T A S M A N I A.



1889.

ANNO QUINQUAGESIMO-TERTIO

VICTORIÆ REGINÆ,

No. 39.

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AN ACT to further amend "The Public Health Act, 1885." [5 December, 1889.] A.D. 1889.

WHEREAS it is desirable to further amend "The Public Health Act, 1885 :—" PREAMBLE. 49 Vict. No. 18.

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 Public Health Act, 1889." Short title.

2 Section Three of "The Public Health Act, 1887," is hereby repealed, and in lieu thereof the following shall be and be deemed to be and may be cited as Section Three of the said Act :— Provision substituted for Sect. 3 of 51 Vict. No. 35.

"In the construction and for the purposes of 'The Public Health Act, 1885,' if not inconsistent with the context or subject-matter, "Local Board' and 'Local Board of Health' shall mean the Municipal Council of the Cities of *Hobart* and *Launceston* respectively and of every Rural Municipality, and the Board of any Town which has been proclaimed or shall be hereafter proclaimed a Town under and for the purposes of 'The Town Boards Act, 1884,' and also every Local Board heretofore or hereafter appointed under the provisions of 'The Public Health Act, 1885,' or 'The Public Health Act, 1887.'" 49 Vict. No. 18. 48 Vict. No. 30.

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Amendment of  
Sects. 8, 23, and  
113 of 49 Vict.  
No. 18.

**3**—(1.) The word “Five” in the “Second” line of the Eighth Section of “The Public Health Act, 1885,” is hereby expunged, and in lieu thereof the word “Seven” is inserted; and the said Section shall hereafter be read as if the word “Seven” had always been inserted therein in the place of the word “Five” hereby expunged.

(2.) The word “or” in the Third line of the Twenty-third Section of “The Public Health Act, 1885,” is hereby expunged, and in lieu thereof the word “and” is inserted; and the said Section shall hereafter be read as if the word “and” had always been inserted therein in the place of the word “or” hereby expunged.

(3.) The words “for its” in the Fourth line of the One hundred and thirteenth Section of the said Act are hereby expunged, and in lieu thereof the words “space and access for their” are inserted; and the said One hundred and thirteenth Section shall hereafter be read as if the words hereby inserted had always been inserted therein in the place of the words hereby expunged.

Amendment of  
Sects. 8 and 18 of  
51 Vict. No. 35.

**4**—(1.) The words “Seventy-nine” in the Fifth and Eighth lines of the Eighth Section of “The Public Health Act, 1887,” are hereby expunged, and in lieu thereof the words “Fourteen of this Act” are hereby inserted; and the said Section shall hereafter be read as if the words hereby inserted had always been inserted therein in the place of the words hereby expunged.

(2.) The words “Eight of this Act” in the Thirteenth line of the Eighteenth Section of the said Act are hereby expunged, and in lieu thereof the words “Ten of the said Act” are hereby inserted, and the said Eighteenth Section shall hereafter be read as if the words hereby inserted had always been inserted therein in the place of the words hereby expunged.

Proceedings of  
Local Board  
validated.

**5** All proceedings of any Local Board heretofore transacted at any duly convened meeting thereof, and recorded in the Minute Book of such Local Board, and duly confirmed at a subsequent meeting thereof, are hereby declared to be valid and effectual, and shall be binding upon all persons, notwithstanding that all the members of such Board were not present at such meetings as aforesaid.

By-laws of Local  
Board validated.

**6** All existing By-laws and Orders made by any Local Board at any duly convened meeting thereof, and which have been duly certified by the Attorney or Solicitor-General, and confirmed by the Central Board of Health under the provisions of “The Public Health Act, 1885,” are hereby declared to be valid and effectual, notwithstanding that all members of the Local Board were not present at the making of such By-laws and Orders, or that a new Local Board has been appointed in the place or stead of the Local Board by whom such By-laws and Orders were made.

In this and the immediately preceding Section the term “Local Board” shall mean a Local Board of Health appointed by the Governor in Council.

Local Board  
appointments  
validated.

**7** Every Local Board of Health and every Member thereof appointed before the commencement of this Act shall be deemed and taken to have been duly and validly appointed as such Board and Members thereof respectively under the provisions of “The Public Health Act, 1885” and “The Public Health Act, 1887,” to and for all purposes and intents whatsoever.

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**8** The Governor in Council is hereby empowered from time to time to appoint such and so many persons as he sees fit as and to be additional members of any Local Board of Health appointed by him under "The Public Health Act, 1885," or "The Public Health Act, 1887;" and in the event of any member of any such Local Board dying or resigning, to appoint another person in the place or stead of any such member as aforesaid so dying or resigning: Provided that the whole number of members of any such Local Board of Health shall not at any time be more than Seven.

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Governor in Council to appoint additional members.

**9** The Governor in Council may at any time and from time to time alter and re-define the boundaries of any District proclaimed under the Fifth Section of "The Public Health Act, 1887," or may revoke any such Proclamation or any part thereof.

Districts may be altered and re-defined.

**10** At every meeting of any Local Board of Health appointed by the Governor in Council, more than One-half of the members of the Board shall be required to be present to constitute a quorum for the transaction of business.

Quorum of Board.

*New Streets and Buildings.*

**11** Every Local Board may make By-laws with respect to the following matters; that is to say:—

Power to make By-laws respecting new streets, buildings, &amp;c. 38 &amp; 39 Vict. c. 55, s. 157.

- i. With respect to the level, width, and construction of new streets, and the provisions for the sewerage thereof:
- ii. With respect to the structure of walls, foundations, roofs, and chimneys of new buildings, for securing stability, and the prevention of fires, and for purposes of health:
- iii. With respect to the sufficiency of the space about buildings to secure free circulation of air, and with respect to the ventilation of buildings:
- iv. With respect to the drainage of buildings, to water-closets, earth-closets, privies, ash-pits, and cesspools in connection with buildings, and to the closing of buildings or parts of buildings unfit for human habitation, and to prohibition of their use for such habitation:

And such Local Board may further provide for the observance of such By-laws by enacting therein such provisions as they think necessary as to the giving of notices, as to the deposit of plans and sections by persons intending to lay out streets or to construct buildings, as to the inspection by such Local Board, and as to the power of such Board (subject to the provisions of "The Public Health Act, 1885,") to remove, alter, or pull down any work begun or done in contravention of such By-laws.

49 Vict. No. 18.

**12**—(1.) Where a notice, plan, or description of any work is required by any By-law made by any Local Board to be laid before such Board, the Local Board shall, within One month after the same has been delivered or sent to their Surveyor or Secretary, signify in writing their approval or disapproval of the intended work to the person proposing to execute the same; and if the work is commenced after such notice of approval, or before the expiration of such month without such

As to commencement of work and removal of works made contrary to By-laws. *Ib.*, s. 158.

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approval, and is in any respect not in conformity with any By-law of the Local Board, such Board may cause so much of the work as has been executed to be pulled down or removed.

(2) Where a Local Board incur expenses in or about the removal of any work executed contrary to any By-law, such Board may recover in the mode prescribed by "The Public Health Act, 1885," the amount of such expenses either from the person executing the works removed or from the person causing the works to be executed, at their discretion.

(3.) Where a Local Board may under this Section pull down or remove any work begun or executed in contravention of any By-law, or where the beginning or the execution of the work is an offence in respect whereof the offender is liable in respect of any By-law to a penalty, the existence of the work during its continuance in such a form and state as to be in contravention of the By-law shall be deemed to be a continuing offence, but a penalty shall not be incurred in respect thereof after the expiration of One year from the day when the offence was committed or the By-law was broken.

What to be deemed a new building.  
38 & 39 Vict.  
c. 55, s. 159.

**13** For the purposes of this Act the re-erecting of any building pulled down to or below the ground floor, or of any frame building of which only the framework is left down to the ground floor, or the conversion into a dwelling-house of any building not originally constructed for human habitation, or the conversion into more than one dwelling-house of a building originally constructed as one dwelling house only, shall be considered the erection of a new building.

*Noxious or Offensive Trades.*

Repeal of  
38 Vict. No. 20.

**14** The Act of Parliament, intituled "An Act to make temporary provision for the carrying on of offensive or noxious Trades or Businesses within the Town of *Launceston*," is hereby repealed.

Governor in Council may define Areas.

**15** The Governor in Council may, upon the advice of the Central Board of Health, from time to time by Proclamation in the *Gazette*, appoint such portions of the Colony as may be defined in such Proclamation Noxious Trades Areas for the purposes of this Act.

Noxious trades within Area not deemed a nuisance.

**16** Any manufacture, trade, or business carried on within any area defined in any such Proclamation as aforesaid shall not be deemed to be a nuisance, and the person conducting or carrying on any such manufacture, trade, or business shall be free from all proceedings in respect thereof, any law to the contrary notwithstanding:

Provided always, that such person is conducting or carrying on such manufacture, trade, or business in conformity with the Regulations made as hereinafter provided.

Governor in Council may make Regulations.

**17** The Governor in Council may, from time to time, make, amend, or rescind Regulations for the following purposes:—

- I. The conditions under which any person may obtain land within any such area as aforesaid to conduct or carry on any noxious trade, manufacture, or business:
- II. The mode or manner in which such trade, manufacture, or business shall be carried on.

All such Regulations, and all amendments thereof, shall be laid before both Houses of Parliament within Fourteen days of the making there-

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of, if Parliament is in Session, and if not, then within Fourteen days after the commencement of the next Session, and shall be published in the *Gazette*; and after such publication as aforesaid all such Regulations shall have the force of law, so far as they are not inconsistent with or repugnant to this Act or any other Act. A.D. 1889.

**18** The Minister may, if the Governor in Council approves, purchase, acquire, and take such land as the Governor in Council may deem necessary for the purposes of this Act. Power to Minister to purchase lands.

**19** The Minister, his officers and workmen, may at all reasonable time in the day-time, upon giving Twenty-four hours' previous notice in writing to the owner or occupier of any land which is proposed to be taken for the purposes of this Act, enter into and upon such land for the purpose of surveying or valuing the same. Power to enter upon lands.

**20** *The Lands Clauses Act* shall, except as hereby expressly varied, be incorporated with this Act, but— 21 Vict. No. 11 incorporated.

- i. There shall not be incorporated with this Act the Sections and provisions of the said Act hereinafter mentioned; that is to say,—Section Eight, whereby it is provided that the capital is to be subscribed before the compulsory powers are to be put in force; Section Nine, whereby it is provided that the certificate of the Justices shall be evidence that the capital had been subscribed; Section Twenty-three, whereby the mode in which the costs of arbitration are to be borne is prescribed:
- ii. In the construction of this Act and the said incorporated Act this Act shall be deemed to be the Special Act, and the Minister shall be deemed to be "the Promoter of the undertaking."

**21** Any notice required to be given by or on behalf of the Queen or the Governor in Council by virtue of the provisions of *The Lands Clauses Act* or this Act shall be sufficient if signed by the Minister. Notices. 21 Vict. No. 11.

**22** In any case where land is required for the purposes of this Act, if the Minister, before any steps are taken under *The Lands Clauses Act*, tenders to the person entitled to receive the same, compensation for such land, then if such person refuses to accept the same and to convey the land so required, and a reference to arbitration takes place under *The Lands Clauses Act*, and the Arbitrators or Umpire award a sum not exceeding the amount of compensation so tendered, all the costs of the reference, arbitration, and award shall be paid by such person, and payment thereof may be enforced by action in any Court of competent jurisdiction on a count for money paid at the request of such person. Costs of arbitration, how to be borne. 21 Vict. No. 11.

**23**—(1.) Notwithstanding anything to the contrary contained in any Act, if either party is dissatisfied with the award of the Arbitrators or Umpire where the sum awarded for compensation exceeds the sum of One hundred Pounds, and either party desires to have the compensation settled by a Judge of the Supreme Court, and shall, within Ten days after the making of such award and notice thereof, signify such desire If either party to an award is dissatisfied therewith a Judge of the Supreme Court may decide thereon.

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by notice in writing to the other party, then the amount of such compensation shall be ascertained by a Judge of the Supreme Court in such manner as he deems advisable, and subject to such conditions as such Judge sees fit to impose; and such Judge may also in his discretion make any order as to the person by whom the costs of such proceedings shall be borne.

(2.) Where the party dissatisfied with the award gives notice to the other party as aforesaid, then such award shall not be made a Rule of Court until such Judge by an order in writing under his hand determines the matter in dispute.

36 Vict. No. 19.

(3.) The Rules made by the Judges of the Supreme Court under "The Main Line of Railway Amendment Act, No. 2," shall be applicable to all proceedings which shall be taken for carrying out the provisions of this Section.

Defrayment of cost.

**24** The purchase money of any land taken under the provisions of this Act shall be appropriated out of moneys provided by Parliament for that purpose.

Appropriation of money on re-sale of land.

All moneys received by the Minister upon the re-sale of any land taken under the provisions of this Act shall be paid to the Commissioners of "The Public Debts Sinking Fund," and shall form part of "The Public Debts Sinking Fund."

Municipal Council may give compensation to persons removing offensive trades, &amp;c.

**25**—(1.) Where it shall appear to the Municipal Council of the Cities of *Hobart* or *Launceston*, or of any Rural Municipality, that any trade, manufacture, or business conducted or carried on within either of such Cities or any Rural Municipality is noxious or prejudicial to the public health, it shall be lawful for such Municipal Council to contract and agree with the person conducting or carrying on such noxious trade, manufacture, or business for the discontinuance or removal of the same to such place as may be agreed upon in such contract; and such Council may pay out of the Municipal Fund at their disposal to such person such reasonable compensation by way of consideration for such contract as may be agreed upon between the contracting parties.

(2.) In the event of such Municipal Council and any such person conducting or carrying on any such noxious trade, manufacture, or business failing to agree as to the amount of compensation to be paid to such person for discontinuing or removing the same, such compensation shall be settled by arbitration, in the mode prescribed by *The Lands Clauses Act* in cases of disputed compensation.

(3.) Nothing in this Section contained shall affect the institution of any proceedings against any such person under any law now in force relating to the abatement of nuisances, or the conviction or punishment of persons guilty of creating or causing nuisances.

*Cemeteries and Burial Grounds.*

Repeal s. 12 of 51 V. No. 35.

**26** Section Twelve of "The Public Health Act, 1887," is hereby repealed.

Penalty for burying the dead in place other than a Cemetery, &amp;c.

**27** Any person who shall bury the body of any dead person in any place other than a Cemetery or Public Burial Ground without the consent in writing of the Local Board of Health of the District in which the proposed place of burial is situate, shall be liable to a penalty not exceeding Five Pounds.

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**28** No new Cemetery or Burial Ground shall be laid out or used for the burial of the dead without the approval of the Local Board of Health of the District in which it is situated.

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New cemeteries to be approved by Local Board.

**29**—(1.) If it shall appear to any Local Board of Health that any existing Cemetery or Burial Ground is from its position or condition injurious to the public health, such Local Board may give notice to the Trustees or other persons in whom such Cemetery or Burial Ground is vested, or having charge of the same, that such Cemetery or Burial Ground shall, on a day to be named in such notice, being not less than Six months from the date of such notice, be closed.

Local Board of Health may order Cemetery or Burial Ground to be closed.

(2.) Any Twenty ratepayers residing within a radius of half a mile of any Cemetery or Burial Ground outside of the Cities of *Hobart* or *Launceston*, and any Forty ratepayers residing within a radius of a quarter of a mile of any Cemetery or Burial Ground within the City of *Hobart* or the City of *Launceston*, may petition the Local Board of Health that such Cemetery or Burial Ground is injurious to the public health; and such Local Board of Health may, if satisfied that such Cemetery or Burial Ground is injurious to the public health, give notice to the Trustees or other persons in whom such Cemetery or Burial Ground is vested, or having charge of the same, that such Cemetery or Burial Ground shall, on a day to be named in such notice, being not less than Six months from the date of such notice, be closed.

(3.) If after having received any such Petition as aforesaid the Local Board of Health neglects or refuses without sufficient cause to order any such Cemetery or Burial Ground to be closed, the Central Board of Health may, upon receipt of a like Petition, and if satisfied that such Cemetery or Burial Ground is injurious to the Public Health, order such Cemetery or Burial Ground to be closed, in the same manner as such Local Board is hereby empowered to close such Cemetery or Burial Ground. Provided that in any case in which there is an exclusive right of interment in any vault or inclosure in any Cemetery or Burial Ground, it shall be lawful for the Chief Secretary, on application being made to him, to grant permission for the exercise of such right after such Cemetery or Burial Ground has been closed as aforesaid during such time, and subject to such conditions and restrictions, as he may think fit.

**30** It shall not be lawful to bury, or permit or suffer to be buried, any further corpses or coffins otherwise than as hereinbefore provided in any Cemetery or Burial Ground ordered to be closed in pursuance of this Act, after the day on which the same shall have been ordered to be closed; and whosoever on or after such day buries, or causes to be buried, or permits or suffers to be buried, any corpse or coffin contrary to this enactment shall, for every such offence, forfeit and pay a penalty of not less than Five Pounds nor more than Fifty Pounds.

Penalty for burying corpse in closed Cemetery, &c.

**31** Every Local Board of Health is hereby empowered to make such By-laws as they shall think necessary and proper for directing the depths of the graves, the construction of coffins to be admitted into vaults, and the covering of vaults so as to prevent the escape of any noxious exhalation or evaporation, in any Burial Ground not being a Cemetery under *The Cemeteries Act, 1865*.

Local Board to regulate depth of grave, &c. in Burial Grounds.

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By-laws where  
Trustees of  
Cemeteries fail to  
comply with  
29 V. No. 7.

**32** If the Trustees of any Cemetery appointed under *The Cemeteries Act, 1865*, fail or neglect for a period of Six months after the passing of this Act, or for a like period after their appointment, to make all necessary Rules and Regulations in accordance with Section Eleven of the said Act, the Local Board of Health of the District in which such Cemetery is situate is hereby empowered to make such By-laws as they shall think necessary and proper for directing the depths of the graves, the construction of coffins to be admitted into vaults, and the covering of vaults so as to prevent the escape of any noxious exhalation or evaporation in such Cemetery.

Local Board may  
order certain  
works in  
Cemeteries.

**33** Any Local Board of Health may, by notice, order the Trustees or other persons in whom any Cemetery or Burial Ground is vested, or having charge of the same, to do such works as may be set forth in such notice as may appear to the Local Board of Health necessary to improve the sanitary condition of such Cemetery or Burial Ground, or to protect the graves therein.

Local Board to  
provide Cemetery  
in certain cases.

**34** If any Cemetery or Burial Ground shall be closed under this Act, and the Trustees, or other persons in whom the same is vested, or having charge of the same, fail or neglect to provide another Cemetery, the Local Board of Health may, and if there be no Cemetery or public Burial Ground within Six miles of the Cemetery or Burial Ground so closed, shall provide a Cemetery in the place or stead of the Cemetery or Burial Ground so closed; and notwithstanding anything to the contrary contained in *The Cemeteries Act, 1865*, the Local Board of Health for the time being shall be the Trustees of such Cemetery provided as aforesaid, and shall have all the powers and perform the same duties as if they were Trustees appointed under the provisions of the said Act.

Officer of Health  
may order burial  
of dead body.

**35** Where the body of one who has died of any infectious disease is retained in a room in which persons live or sleep, or any dead body which is in such a state as to endanger the public health is retained in such house or room, any Officer of Health, or any Inspector appointed under any Public Health Act, may order the same to be buried within a time to be limited in such order; and unless the friends or relations of such deceased undertake to bury the body within the time so limited, and do bury the same, it shall be the duty of such Officer of Health or Inspector to have such body buried at the expense of the Local Board of Health of the District in which such body is buried; and any expense so incurred may be recovered by such Local Board in the mode prescribed by "The Public Health Act, 1885," from any person legally liable to pay the expense of such burial.

Any person obstructing the execution of an order made by an Officer of Health or Inspector under this Section shall be liable to a penalty not exceeding Five Pounds.

Acts to be read  
together.

**36** This Act and "The Public Health Act, 1885," and the Acts amending the same, shall, save as amended by this Act, be read and construed together as one Act.