

ORDINANCE No. 25 OF 1949.

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I assent

C. C. WOOLLEY,

Governor.

18th November, 1949.

BRITISH GUIANA.

ORDINANCE No. 25 OF 1949.

AN ORDINANCE to consolidate and amend the law relating to the Mayor and Town Council of New Amsterdam and to make provision for the good government of the town. A.D. 1949.

[19th November, 1949.]

Be it enacted by the Governor of British Guiana, with the advice and consent of the Legislative Council thereof, as follows:—

PRELIMINARY.

1. This Ordinance may be cited as the New Amsterdam Short title. Town Council Ordinance, 1949.

Interpre-
tation.

Cap. 87.

2. In this Ordinance --

“Council” means the Mayor and Town Council of New Amsterdam;

“Former Council” means the Mayor and Town Council of New Amsterdam constituted by the New Amsterdam Town Council Ordinance;

“lot” includes a portion of a lot;

“market” means the New Amsterdam market and includes every other public market now or hereafter to be established in the town by the authority of the Council;

“magistrate” means the magistrate of the Judicial District in which the town is situate, and includes any magistrate sitting in the court of that Judicial District;

“owner” means the person in possession of or in receipt either of the whole or of any part of the rents or profits of any land or tenement, whether in his own right or as a trustee or personal representative of any other person, or in the occupation of such land or tenement other than as a tenant from year to year, or for any less term, as a tenant at will;

“premises” includes messuages, buildings, lands, easements, and hereditaments of any tenure;

“street” includes any highway, and any public bridge, road, lane, footway, alley, or passage, whether a thoroughfare or not;

“the town” means the town of New Amsterdam;

“Town Clerk” means the person for the time being holding the office of Town Clerk under the Council and includes any person acting as Town Clerk;

“voter” means a person qualified to vote for a councillor at elections.

PART I.

TRANSITIONAL PROVISIONS.

Vesting of
powers,
rights and
property of
Former
Council in
the Council.

3. (1) All powers, authorities, interests, rights, immunities, and privileges vested in the Former Council shall be deemed to be vested in the Council and all property, real and personal, belonging to the Former Council is hereby declared to be vested in the Council.

(2) Every Ordinance giving power or authority to or imposing any duty or liability upon or otherwise relating to the Former Council or providing any forms of proceedings relating to the Former Council shall unless the context otherwise requires and so far as applicable, be read and have effect as if in such Ordinance the Council were substituted for the Former Council.

Reference
to Former
Council to
be deemed
to refer to
the
Council.

4. Any reference in any Ordinance, or in any rule, regulation, or by-law made under any Ordinance or in any document of whatever kind, public or private, to the Former Council shall be deemed to refer to the Council as constituted by this Ordinance.

PART II.

THE MUNICIPAL COUNCIL, THE EXTENT OF THE TOWN AND THE DIVISION THEREOF INTO WARDS.

5. (1) Subject to the provisions of this Ordinance, the municipal council in and for the town, established as one body public and corporate by the New Amsterdam Town Council Ordinance, 1891, under the name and style of "The Mayor and Town Council of New Amsterdam" and continued by the New Amsterdam Town Council Ordinance, is hereby continued.

Municipal Council as established to be continued. No. 8 of 1891.

(2) By that name the Council shall have perpetual succession and may have and use a common seal, and by and in the name of "The Town Clerk of New Amsterdam" may sue and be sued in all courts of justice.

EXTENT OF THE TOWN AND DIVISION INTO WARDS.

6. (1) For the purposes of this Ordinance, the boundaries of the town shall be as set forth in the First Schedule hereto and shall include all the lands and buildings within the said boundaries.

Extent of the town. First Schedule.

(2) The Council may, by resolution, subject to confirmation by the Governor in Council, extend the limits of the town.

Provided that, not less than one month's notice of the intention to bring forward such a resolution, shall be given by advertisement in the *Gazette*, and in one local newspaper circulating in the town.

(3) The Council shall, as soon as convenient, after the incorporation of any area in the town under the powers conferred by this section, cause a notice to be inserted in the *Gazette* and in one local newspaper circulating in the town, describing the area so incorporated, and setting forth the fact of the approval of the Governor in Council to such incorporation.

(4) For all purposes relating to the qualification of councillors, any area incorporated in the town under the powers conferred by this section, shall be deemed to have formed part of the town during the whole of the twelve months immediately preceding the date of such incorporation.

(5) Save as otherwise expressly provided by this Ordinance, all statutory enactments, by-laws, rules and regulations, in force and applicable to the town at the date of any extension of the limits thereof under the powers conferred by this section, shall extend and apply to the area so added to the town.

7. The town shall be divided into separate wards as set out in the Second Schedule to this Ordinance.

Division of the town into wards. Second Schedule.

PART III.

CONSTITUTION OF COUNCIL.

8. (1) For each ward of the town for the time being there shall be returned one member to serve in the Council who, being to be actually resident in the Colony, is duly qualified and elected as provided in this Ordinance.

Councillor to be elected for each ward.

(2) The Governor in Council shall after any general election of councillors, nominate in writing three persons to serve in the Council until the end of the year in which the next general to nomin-

Governor in Council to nomin-

ate coun-
cillors.

election takes place, and in case of death, resignation, illness, incapacity, or absence from the Colony of any nominated councillor, may nominate in writing any other person to serve in his place during the remainder of his term of office or until a date prescribed in writing at the time of the nomination by the Governor in Council; and any nominated councillor shall be eligible for election to the mayoralty or to any other office of honour under the Council.

Qualifica-
tion for
election as
councillor.

9. (1) Subject to the provisions of this section and of sections, twelve, thirteen, fourteen and fifteen of this Ordinance, every person shall be qualified to be elected as a councillor—

- (a) if his name appears in the register of voters in respect of any ward in the town; and
- (b) if he in his own right is the owner of a lot in the town of the assessed value of not less than seven hundred and fifty dollars; or
- (c) if during the six months immediately preceding the day of the nomination, he was the tenant or occupier of a house, building, erection or part thereof, or parcel of land, in the town the rent whereof is at the rate of not less than twenty dollars a month.

(2) Subject to the provisions of subsection (6) of this section a person elected a councillor shall cease to be qualified to be a councillor and his seat as a member of the council shall become vacant if, at any time during his term of office as councillor, —

- (a) his name does not appear in the register of voters in respect of a ward in the town; or
- (b) he is not in his own right the owner of a lot in the town of the assessed value of not less than seven hundred and fifty dollars, and where he is not the owner of such a lot, if he is not in his own right the tenant or occupier of a house, building, erection or part thereof, or parcel of land in the town the rent whereof is at the rate of not less than twenty dollars a month—

but a person does not cease under this subsection to be qualified to be an elected councillor by reason only of the fact that he ceases to have the qualification as delivered by him to the Town Clerk under subsection (1) of section thirty-eight of this Ordinance.

(3) Where the name of a company appears in the register of voters in respect of a ward in the town, any person being a director or attorney of the company shall, subject to the provisions of subsection (4) of section forty-four of this Ordinance, be qualified to be elected a councillor, if the company is an owner, tenant or occupier as described in paragraphs (b) and (c) of subsection (1) of this section.

Provided that—

- (a) if at any election a director or attorney of a company is, by virtue of this subsection, elected a councillor for one ward and another director or attorney of the company is, by virtue of this subsection,

elected a councillor of another ward, then, unless all except one of the directors or attorneys as aforesaid give notice in writing to the Town Clerk, within three days after the election, that they do not intend to accept the office of an elected councillor (in which event the remaining director or attorney shall be deemed to have been duly elected), the Council shall, in its absolute discretion, declare which one of the directors or attorneys shall be deemed to have been duly elected; and

- (b) where a director or attorney of a company is elected a councillor under this subsection, no other director or attorney shall be qualified to be elected a councillor in respect of any ward in the town, for a term of office which commences before the expiration or termination of the term of office of the first mentioned director or attorney, and, if he is so elected, his election shall be void.

(4) Where the name of a wife appears in the register of voters in respect of a ward in the town, her husband shall, subject to the provisions of subsection (5) of section forty-four of this Ordinance, be qualified to be elected a councillor if the wife is an owner, tenant or occupier as described in paragraphs (b) and (c) of subsection (1) of this section :

Provided that—

- (a) where a wife is an elected councillor, her husband shall not be qualified to be elected under this subsection as a councillor, in respect of any ward in the town for a term of office which commences before the expiration or termination of the wife's term of office, and if he is so elected, his election shall be null and void; and
- (b) where a husband is elected a councillor under this subsection, his wife shall not be qualified to be elected a councillor in respect of any ward in the town, for a term of office which commences before the expiration or termination of the husband's term of office, and if she is so elected, her election shall be null and void.

(5) Where a person being the father or the mother of an infant is registered as a voter by virtue of subsection (4) of section eleven of this Ordinance, the father or the mother, as the case may be, shall be qualified to be elected a councillor if the infant is an owner, tenant or occupier as described in paragraphs (b) and (c) of subsection (1) of this section.

(6) Where a person is elected under subsection (3) of this section by virtue of being a director or attorney of a company, or under subsection (4) of this section by virtue of being a husband, or under subsection (5) of this section by virtue of being the father or mother of an infant, a councillor, such person shall cease to be qualified to be a councillor, and his seat as a member of the Council shall become vacant, if at any time during his term of office as a councillor,—

- (a) the name of the company, or of the wife, or of the

father or mother of the infant, as the case may be, does not appear in the register of voters in respect of a ward in the town; or

- (b) the company or the wife or the infant, as the case may be, is not in its or her own right the owner of a lot in the town of the assessed value of not less than seven hundred and fifty dollars, and where the company or the wife or the infant is not the owner of such a lot, if the company, or the wife or the infant, as the case may be, is not in its or her own right the tenant or occupier of a house, building or erection or part thereof, or parcel of land in the town, the rent whereof is at the rate of not less than twenty dollars a month,—

but a person does not cease under this subsection to be qualified as a councillor by reason only of the fact that the company, or the wife or the infant as the case may be, ceases to have the qualifications as delivered by him to the Town Clerk under subsection (1) of section thirty-eight of this Ordinance.

(7) The provisions of subsections (4) and (6) of this section relating to a husband and wife shall, *mutatis mutandis*, apply respectively to a wife and a husband in the same manner and to the like extent as they apply to a husband and a wife.

(8) In this section and in section eleven of this Ordinance, where no rent is paid in respect of the occupation of a house, building, erection or part thereof or a parcel of land, the expression "rent" means the rent at which the house, building, erection or part thereof, or parcel of land might reasonably be expected to be let if the landlord undertook to pay the taxes and all the rates, and to bear the cost of repairs and insurance and other expenses (if any) necessary to maintain the house, building, erection or parcel of land to command that rent.

10. (1) Any person who, at the time of his nomination and election as councillor, or at any time after his election,—

- (a) is the holder of any office or place of profit in the gift or disposal of the Council other than that of Mayor or Deputy Mayor; or
- (b) is either directly or indirectly, by himself or by his partner, pecuniarily interested in any contract with the Council, whether the contract is null and void by virtue of the provisions of any Ordinance or not; or
- (c) is in default of payment of any taxes or rate assessed levied and raised under section one hundred and twenty-one of this Ordinance, in relation to any lot belonging to the councillor, for a period exceeding three months after the same shall have become due,—

shall be disqualified for being elected a councillor, or, if he has been elected a councillor for continuing to be a councillor and for sitting or voting in the Council, as the case may be, and where he is disqualified for continuing to be a councillor and for sitting or voting in the Council his seat shall become vacant.

(2) A person shall not, for the purposes of this section,

Disquali-
fication
for being
elected or
for con-
tinuing as
Council-
lor.

be deemed to be pecuniarily interested in a contract with the Council by reason only of his having any share or interest in —

- (a) any agreement for the loan of money only; or
- (b) any newspaper in which any advertisement relating to the affairs of the Council is inserted; or
- (c) any incorporated company or society in which he does not hold more than one-fifth of the shares; or
- (d) any lease, sale or purchase of land or any agreement for the same.

(3) Where any company —

- (a) is the holder of any office or place of profit in the gift or disposal of the Council; or
- (b) is either directly or indirectly, by itself or its partner, pecuniarily interested in any contract with the Council, whether the contract is null and void by virtue of the provisions of any Ordinance or not, the following provisions shall apply, that is to say,—

- (i) the company shall not produce or cause to be produced to the returning officer the notice required by subsection (4) of section forty-four of this Ordinance, and if such notice be produced, it shall be null and void;

- (ii) where a person has been elected under subsection (3) of section nine of this Ordinance by virtue of being a director or attorney of a company, such person shall be disqualified for continuing to sit as a councillor, and for sitting and voting in the Council, and his seat as a member of the Council shall become vacant.

(4) Where a wife is disqualified under paragraphs (a) and (b) of subsection (1) of this section for being elected as a councillor, her husband shall be disqualified for being elected under subsection (4) of section nine of this Ordinance; and where if a wife were an elected councillor, and would be disqualified under paragraphs (a) or (b) of subsection (1) of this section for continuing to be a councillor, and for sitting and voting in the Council, her husband, if elected a councillor under section (4) of section nine of this Ordinance, shall be disqualified for continuing to be a councillor and for sitting or voting in the Council, and his seat as a member of the Council shall become vacant.

(5) Where a company, or a wife is in default of payment of any taxes or rate within the meaning of paragraph (c) of subsection one of this section on any lot belonging to the company or the wife, as the case may be, the following provisions shall apply, that is to say —

- (a) the company or the wife shall not produce or cause to be produced to the returning officer the notice required under subsections (4) or (5) of section forty-four of this Ordinance, and if such notice is produced to the returning officer it shall be null and void;

- (b) where a person has been elected, under subsection (3) of section nine of this Ordinance by virtue of

being a director or attorney of a company or under subsection (4) of the said section by virtue of being a husband, a councillor, such person shall be disqualified for continuing to be a councillor and for sitting or voting in the Council and his seat as a member of the Council shall become vacant.

(6) the provisions of subsections (4) and (5) of this section relating to a husband and a wife shall *mutatis mutandis* apply respectively to a wife and a husband in the same manner and to the like extent as they apply to a husband and wife.

(7) Where an infant is the holder of any office or place of profit in the gift or disposal of the Council, or is pecuniarily interested in a contract with the Council as described in paragraph (b) of subsection (1) of this section and in subsection (2) of this section, or is in default of payment of any taxes on any lot belonging to the infant, the father or the mother of the infant, as the case may be, shall be disqualified for being elected, in the right of the infant, a councillor under subsection (5) of section nine of this Ordinance, or, if elected in right of the infant, for continuing to be a councillor and for sitting or voting in the Council and his seat shall become vacant.

PART IV.

QUALIFICATION OF VOTERS.

Qualifi-
cation of
voters.

11. (1) Subject to the provisions of this section and of sections twelve to fifteen inclusive of this Ordinance, every person shall be qualified to be registered as a voter and, when registered, shall be entitled to vote at the election of a member of the Council for the ward in respect of which he is registered, if he —

- (a) has attained the age of twenty-one years; and
- (b) is not subject to any legal incapacity; and
- (c) is a British subject; and
- (d) in his own right is the owner of a lot in the ward in respect of which he applies to be registered, of the assessed value of not less than two hundred dollars; or
- (e) during the six months immediately preceding his application to be registered as a voter, is the tenant in his own right of a house, building, erection or part thereof, or a parcel of land, in the ward in respect of which he applies to be registered, the rent whereof is at the rate of not less than five dollars a month.

(2) A company shall be qualified to be registered as a voter under this section —

- (a) if it was established or registered, in the Colony the United Kingdom or His Majesty's Dominions (including therein British protectorates protected states and mandated territories) outside the United Kingdom, not less than twelve months immediately preceding the application to be registered as a voter; and
- (b) if it is qualified under paragraphs (d) or (e) of subsection (1) of this section.

(3) (a) Where a company or a married woman is registered as a voter under this section, the company or

the married woman, as the case may be, may deliver to the Town Clerk a notice that, at all elections under this Ordinance, or at a specified election, in respect of any ward in the notice mentioned, its or her vote will be exercised on its or her behalf by the person whose name, address and occupation are described in the notice, such person being in the case of a company, a director or an attorney of the company, and in the case of a married woman, her husband.

- (b) The company or the married woman may, at any time, by a like notice, cancel any notice delivered under paragraph (a) hereof. The Town Clerk shall keep a register of all persons authorised under this subsection to exercise votes on behalf of a company or a married woman, and a separate register shall be kept in respect of each ward.
- (d) The Town Clerk shall not receive any notice which is delivered to him between the third day after the date of nomination and the date of election (both days inclusive) of a councillor for the ward to which the notice relates, and, in the case of an election of a Mayor by the voters under section eighty-seven of this Ordinance between the third day after the day on which persons are proposed and seconded as Mayor and the date of the election, both days inclusive.

(4) The father, and if there is no father then the mother, of an infant shall, if personally qualified under paragraphs (a), (b) and (c) of subsection (1) of this section, be qualified to register as a voter under this subsection if the infant is qualified under paragraphs (d) or (e) of subsection (1) of this section.

(5) No person who is not qualified under this section shall be registered as a voter.

12. (1) No person shall be entitled to be registered as a voter who—

- (a) cannot read and write the English language; or
- (b) has, within three months previous to registration, received any relief from public or parochial funds; or
- (c) has been sentenced in any part of His Majesty's dominions to death, or penal servitude, or imprisonment with hard labour for any term exceeding twelve months, and has not either suffered the punishment to which he was sentenced or some other punishment by competent authority substituted for it, or received a free pardon from His Majesty; or
- (d) is an undischarged bankrupt; or
- (e) being a person possessed of professional qualifications is disqualified to exercise the practice of his profession on account of any act involving dishonesty, and during the period he is so disqualified.

Disquali-
fication of
certain
persons.

Qualifi-
cation of
joint
owners as
voters.

13. Where any lot is jointly owned or occupied by more persons than one, each of the joint owners shall be deemed to have the property qualification for membership of the Council, and each of the joint owners or tenants to have the qualification for a voter, if the assessed value or rent of the premises is of an amount which, when divided by the number of the owners or tenants in cases of equal ownership, or when apportioned among them according to the interest of each therein, gives a qualification for each of them but not otherwise.

Premises
may be
owned in
succe-
sion.

14. The lot in respect of the ownership of which a person shall be entitled to be elected a member of the Council, or to vote at the election of a member, shall not be required to be the same lot but may be different lots owned in immediate succession by that person, and he shall be entitled to vote in respect of the property held by him in immediate possession, although his qualification is in respect of property other than the one mentioned in the list of voters if the Town Clerk is satisfied that that property is held by the person so entitled.

Persons
claiming
property
qualifica-
tion to be
registered
in town
books.

15. No qualification based on assessed value shall be deemed sufficient unless the persons who claim thereunder are registered as owners in the books of the Town Clerk and the particulars of the lot in respect of which the qualification is claimed are also recorded therein.

PART V.

REGISTRATION OF VOTERS.

Town
Clerk to
be regis-
tering
officer.

16. The Town Clerk shall be the registering officer for the purpose of this Ordinance.

Publica-
tion of
notice by
register-
ing officer.

17. (1) On or before the tenth day of January in each year the registering officer shall cause to be published in the *Gazette* and in one of the daily newspapers circulating in the town and to be posted at such one or more conspicuous places as he thinks fit within each ward, a notice requiring every person in the ward entitled to vote at the election of a member of the Council to deliver or cause to be delivered to him, upon or before the fifteenth day of February, a notice of the person's claim to be registered as a voter.

(2) The Governor in Council may by Order vary the date of publication of the notice required under this section, and the date before which the notice of any person's claim to be registered as a voter shall be delivered to the Town Clerk:

Provided that no person whose name is placed upon the register of voters for the time being in force under this Ordinance for any ward shall be required thereafter to make the claim aforesaid so long as he retains the same qualifications.

Registra-
tion by
attorney of
person
absent.

18. The attorney, specially authorised in writing, of any person entitled to be registered as a voter, but absent from the Colony at the time when claims are required to be transmitted to the registering officer may register that person as a voter, and

shall, at the time of sending in his notice of claim, produce to the registering officer a copy of his power of attorney duly deposited or recorded in the Deeds Registry.

19. (1) Between the fifteenth day of January and the fifteenth day of February, both inclusive, in each year, every person entitled to be registered as a voter in any ward shall deliver to the registering officer a notice of his claim to be registered as a voter, according to the form contained in the Third Schedule hereto, and shall produce any deeds or documents or other evidence necessary to establish his claim to be so registered. Notice of claim by voter to be registered.
Third Schedule.

(2) The registering officer shall inquire into, examine and investigate the qualification in respect of which the claim is made, and shall receive the evidence necessary to prove to his satisfaction that the person making the claim possesses the qualification in respect of which he claims to be registered as a voter.

(3) If the registering officer is satisfied that the claimant possesses the qualification in respect of which the claim is made, he shall register the claimant in the manner hereinafter provided, otherwise he shall disallow the claim.

(4) The registering officer, in the month of February in each year, shall ascertain whether any of those admitted and registered as voters in the list, made up as hereinafter mentioned, in the year immediately preceding have ceased to retain the qualifications in respect of which they were registered, or whether any of them are dead; and he shall, in the next list of voters to be made up by him in the month of March following as hereinafter provided, write the words "objected to" against the name of every person whom he has cause to believe has ceased to retain the qualification in respect of which he was registered, and shall write the word "dead" against the name of every person whom he has grounds for believing to be dead.

20. The registering officer, on or before the thirty-first day of March in each year, shall make out an alphabetical list for each ward, according to the form contained in the Fourth Schedule hereto, of all those persons registered as voters in the register of voters then in force who in his opinion are qualified to be retained as voters, and of any other persons in his opinion so qualified, and of all those claiming to be registered as voters whose claims he has allowed, and shall cause copies of the lists, signed by him to be published in the Gazette, and also to be posted at any one or more conspicuous places within each ward as he thinks fit, until the fifteenth day of April then next ensuing. List of voters to be published.
Fourth Schedule.

21. The registering officer shall keep the original lists, to be perused by any person during office hours without payment of any fee, and the lists shall be sufficient to warrant any election being held for the ward to which they relate without awaiting their correction as hereinafter provided. Original lists to be kept by registering officer.

22. (1) Every person whose name is not in the voters list published in accordance with section twenty of this Ordinance, who claims to be entitled to have his name entered in such voters list, shall, not later than the thirtieth day of April, give notice in writing to the registering officer of his claim. Voter omitted from list to give notice to registering officer.

- Fifth Schedule. (2) The notice shall be in the form in the Fifth Schedule hereto.
- Obj ee tions. 23. Every person whose name is in the voters list may object to any other person as not being entitled to have his name retained therein.
- Obj ector to give notice. 24. Every person so objecting (hereinafter referred to as an "objector") shall, within fifteen days after the date of the first publication of the list, deliver to the registering officer and also to the person objected to (hereinafter referred to as the "respondent"), or shall leave at the abode of the respondent, notice thereof in writing.
- Registering officer to display lists of claimants and respondents. 25. The registering officer shall make two separate lists of the claimants and respondents, and shall cause copies thereof to be affixed in some conspicuous place near the outer door of the Town Hall and in some other public place or places within the town between the fifteenth and thirtieth days of April in each year, both days inclusive.
- List to be open to public inspection. 26. The registering officer shall also keep a copy of each of such lists open to public inspection, without any fee, at all reasonable hours between the fifteenth and thirtieth days of April and shall deliver a copy of any such list to any person requiring it on payment of the sum of twenty-four cents for each such list.
- Council to hold court for the revision of list. 27. (1) Before the fifteenth day of May in each year, the Council shall hold an open court for the purpose of revising the list of voters.
- (2) The court shall be held on a day fixed by the Council, and not less than six days notice of the holding of the court, and of the place at which it is to be held shall be given in the *Gazette* and by posting the notice at any one or more conspicuous places within each ward as the Council thinks fit.
- (3) The registering officer shall deliver to the Council before the holding of the court the list of voters made out by him as aforesaid, and the list of those claiming to be registered as voters or objected to as voters.
- (4) The Council shall go through the last mentioned list of persons, and shall insert in the list of voters the name of every person who is proved to its satisfaction to be entitled to have his name inserted therein, and shall strike out of the lists the name of every person who, upon the application of the objector or someone qualified to appear for him, is, in the opinion of the Council, not entitled to have his name retained therein.
- (5) If the objector does not appear in person, or by some agent duly authorised by him in that behalf, the objection made shall be overruled, and the name of the respondent shall be retained on the list of voters.
- (6) The Council shall expunge from the list of voters the name of every person who is proved to be dead, and shall correct any error or supply any omission which is proved to exist in the lists in respect of the name, place of abode, description or qualification of every person included therein.

28. (1) The Council holding a court may adjourn it to such time and as often as may be necessary, but so that no adjourned court be held later than the thirty-first day of May in any year.

(2) The Mayor or presiding member shall have power to administer oaths to all persons claiming to be registered as voters or claiming to have any mistake or omission corrected in the list of voters, and to all witnesses produced on either side.

Council may adjourn Court and Mayor or presiding member may administer oaths.

29. (1) The Council shall in open court determine all claims and objections made before it, and the Mayor or presiding member shall write his initials against each name struck out of the list of voters or inserted therein, and against any mistake or omission corrected, and shall sign his name to every page of the lists when they are finally settled.

Procedure to be followed by Council.

(2) If the Council is of opinion that the claim or the objection of any person is without foundation or frivolous, he shall pay the expenses to which any person has been put in resisting the claim or objection including the expenses of witnesses, and compensation for loss of time, and those expenses shall be recoverable with costs before any court of competent jurisdiction against the person by whom the claim or objection was made.

(3) A certificate, signed by the Mayor, and purporting to state the opinion of the Council, shall, in any proceedings, be conclusive evidence thereof.

30. (1) The lists of voters, when finally settled and signed as aforesaid, shall be delivered by the Council to the registering officer who shall keep them, and shall cause the names in each list to be recorded in alphabetical order in a book provided by him for that purpose, beginning the numbers from the first name and continuing them in a regular series to the last name, and shall cause the recording to be completed within ten days after the delivery to him of the revised lists by the Council.

Lists when settled to be recorded in register of voters and published in the Gazette.

(2) The book in which the revised lists are recorded shall be the register of voters for the several wards for the ensuing twelve months, and the revised lists shall be published in the *Gazette* on or before the fifteenth day of June.

31. (1) The decision of the Council, so long as it remains unaltered, shall be conclusive on the parties claiming or objecting as above:

Decision of the Council conclusive until altered.

Provided that any person aggrieved thereby may demand within four days from the date thereof, that the Council draw up a statement of the facts and reasons upon which it is founded, and submit it, within four days of the receipt thereof, to a judge of the Supreme Court for his judgment, which shall be final, and all costs in the proceedings shall be in the discretion of the judge.

(2) The registering officer shall, if necessary, alter and amend the lists and register according to the judgment.

32. Every person enrolled on the voters lists shall be deemed to be enrolled as a voter, and every person not enrolled on the voters lists shall be deemed to be not enrolled as a voter.

Voters lists to be conclusive evidence.

Lists to be printed and copies delivered to persons paying therefor.

33. The Town Clerk shall cause the voters lists and the lists of claimants and respondents to be printed, and shall deliver copies thereof to any person on payment of twenty-four cents for each copy of any such lists or roll, and the proceeds of such sale shall be received by him on behalf of the Council.

Part VI.

ELECTIONS OF COUNCILLORS.

General election of councillors.

34. (1) A general election of councillors for all the wards of the town shall be held every two years during the first fifteen days in December, the elections to take effect from the first day of January in the ensuing year.

(2) The days and hours on and at which the elections are to be held shall be fixed by the Council at its first statutory meeting in October, or at its next meeting thereafter; and notice shall be given in the *Gazette* and one or more newspapers in the town and notices shall be posted in the wards of the town not less than ten days before the elections.

(3) All elections shall be held at the Town Hall or at any other place within the town which the Council from time to time appoints.

(4) The Town Clerk shall forthwith notify in writing every person duly elected a member of the Council of the fact of his election.

(5) Notwithstanding anything to the contrary in the provisions of this Ordinance, the first general election of councillors under the provisions of this Ordinance shall be held during the month of December, nineteen hundred and forty-nine, on such days and at such hours and at such places as the Former Council shall appoint, and for the purposes of such election, the voters lists prepared by the Town Clerk during the year nineteen hundred and forty-nine shall be deemed to have been prepared in accordance with the provisions of this Ordinance, and shall be valid in all respects for all the purposes of such election.

Sections 44 to 48 to apply to general elections.

35. Sections forty-four to forty-eight inclusive of this Ordinance shall *mutatis mutandis* apply to a general election of councillors held under section thirty-four of this Ordinance.

Returning officer.

36. (1) The Town Clerk, or some other person from time to time appointed by the Council, shall be the returning officer for each of the municipal wards at all elections.

(2) The returning officer shall not in any case be entitled to vote at an election for which he is the returning officer.

Election may be held although appointed time has expired.

37. If an election is not held on the appointed day or within the appointed time it may be held on the day next after that day or the expiration of that time.

38. (1) Every person elected a member of the Council shall, before voting or sitting at any meeting thereof, deliver to the Town Clerk a statement in writing, signed by him, of his qualification, in the form contained in the Sixth Schedule hereto, and shall sign the declaration in the form contained in that Schedule and where any change occurs in the qualification as set out in such statement, the councillor may from time to time deliver to the Town Clerk a statement of his qualification for the time being, made in the manner and form hereinbefore provided in this subsection.

Statement and declaration by person elected. Sixth Schedule.

(2) Every person so elected who wilfully and knowingly delivers a false statement of his qualification, or makes a false declaration thereof, shall forfeit the sum of five hundred dollars, one-half of which shall be payable to any voter who sues for it, and the other half to the Town Clerk in aid of the town funds, and the sum shall be recoverable, with costs, before the Supreme Court by an action in the name of that voter or of the Town Clerk.

Penalty for delivering a false declaration.

(3) Any person contravening this section shall thereafter be ineligible for election as a member of the Council.

39. (1) Every elected and nominated member of the Council shall, at the first meeting if possible after his election, and before he sits or votes in the Council, take the following oath of office, or make an affirmation in the form prescribed by the Evidence Ordinance before the Council:—

Oath of councillor. Cap. 25.

“I swear that I will, according to the best of my ability execute the office of a town councillor in and for the town of New Amsterdam, without fear, favour, or partiality. — So help me God.”

During his term of office
> (2)

40. If at any election a person is elected a councillor for more than one ward, he shall, within three days after notice thereof, choose, or in his default the Council shall declare, for which of those wards he shall serve, and he shall thereupon be deemed to have been elected for the ward only so chosen by him or so declared by the Council.

Person elected for more than one ward to serve for one ward.

41. (1) Every member of the Council shall continue in office for the term of two years from the thirty-first day of December next after his election.

Term of office.

(2) The term of office of the retiring councillors shall cease on the thirty-first day of December at midnight and the new Council shall then immediately assume office:

Provided that the term of service of any councillor elected to fill a vacancy occurring after a general election shall cease at midnight on the thirty-first day of December in which the next ensuing general election is held.

42. (1) Whenever the seat of a member of the Council becomes vacant a notice shall be forthwith published by the Council in the *Gazette* and one or more newspapers circulating in the town for an election of a new member in the place of the member whose seat has become vacant and intimation thereof given to the returning officer.

Notice when a seat becomes

(2) By-elections to fill vacancies occurring in the Council from whatever cause between the general elections shall be held in the manner provided in this Ordinance.

Notice of
day and
place of
nomin-
ation.

43. (1) The returning officer shall thereupon cause to be published, in the *Gazette* and one or more newspapers in the town and to be posted at some one or more conspicuous places he thinks fit within the ward in which the vacancy has occurred, a notice of the day and place on and at which he will receive the nomination of a candidate for the seat to be filled by election.

(2) The day so fixed shall not be less than five nor more than twelve days after the day on which the intimation was received by the returning officer.

Nomination
of
candidates.

44. (1) On the day and at the place so fixed the returning officer shall attend at eleven o'clock in the forenoon and for one hour thereafter and receive the nomination of any duly qualified candidate for the seat to be filled.

(2) Every candidate shall be proposed and seconded by two persons whose names appear on the register of voters for the ward, who shall give assurances to the satisfaction of the returning officer (whose decision upon this point shall be final) that the candidate has consented to the nomination, but the nomination of a candidate absent from the Colony shall be void unless his written consent, given within six weeks before the date of his nomination in the presence of two witnesses, is produced and deposited with the returning officer at the time of the nomination.

(3) (i) Every candidate nominated at any election of a member of the Council shall, at the time of nomination, or within forty-eight hours thereafter, deliver or cause to be delivered to the returning officer a statutory declaration made and subscribed by such candidate of his qualification for election as a member of the Council.

(ii) If such statutory declaration is not delivered as aforesaid, the nomination of the candidate shall be null and void.

(4) If only one candidate has been nominated the returning officer shall declare him to have been duly elected.

(5) Where a director or an attorney of the directors of a company, whose qualification is under subsection (3) of section nine of this Ordinance, is nominated as a candidate for election as a member of the Council, he shall at the time of nomination produce, or cause to be produced to the returning officer a duly authenticated resolution passed by the board of directors of the company, authorising him to accept such nomination, and, if such resolution is not produced as aforesaid, the nomination shall be null and void.

(6) Where a husband, whose qualification is under subsection (4) of section nine of this Ordinance, is nominated as a candidate for election as a member of the Council, he shall, at the time of nomination produce or cause to be produced to the returning officer an authority in writing from his wife authorising him to accept such nomination, and if such authority is not produced, the nomination shall be null and void.

(7) Where the authority referred to in subsection (6) of this section is produced to the returning officer, the wife shall

not be qualified for nomination as a councillor in respect of any ward in the town.

(8) Any person convicted of making a false statutory declaration under this section shall not, for a period of three years after the date of the conviction, be eligible to be elected as a member of the Council.

45. (1) If more candidates than one are nominated the returning officer shall thereupon appoint a day, not more than ten days thereafter, for holding the election and each candidate shall pay to the returning officer the sum of ten dollars for the purpose of remunerating the poll clerks and defraying any necessary expenses.

Procedure where more candidates than one are nominated.

(2) A candidate may, at any time before the day appointed for holding the election but not afterwards, withdraw from his candidacy by giving a notice to that effect signed by him to the returning officer, and in that case if only one candidate besides the candidate so withdrawing has been nominated, that candidate who has not withdrawn shall be deemed to be duly elected and notice of his election shall be published by the returning officer in the *Gazette*.

(3) The returning officer shall preside at and conduct the election at the polling station.

46. The voting shall commence at the polling station at ten o'clock in the morning of the day appointed for holding the election and shall close at five o'clock in the afternoon of the same day.

Hour of voting.

47. The returning officer shall provide himself with a certified copy of the register of voters for the ward.

Returning officer to have copy of register of voters.

48. (1) Every officer, clerk and agent in attendance at a polling station shall maintain and aid in maintaining the secrecy of the voting in such polling place, and shall not communicate, except for some purpose authorised by law, before the place is closed, to any person any information as to the name or number in the register of voters of any voter who has or has not applied for a ballot paper or voted at that polling station.

Infringement of secrecy.

(2) No person shall interfere with or attempt to interfere with a voter when marking his vote, or otherwise attempt to obtain in the polling station any information as to the candidate for whom any voter in such polling station is about to vote, or has voted, or as to the number on the back of the ballot paper given to any voter at such polling station.

(3) Every officer clerk and agent in attendance at the counting of the votes shall maintain and aid in maintaining the secrecy of the voting, and, without in any way affecting the generality of the foregoing provision —

(a) shall not attempt to ascertain at such counting the number on the back of such ballot paper; or

(b) shall not communicate any information obtained

at such counting as to the candidate for whom any vote is given in any particular ballot paper.

(4) No person shall, directly or indirectly, induce any voter to display his ballot paper after he has marked it, so as to make known to any person the name of the candidate for whom he has voted.

Offence.

(5) Any person who contravenes any of the provisions of this section shall be liable on summary conviction to imprisonment for any term not exceeding six months or to a fine not exceeding two hundred and fifty dollars.

Penalty.

Votes to be given by ballot.

49. In case of a poll at an election the votes shall be given by ballot. The ballot of each voter shall consist of a paper (in this Ordinance called a ballot paper) showing the names of the candidates, and each ballot paper shall have a number printed on the back and attached to it a counterfoil with the same number printed on the face.

Preparing polling place.

50. In cases where a poll is to take place, the returning officer shall take care beforehand that the polling place is provided with proper conveniences, and that they are properly arranged for carrying out the provisions of this Ordinance, and he shall also provide the polling place with a proper ballot box and a sufficient number of voting papers, in conformity with the provisions of this Ordinance, and any other convenience necessary for taking the poll.

Directions for voters.

51. For the guidance of electors in voting, notices shall be printed in conspicuous characters and placarded in various places outside and inside of the polling station, in the following forms:—

DIRECTIONS.

- (1) To vote, you must draw your pen through the names of all the candidates other than the one for whom you wish to vote.
- (2) You can vote for only one candidate at this election.
- (3) When you have voted, fold up your ballot paper so as to conceal your vote, but so as to show the returning officer the official mark, then put your ballot paper in the ballot box and leave the room.

Duty of voter on coming to vote.

52. Each person on coming to vote shall address himself to the returning officer and shall state his name and address in an audible voice.

Duties of returning officer and voter at time of voting.

53. (1) The returning officer shall proceed to write on the counterfoil of a voting paper the number of the elector on the register of voters, mark the voting paper with an official mark and, calling out the name of the voter in an audible voice, deliver it to the voter within the polling station.

(2) The voter shall then retire to a table apart but within the polling station and, having secretly voted and folded up the ballot paper so as to conceal his vote, but so as to show the official mark at the back, shall place it in the ballot box in the presence of the returning officer, after having shown to the officer the official mark at the back, and having voted shall forthwith leave the polling station,

not be qualified for nomination as a councillor in respect of any ward in the town.

(8) Any person convicted of making a false statutory declaration under this section shall not, for a period of three years after the date of the conviction, be eligible to be elected as a member of the Council.

45. (1) If more candidates than one are nominated the returning officer shall thereupon appoint a day, not more than ten days thereafter, for holding the election and each candidate shall pay to the returning officer the sum of ten dollars for the purpose of remunerating the poll clerks and defraying any necessary expenses. **Procedure where more candidates than one are nominated.**

(2) A candidate may, at any time before the day appointed for holding the election but not afterwards, withdraw from his candidacy by giving a notice to that effect signed by him to the returning officer, and in that case if only one candidate besides the candidate so withdrawing has been nominated, that candidate who has not withdrawn shall be deemed to be duly elected and notice of his election shall be published by the returning officer in the *Gazette*.

(3) The returning officer shall preside at and conduct the election at the polling station.

46. The voting shall commence at the polling station at ten o'clock in the morning of the day appointed for holding the election and shall close at five o'clock in the afternoon of the same day. **Hour of voting.**

47. The returning officer shall provide himself with a certified copy of the register of voters for the ward. **Returning officer to have copy of register of voters.**

48. (1) Every officer, clerk and agent in attendance at a polling station shall maintain and aid in maintaining the secrecy of the voting in such polling place, and shall not communicate, except for some purpose authorised by law, before the place is closed, to any person any information as to the name or number in the register of voters of any voter who has or has not applied for a ballot paper or voted at that polling station. **Infringement of secrecy.**

(2) No person shall interfere with or attempt to interfere with a voter when marking his vote, or otherwise attempt to obtain in the polling station any information as to the candidate for whom any voter in such polling station is about to vote, or has voted, or as to the number on the back of the ballot paper given to any voter at such polling station.

(3) Every officer clerk and agent in attendance at the counting of the votes shall maintain and aid in maintaining the secrecy of the voting, and, without in any way affecting the generality of the foregoing provision —

(a) shall not attempt to ascertain at such counting the number on the back of such ballot paper;

or

(b) shall not communicate any information obtained

at such counting as to the candidate for whom any vote is given in any particular ballot paper.

(4) No person shall, directly or indirectly, induce any voter to display his ballot paper after he has marked it, so as to make known to any person the name of the candidate for whom he has voted.

Offence.

(5) Any person who contravenes any of the provisions of this section shall be liable on summary conviction to imprisonment for any term not exceeding six months or to a fine not exceeding two hundred and fifty dollars.

Penalty.

Votes to be given by ballot.

49. In case of a poll at an election the votes shall be given by ballot. The ballot of each voter shall consist of a paper (in this Ordinance called a ballot paper) showing the names of the candidates, and each ballot paper shall have a number printed on the back and attached to it a counterfoil with the same number printed on the face.

Preparing polling place.

50. In cases where a poll is to take place, the returning officer shall take care beforehand that the polling place is provided with proper conveniences, and that they are properly arranged for carrying out the provisions of this Ordinance, and he shall also provide the polling place with a proper ballot box and a sufficient number of voting papers, in conformity with the provisions of this Ordinance, and any other convenience necessary for taking the poll.

Directions for voters.

51. For the guidance of electors in voting, notices shall be printed in conspicuous characters and placarded in various places outside and inside of the polling station, in the following forms:—

DIRECTIONS.

- (1) To vote, you must draw your pen through the names of all the candidates other than the one for whom you wish to vote.
- (2) You can vote for only one candidate at this election.
- (3) When you have voted, fold up your ballot paper so as to conceal your vote, but so as to show the returning officer the official mark, then put your ballot paper in the ballot box and leave the room.

Duty of voter on coming to vote.

52. Each person on coming to vote shall address himself to the returning officer and shall state his name and address in an audible voice.

Duties of returning officer and voter at time of voting.

53. (1) The returning officer shall proceed to write on the counterfoil of a voting paper the number of the elector on the register of voters, mark the voting paper with an official mark and, calling out the name of the voter in an audible voice, deliver it to the voter within the polling station.

(2) The voter shall then retire to a table apart but within the polling station and, having secretly voted and folded up the ballot paper so as to conceal his vote, but so as to show the official mark at the back, shall place it in the ballot box in the presence of the returning officer, after having shown to the officer the official mark at the back, and having voted shall forthwith leave the polling station.

(3) The returning officer, after having delivered to the voter a ballot paper and while the voter is recording his vote, shall make a mark against his name on the copy of the register of voters to indicate that that voter has voted at the election, but not so as to show the particular voting paper given to him.

54. The voter shall vote upon the voting paper by drawing his pen through the names of all the candidates other than that of the person for whom he wishes to vote. How to vote.

55. No person shall be admitted within any polling place during the hours appointed for taking the poll, except the returning officer and his clerks, the candidates, one agent for each candidate appointed by the candidate in writing, and one voter at a time. Persons to be admitted within the polling place.

56. The agents aforesaid, shall be so posted that they can see each person who presents himself as a voter and hear his name as given in by him, and interfere in the proceedings to the extent allowed by this Ordinance, but so that they cannot see how any other voter votes or interfere. How agents to be placed.

57. The non-attendance of a candidate or of any agent nominated by him shall not in anywise invalidate any act or thing done under this Ordinance, if that act or thing is otherwise duly done, notwithstanding that it is required or authorised to be done in the presence of the candidate or of his duly authorised agent. Non-attendance of candidate or agent not to invalidate any act.

58. If any agent persists, after being warned, in contravening the provisions of sections forty-eight, fifty-five or fifty-six of this Ordinance, the returning officer may have him turned out of the polling place, and the Returning Officer may at any time summon constables within the polling place for the purpose of preserving order. Preservation of order.

59. The returning officer shall, on request, give any necessary instructions to a voter as to the manner in which he shall record his vote. Returning officer to instruct voter if requested.

60. (1) The returning officer may in his discretion, and, if required by any candidate or any person representing a candidate at an election, shall put to any voter, at the time of tendering his vote, the following questions or either of them, and no others:— Questions allowed to be put to voter.

First: Are you the same person whose name appears as A.B. on the register of voters now in force for this ward?

Second: Have you already voted at this election for a councillor for this ward?

(2) If any person refuses to answer either of those questions, the returning officer or his substitute may refuse to receive his vote.

(3) If any person wilfully makes a false answer to any question so put to him, he shall be guilty of a misdemeanour, and on conviction thereof shall be liable to imprisonment for any term not exceeding one year, or a fine not exceeding five hundred dollars. Penalty.

Where a person claims to vote as an elector after another has voted as that elector.

61. If a person representing himself to be a particular elector named on the register applies for a ballot paper after another person has voted as that elector, the applicant shall, upon duly answering the questions set forth in the preceding section, be entitled to mark a ballot paper in the same manner as any other voter; but the ballot paper (hereinafter called a "tendered ballot paper") shall be of a colour differing from the other ballot papers; and, instead of being put into the ballot box, shall be given to the returning officer and indorsed by him with the name of the voter and his number in the register of voters, and set aside in a separate packet, and shall not be counted by the returning officer, and the name of the voter and his number on the register shall be entered on a list to be called "The Tendered Votes List".

Spoilt ballot paper.

62. A voter who has inadvertently so dealt with his ballot paper that it cannot be conveniently used as a ballot paper may, on delivering it to the returning officer and proving the fact of the inadvertence to the satisfaction of the returning officer, obtain another ballot paper in the place of that so delivered up (hereinafter called a "spoilt ballot paper"), which shall be immediately cancelled by the returning officer writing the word "cancelled" across the face.

Physical incapacity to vote.

63. If any voter is incapacitated by blindness or other physical cause from voting in the manner prescribed by this Ordinance, the returning officer shall, at his request, in the presence of the agents of the candidates, if present, cause his vote to be marked on a ballot paper in the manner directed by him, and the ballot paper so marked to be placed in the ballot box; and the name and number on the register of voters of every voter whose vote is so marked, shall be entered on a list to be kept by the returning officer.

Size and construction of ballot box.

64. (1) The ballot box shall be of convenient size, shall be provided with a lock and key, and shall be so constructed that the ballot paper can be introduced therein, but cannot be withdrawn unless it is unlocked.

(2) It shall be exhibited empty to the persons in the polling-place immediately before the taking of the poll and then securely locked, and not be unlocked again except by the returning officer at the close of the poll in manner hereinafter mentioned.

Counting of votes.

65. (1) The returning officer, at the close of the poll, shall—

- (a) proceed, in the presence of the candidates or their agents appointed as aforesaid, to count the votes contained in the ballot box, keeping the ballot papers with their faces upwards, and taking all proper precautions for preventing anyone from seeing the numbers on their backs;
- (b) compare their number and that of the unused and spoilt papers, with the number of voting papers provided by him for the election and record the number of votes given for each candidate;
- (c) after having counted and recorded the contents of the ballot box in manner aforesaid, wrap the

voting papers contained therein with the counterfoils and spoilt, tendered, and unused voting papers, the marked copy of the register of voters, the tendered votes list, and the list of votes marked by him, and a statement of the number of the voters whose votes are so marked by him, and so seal up the parcel that it cannot be opened without breaking the seals.

(2) The returning officer shall not himself refer, and shall take proper precautions to prevent anyone else referring to the counterfoils of the used ballot papers.

66. Any ballot paper which has not the official mark on its back, or on which votes are given to more candidates than the voter is entitled to vote for, or on which anything except the said number on the back is written or marked by which the voter can be identified, shall be void and not counted. Ballot papers not to be counted.

67. (1) The returning officer shall indorse "rejected" on any ballot paper which he rejects as invalid, and shall add to the indorsement "rejection objected to" if an objection is in fact made by any agent to his decision. Rejected ballot papers.

(2) The returning officer shall report to the Council the number of ballot papers rejected and not counted by him under the several heads of—

- (a) want of official mark;
- (b) voting for more candidates than entitled to;
- (c) writing or mark by which voter could be identified;
- (d) unmarked or void for uncertainty,

and shall on request allow any agents of the candidates to copy the report before it is sent, and the Council shall cause it to be published in the *Gazette*.

68. Subject to reversal on petition questioning the election or return, the decision of the returning officer of any question arising in respect of any ballot paper shall be final. How far decision of returning officer final.

69. In any case where the proceedings at an election are interrupted or obstructed by any riot or open violence at the polling station, the returning officer may adjourn the further holding of the election there until the next working day, and so on as often as necessary. Procedure in case of obstruction of election.

70. (1) As soon as possible after the close of the poll, but not later than eleven o'clock in the morning on the working day next thereafter, the returning officer shall attend at the polling station and publicly state the result of the poll, and make declaration of the person elected to be a member of the Council, and he shall forthwith make to the Council a return of the member elected. Declaration of result of poll.

(2) If the returning officer wilfully makes a false return, he shall forfeit the sum of one thousand dollars, which may be recovered with costs by an action in the Supreme Court at the suit of any person aggrieved. Penalty for wilfully making a false return.

Case of equality of votes.

71. Where two or more candidates have an equal number of votes the returning officer shall make a special return of the result of the election, and the Council shall have the right of electing by ballot one of those candidates to be a member of the Council.

Return of particulars of voting to Council.

72. The returning officer shall, as soon as practicable after an election, make a return to the Council, showing the number of persons who appear to have voted and the number of spoiled ballot papers and the number of persons to whom, from the counterfoils, voting papers appear to have been supplied.

Papers to be sent to the Council and duty of Council thereafter.

73. The returning officer shall, as soon as practicable after making the return, send the parcel made up by him in accordance with section sixty-five of this Ordinance to the Council, who shall keep it in safe custody and allow no one to have access thereto:

Provided that —

- (a) when an election petition has been presented questioning the validity of any election or return, the Council shall, on the order of a judge of the Supreme Court, deliver to him the parcel of papers relating to the election that is in dispute; and
- (b) after the expiration of twelve months from the day of any election the Council may burn the parcel of papers used at that election.

Protection of voters.

74. No voter who has voted at an election shall, in any proceeding to question the election, be required to state for whom he has voted.

Part VII.

OFFENCES RELATING TO ELECTIONS.

Personation.

75. Every person who at an election applies for a ballot paper in the name of another person, whether that name is the name of a person living or dead, or of a fictitious person, or who, having voted once at any election, applies at the same election for a ballot paper in his own name, shall be guilty of an offence and on conviction thereof shall be liable to imprisonment for any term not exceeding six months or a fine not exceeding two hundred and fifty dollars.

Certain other offences.

76. (1) Every person who—

- (a) forges or counterfeits, or fraudulently defaces or destroys, any ballot paper or the official mark thereon; or
- (b) without due authority supplies a ballot paper to any person; or
- (c) fraudulently puts into the ballot box any paper other than the ballot paper which he is authorised by law to put in; or
- (d) fraudulently takes out of the polling station any ballot paper; or
- (e) without due authority, destroys, takes, opens, or otherwise interferes with the ballot box or packet

of ballot papers then in use for the purposes of any election, shall be guilty of an offence and be liable, if he is the returning officer or clerk employed at the polling station, to imprisonment for any term not exceeding two years, or to a fine not exceeding one thousand dollars, and if he is any other person, to imprisonment for any term not exceeding six months or a fine not exceeding two hundred and fifty dollars.

(2) Any attempt to commit any offence specified in this section shall be punishable in the manner in which the offence itself is punishable.

77. In any information or prosecution for an offence in relation to the ballot box, ballot papers, and other things in use at an election, the property in them may be stated to be in the returning officer at the election. Laying property in information.

78. (1) No candidate at any election may, before, during or after any election by himself or his agent, directly or indirectly, give or provide or pay wholly or in part the expense of giving or providing any food, drink, entertainment or provision to or for any person for the purpose of corruptly influencing that person, or any other person, to vote or refrain from voting at the election. Treating.

(2) No candidate at any election may directly or indirectly by himself or by any other person on his behalf — Threats.

(a) make use of, or threaten to make use of, any force, violence or restraint; or

(b) inflict or threaten to inflict, by himself or by any other person, any temporal or spiritual injury, damage, harm or loss upon or against any person,

in order to induce any voter to vote, or to refrain from voting.

(3) No candidate at any election may directly or indirectly by himself or by any other person on his behalf — Bribery.

(a) give or agree to give; or

(b) lend or agree to lend; or

(c) offer or promise; or

(d) promise to procure or promise to endeavour to procure —

any money or valuable consideration to or for any voter, or to or for any other person, in order to induce any voter to vote or to refrain from voting.

79. Any transport, lease or assignment thereof whatsoever, made to any person in a fraudulent or collusive manner to qualify him to give his vote at any election of a councillor, shall be deemed and taken against those persons who executed it, as valid and absolute, and every bond, covenant, collateral or other security, contract or agreement between or with those parties, or any of them, for redeeming, revoking, or defeating the transport, lease or assignment shall be null and void. Collusive instrument for purpose of qualifying voter to be deemed valid against person executing it.

(2) Every person who —

(a) makes or executes any transport, lease or assignment thereof in the manner and for the purpose specified in subsection (1) of this section; or

(b) by colour of such transport, lease or assignment votes at an election of a councillor,

shall, for each such act forfeit the sum of five hundred dollars to any person suing therefor in the Supreme Court.

Persons contravening provisions of this Ordinance liable to suit by aggrieved party.

80. Any returning officer, clerk, or any other person, who wilfully contravenes, or disobeys the provisions of this Ordinance, or any of them, with respect to any matter or thing which he is required to do, shall for that offence be liable to be sued in the Supreme Court by any registered voter, candidate, member actually returned, or other party aggrieved, for the sum of five hundred dollars; and the defendant in the action having judgement against him, shall pay the sum so awarded, with full costs of suit, to the party who sues therefor;

Provided that —

- (a) the action shall be commenced within four calendar months next after the cause of action arose, and notice in writing shall be given to the defendant within one month after the cause of action arose, signed by the party bringing the action or his solicitor, and setting forth the place of abode of the party signing it; and
- (b) the defendant against whom judgement is obtained in the action shall be allowed to plead that judgement as a bar to any other action brought against him for the same matter or thing.

Part VIII.

ELECTION PETITIONS.

Objection to return by candidate or voter.

81. An election petition may be presented to the Supreme Court within seven days after the return or election by any one or more of the following persons, that is to say, some person who —

- (a) voted or had a right to vote at the election to which the petition relates; or
- (b) claims to have had a right to be returned or elected at the election; or
- (c) alleges himself to have been a candidate thereat.

Procedure thereon.

82. (1) On presenting an election petition the person presenting it shall deposit with the registrar the sum of two hundred and forty dollars, or give security with one or more sureties for payment of the like amount as security for costs.

(2) The registrar shall not receive and file any petition unless that sum is paid or secured as aforesaid.

Mode of trial of an election petition.

83. Every election petition shall be tried by a judge of the Supreme Court sitting alone without a jury, and the procedure and practice shall be as nearly as possible the same as in an action commenced by writ of summons, and the election court shall, subject to the provisions of this Ordinance, have the same powers, jurisdiction and authority as if an election petition were an action within the jurisdiction of the Court; and the witnesses shall be summoned and sworn in the same manner as in the trial of an action, and shall be subject to the same penalties for perjury.

84. The election of a candidate as a councillor shall be declared void on an election petition if any one of the following grounds be proved—

Avoidance of election on election petition.

- (a) that by reason of general bribery, general treating, general intimidation or other misconduct, or other circumstances, whether similar to those before enumerated or not, the majority of voters have been prevented from electing the candidate whom they preferred;
- (b) if it appears that the election was not conducted in accordance with the principles laid down in this Ordinance, and that such non-compliance affected the result of the election;
- (c) that the candidate or his agent has contravened the provisions of section seventy-eight of this Ordinance;
- (d) that the candidate was, at the time of his election a person not qualified, or a person disqualified, for election as a councillor,

and where any of the grounds specified in paragraph (c) of this section has been proved, the candidate shall be disqualified for nomination or election as a councillor for a period of three years next after the election.

85. At the conclusion of the hearing, the judge shall determine —

Matters to be determined by the election court.

- (a) whether the councillor whose return or election is complained of, or any and what other person was duly returned or elected; or
- (b) whether the election was void,

and shall certify the determination to the Council; and upon that certificate being given, the determination shall be final; and the return shall be confirmed or altered or a new election shall be held, as the case may require, in accordance with the certificate.

86. If any matter of procedure or practice on an election petition shall arise, which is not provided for by this Ordinance, the practice and procedure prescribed by the Legislative Council Election Petitions Rules, 1948, and any amending rules shall, *mutatis mutandis* and subject to the provisions of this Ordinance, be followed.

Practice and procedure

Part IX.

ELECTION OF MAYOR.

87. (1) The Mayor shall be a fit and proper person elected in the manner hereinafter provided from amongst the councillors entitled to hold office on the first day of January in the year for which the Mayor is elected.

Mode of election.

(2) The Town Clerk shall be the returning officer at the election of the Mayor.

(3) The returning officer shall in the month of December in each year summon a meeting of the councillors referred to in subsection (1) of this section to take place on a day between the fifteenth day and the twenty-third day of that month for the purpose of electing the Mayor for the next ensuing year.

(4) The returning officer shall give each councillor at least three days notice of the meeting.

(5) The returning officer shall preside at the meeting, but he shall not have any vote.

(6) Every candidate for election as Mayor shall be proposed by a councillor present at the meeting and shall be seconded by another such councillor.

(7) If only one person is proposed and seconded for election as Mayor, the returning officer shall forthwith declare that person Mayor for the next ensuing year.

(8) If two or more persons are proposed and seconded for election as Mayor, the returning officer shall take the votes of the councillors present at the meeting and the person proposed and seconded who secures the greatest number of votes shall forthwith be declared Mayor for the next ensuing year.

(9) Where no person proposed and seconded secures a clear majority of votes over the other person or persons proposed and seconded, or where there is an equality of votes among the persons obtaining the majority of votes, so that no person is elected at the meeting as Mayor, the returning officer shall appoint a day not later than the twenty-eighth day of December in the same year for the election of the Mayor, from amongst the persons proposed and seconded, by the voters whose names appear in the register of voters for the time being in force for the several wards of the town.

(10) The election shall be conducted in the manner prescribed for the election of councillors, the town being for the purposes of the election deemed to be one ward, but no voter shall be entitled to exercise more than one vote at the election of the Mayor.

(11) The person in whose favour the greatest number of votes is cast shall be declared Mayor for the next ensuing year, and the returning officer shall forthwith report that fact to the Governor.

(12) Where by reason of an equality of votes cast at the election by the voters no person is elected Mayor, the Governor shall have and exercise a casting vote.

(13) The returning officer shall decide and determine any question arising at the election of the Mayor, but any person whose name appears in the register of voters for any ward in the town may, within fifteen days after the election, file a petition to the Supreme Court by way of appeal against any such decision of the returning officer, at the same time depositing with the Registrar of the Supreme Court the sum of two hundred and forty dollars to abide the costs of the petition.

(14) Every such petition shall be heard in the same manner as an election petition is heard under this Ordinance and shall be subject to the same rules of procedure, and at the conclusion of the hearing the Judge shall determine the question raised in the petition and his decision shall be final.

Sum of money to be at the personal disposal of the Mayor.

88. The Council shall in each year appropriate out of its funds a sum not exceeding five hundred dollars to be placed at the personal disposal of the Mayor.

89. The Mayor —

- (a) shall, before he exercises any mayoral function, take before the Governor the following oath of office, or an affirmation in the form prescribed by the Evidence Ordinance:—
- Oath of office.
Chapter 25.
- “I swear that I will, according to the best of my ability, execute the office of Mayor of the town of New Amsterdam, without fear, favour or partiality. — So help me God.”;
- (b) shall be *ex officio* a justice of the peace in and for the town and take the oath required to be taken by a justice of the peace; Ex-officio a justice of the peace.
- (c) shall have power to administer all oaths required to be administered by him under the provisions of this Ordinance; Empowered to administer oaths.
- (d) shall assume office on the first day of January and continue therein until the thirty-first day of December in the same year, but shall be eligible for re-election; Assumption of office.
- Provided that no person who has filled the office of Mayor for two or more terms in succession, whether the same be whole years or parts of years unless one of the terms is less than six months, shall be eligible for re-election unless a period of at least one year intervenes between the date of the expiration of his last term of office as Mayor and the date at which, if re-elected, his term of office would commence.
- (e) may resign his office of Mayor by writing under his hand addressed to the Town Clerk, but the resignation shall not affect his position as a member of the Council. May resign.

90. (1) [The Council may appoint any councillor to be the Deputy Mayor to hold office during the term of office of the Mayor; and in the absence or illness of the Mayor, such Deputy Mayor shall be deemed to have authority to exercise all the powers and discharge all the duties vested in and imposed upon the Mayor under and by virtue of this Ordinance and any other law; and all things done, exercised, or suffered by the Deputy Mayor as aforesaid shall be as valid and effectual in all respects as if they had been done, exercised, or suffered by the Mayor; but such Deputy Mayor shall not, unless he is a Justice of the Peace, act as a Justice or in any judicial capacity. Mode of election of Deputy Mayor.

(2) In the event of the death, resignation, or disqualification from any cause of the Mayor, the Deputy Mayor shall forthwith succeed to the office of Mayor, and shall continue in such office until the time when the Mayor whom he succeeds would have gone out of office, and he shall then go out of office.

(3) In the event of the death, resignation or disqualification from any cause of the Deputy Mayor, the Council may appoint any other councillor to be the Deputy Mayor, to hold

office for such term, not exceeding the term of office of the then Mayor, as the Council may, by resolution determine.

(4) If the Mayor is dead or is absent or otherwise incapable of acting in the exercise of his powers and duties under this or any other Ordinance for the time being in force, and the Deputy Mayor is also incapable of acting for any of the reasons hereinbefore specified, the Council shall forthwith elect a councillor to execute those powers and duties in place of the Mayor for such term as the Council may, by resolution, determine.

(5) In the election of the Deputy Mayor which shall be by motion, duly seconded, a candidate for election shall not preside.

Oath of
office of
Deputy
Mayor.

91. The Deputy Mayor shall forthwith after his appointment take before the Governor the following oath of office or an affirmation in the form perscribed by the Evidence Ordinance; "I swear that I will, according to the best of my ability execute the office of Deputy Mayor of the Town of New Amsterdam without fear, favour, or partiality. — So help me God."

Part X.

VACATION OF SEAT BY MEMBERS.

Vacation of
seat by
Members,
and grant-
ing of
leave of
absence.

92. (1) If any member of the Council—
- (a) by writing under his hand addressed to the Mayor or the Council, resigns his seat in the Council; or
 - (b) departs from the Colony without the leave of the Council or of the Mayor first had and obtained under the provisions of subsections (2) and (3) of this section; or
 - (c) having departed from the Colony with such leave, remains out of the Colony after that leave or any extension thereof has expired,—
his seat in the Council shall thereupon *ipso facto* become vacant.

(2) The Council, or in any case of urgency between meetings, the Mayor, may grant to any councillor other than the Mayor leave of absence not exceeding four months at any one time, from the service of the Council, whether that member does or does not remain in the Colony.

(3) The Council may grant leave of absence to the Mayor for any period not exceeding four months, but any leave granted to the Mayor or to any councillor may be extended in special circumstances by the Council for any period which together with the leave first granted, does not exceed in the aggregate six months.

(4) When the Mayor grants leave of absence, he shall report the fact to the Council at its next meeting.

Validity of
proceed-
ings not
affected by
vacancy.

93. The existence of any vacancy or vacancies among the members of the Council shall not affect the validity of any proceedings of the Council.

94. Every person who, having been returned as a member of the Council but not having been qualified at the time of his election to be a member, sits or votes in the Council or having been elected a member sits or votes in the Council after he is disqualified for sitting or voting in the Council, shall be liable to a penalty of two hundred and fifty dollars for every day on which he so sits or votes; and the penalty may be recovered with costs by an action in any court of competent jurisdiction by any registered voter who sues for it, and one half of any sum so recovered shall be paid to the Town Clerk in aid of the town funds.

Penalty for sitting or voting in the Council when disqualified.

Part XI.

MEETINGS OF THE COUNCIL.

95. The following rules with respect to the meetings and proceedings of the Council shall be observed:—

Rules governing meetings.

- (a) the Council shall hold monthly meetings for the transaction of general business;
- (b) the monthly meetings shall be held at such hour and on such days as the Council may from time to time determine;
- (c) the Mayor may at any time call a special meeting of the Council;
- (d) if the Mayor refuses to call a meeting after a requisition for that purpose signed by five members of the Council has been presented to him, any five members of the Council may forthwith on that refusal call a meeting; if the Mayor (without so refusing) does not, within three days after such presentation, call a meeting, any five members of the Council may, on the expiration of those three days, call a meeting;
- (e) two clear days at least before any ordinary meeting of the Council, a summons to attend such meeting, specifying the business proposed to be transacted thereat and signed by the Town Clerk, shall be left at the usual place of business or abode of each member of the Council;
- (f) want of service of the summons on any member of the Council shall not affect the validity of a meeting;
- (g) except by leave of the Council, no business shall be transacted at a meeting other than that specified in the summons relating thereto;
- (h) the Mayor shall be *ex officio* Chairman of the Council and shall unless disqualified preside at all meetings of the Council at which he is present; in case of his absence, the Deputy Mayor, shall preside, and in the case of the absence of the Deputy Mayor the members present and constituting a quorum, shall elect a Chairman from among their number;

- (i) at any meeting of the Council, five members shall form a quorum for the transaction of business;
- (j) all acts of the Council, and all questions coming or arising before the Council, shall, unless otherwise prescribed by this or any other Ordinance, be done and decided by the majority of such members of the Council as are present and vote at a meeting held in pursuance of this Ordinance, the whole number present at the meeting not being less than five members:

Provided that, except with the unanimous consent of the members present, not being less than seven in number no motion passed within the preceding six months, and no motion to the same effect as any motion which has been negatived by the Council within the preceding six months, shall be considered at any meeting of the Council; and no such motion shall be passed except upon the vote of a majority of at least five of the members present and voting thereon;

- (k) in case of an equality of votes, the Chairman of the meeting shall have a second or casting vote;
- (l) subject to the foregoing provisions, the Council may make such Standing Rules and Orders as they may think proper for the regulation and conduct of the proceedings of their meetings and the meetings of their committees, and may in such Standing Rules and Orders provide that the minutes of the proceedings of any meeting shall, when copies thereof shall have been circulated to members, be taken as read, and may also provide for the postponement of the confirmation of the minutes of the proceedings of any meeting:

Provided that a motion to suspend the Standing Rules and Orders of the Council or any of them may be made at any meeting of the Council without notice, and shall be voted upon without debate, but shall not be carried unless supported by at least two-thirds of the members present and voting.

Appoint-
ment of
commit-
tees.

96. (1) The Council may appoint out of their own body such and so many committees, either of a general or a special nature, and consisting of such number of persons as they shall think fit, for any purposes which, in the opinion of the Council, would be better regulated and managed by means of such committee.

(2) The quorum of every committee shall be fixed by the Council at the time of appointment of such committee.

(3) Every committee of the Council shall, unless otherwise expressly authorised by the terms of its reference, submit its proceedings and recommendations to the Council for approval.

(4) The proceedings and recommendations of every committee of the Council shall be submitted to the Council in the form either of minutes of the proceedings at the meetings of such committee, or of a formal report signed by the Chairman and members of such committee.

(5) Any recommendations in any such report when adopted by a majority of the members present, shall become and be deemed to be resolutions of the Council.

97. The Council may delegate to any committee or committees appointed by them any of the powers or duties vested in or imposed upon the Council by this or any other Ordinance for the time being in force, and may, if the Council think fit, direct that the acts and proceedings of such committee or committees in relation to the powers and duties so delegated to such committee or committees shall be done and instituted in the name of the Council and shall be valid and binding on all parties as if such acts had been done and such proceedings taken by the Council.

Delegation of powers of the Council to committees.

98. The reasonable travelling expenses of every committee incurred for the purpose of inspecting premises and places in connection with the matters referred to such committees shall be paid out of the ordinary revenue of the Council.

Travelling expenses of committees.

99. No act or proceedings of the Council or of any committee shall be invalidated by reason of any vacancy or vacancies in their body, or by any defect in the mode of appointment of such committee.

Validation of proceedings.

100. A minute of the proceedings at a meeting of the Council or of a committee signed by the Chairman, or by a member of the Council or committee describing himself as or appearing to be Chairman of the meeting at which such minute is signed shall be received in evidence without further proof.

Minutes signed by Chairman to be evidence.

101. Until the contrary is proved, every meeting of the Council or of a committee in respect of the proceedings whereof a minute has been so made, and every meeting of a committee the proceedings whereof are embodied in a report signed by the Chairman of such committee and received by the Council, shall be deemed to have been duly convened and held, and all the members of the meeting shall be deemed to have been duly qualified, and, where the proceedings are proceedings of a committee, the committee shall be deemed to have been duly constituted and to have had power to deal with the matters referred to in the minute or in the report, as the case may be.

Due constitution of Council and committees.

102. A member of the Council shall not vote or take part in any matter before the Council or a committee in which he has directly or indirectly, by himself or his partner, any pecuniary interest.

Pecuniary interest.

Part XII.

OFFICERS OF THE COUNCIL.

103. (1) The Council may appoint a Town Clerk, a Town Engineer, a manager and an engineer, or a manager and engineer of electricity works and water works, a clerk of the market, a

Appointment of officers.

health officer, one or more sanitary inspectors, and any other officers the Council from time to time deems necessary, and may also fix their salaries and emoluments:

Provided that —

- (a) the appointment of a Town Clerk, a Town Engineer, a manager and engineer of electricity works and water works, and a health officer shall be subject to previous consultation with, and the previous approval of, the Governor in Council; and
- (b) in the case of those officers no dismissal or reduction of salary shall take place without the approval of the Governor in Council; and
- (c) the Governor in Council may, after consultation with the Council, direct the Council to suspend or to dismiss either of those officers, or on giving three months notice, to terminate his employment.

(2) From and after the commencement of this Ordinance, the salary of the Town Clerk shall be six hundred pounds sterling per annum or such other sum as the Council, with the consent of the Governor in Council, may fix.

(3) Any person holding the office of Town Clerk shall retire from such office upon attaining the age of sixty years, but the Council may in their discretion, extend his period of service beyond such period from year to year, but not for more than five years.

(4) Any person holding the office of Town Clerk shall devote the whole of his time to the duties of his office, and shall not, without the consent of the Council, engage in any other business or occupation.

(5) The officers holding the offices specified in subsection (1) of this section at the commencement of this Ordinance appointed under the Former Council shall continue to hold office and shall be deemed to have been appointed by the Council under this Ordinance.

Duties of
Town
Clerk.

104. (1) The Town Clerk shall have charge and custody of, and be responsible for, the charters, deeds, records and documents of the town, and they shall be kept as the Council may direct.

(2) The Town Clerk shall, in books to be kept by him, for that purpose, enter true accounts of all moneys received by him and paid on behalf of the Council, and the several matters for which such moneys shall have been received and paid, and the said books shall, at all times, be open to inspection by the Mayor and councillors, or any of them.

(3) The Town Clerk shall attend all meetings of the Council, and shall draw up the minutes of such meetings, and shall cause the same to be printed and bound and kept in annual volumes or otherwise as the Council may direct and shall also, whenever required, attend meetings of any committee of the Council, and draw up the minutes of the reports thereof, as the case may be.

105. The Council may require any officer appointed by them to give such security as they may think proper for the due execution of the duties of his office.

Officers may be required to give security.

106. All officers holding office under the Former Council at the commencement of this Ordinance shall continue to hold their respective offices by the same tenure and upon the same terms as heretofore and shall be deemed to be officers of the Council appointed under this Ordinance.

Officers of Former Council to continue in office.

107. The Council may appoint and employ, at such remuneration as they may think reasonable and on such terms and conditions as they may think fit, such officers and other servants as they may deem necessary for the efficient discharge of any duties imposed upon the Council by the Public Health Ordinance, 1934, or any other Ordinance, and all such officers and servants shall be subject to all the provisions of this Ordinance affecting officers and servants of the Council and shall hold their offices during the pleasure of the Council.

Power to appoint officers for the purposes of the Public Health Ordinance, 1934. No. 15 of 1934.

108. The Council may award pensions, gratuities, or premiums (if any) to any of their officers or servants as seem to them just, and the pensions, gratuities, or premiums, shall be paid out of the general revenue of the Council:

Council may award pensions and gratuities.

Provided that any award of pension, gratuity, or premium shall not exceed the rate of allowance, for the time being prescribed by law in the case of public officers.

109. The Council may make regulations —

- (a) for the discipline of the officers and servants of the Council, their duties and obligations;
- (b) for the granting of leave of absence to such officers and servants;
- (c) for the keeping and management of accounts;
- (d) for the custody and payment of moneys; and
- (e) generally for the good government of such officers and servants.

Regulations for good government of officers and servants.

Part XIII.

TOWN CONSTABLES.

110. The Council may from time to time appoint fit and proper persons to be town constables for the apprehension of offenders against this Ordinance, and generally for the purpose of carrying out the provisions of this Ordinance.

Appointment.

111. Every town constable on his appointment shall take before the Mayor the following oath of office:—

Oath.

“I, A.B. of _____, do swear that I will well and truly serve our Sovereign Lord the King as a town constable for the town of New Amsterdam and as a constable generally, if need be, whenever required.
— So help me God.”

112. No town constable shall be at liberty to resign his office without giving one month's notice, or receiving from the Council permission to resign; and any town constable who resigns

Resignation.

his office or ceases to act without that permission shall be liable to a penalty not exceeding twenty-four dollars.

Penalty.

Neglect of duty.

113. Any town constable who —

(a) is guilty of any neglect or violation of duty; or

(b) refuses or neglects to obey a lawful order of the Council or any of its officers,

shall be liable to a penalty not exceeding twenty-four dollars, and shall forfeit all pay then due to him.

Surrender of uniform and baton by person ceasing to serve.

114. Every person who ceases to serve as a town constable shall, within seven days thereafter, surrender to the Town Clerk the uniform and baton with which he is provided, and, if he fails to do so, he shall be liable to a penalty not exceeding twenty-five dollars or to imprisonment for any term not exceeding one month, and the magistrate may issue his warrant to search for and seize the uniform and baton wherever they may be found.

Delivery of uniform and baton on death.

115. When a town constable dies, his heir, executor or other representative, or the householder in whose house he dies possessed of the uniform and baton shall, within fourteen days, surrender them to the Town Clerk, and every heir, executor or representative or householder as aforesaid failing so to do shall be liable to a penalty not exceeding twenty-five dollars or to imprisonment for a term not exceeding one month, and the magistrate may issue his warrant to search for and seize the uniform and baton wherever they may be found.

Assaulting officer of the Council.

116. Every person who assaults, molests or obstructs any officer of the Council, or any town constable, or any person employed by the Council in the execution of his duty under and by virtue of this Ordinance or any by-law made under it shall be liable to a penalty not exceeding twenty-four dollars.

Violence or annoyance by officer of the Council

117. Any officer of the Council, or any town constable who, under pretence of doing any act under the provisions of this Ordinance, or of any by-law made thereunder, uses any unnecessary violence or gives any uncalled for and vexatious annoyance, shall be liable on the complaint of any person aggrieved, to a penalty not exceeding fifty dollars; and one moiety of the sum recovered shall be paid to the complainant, and the other moiety to the Town Clerk in aid of the town funds.

Powers of entry.

118. The members of the Council, for the purpose of this Ordinance and of the by-laws made under it, shall have power, by themselves, their officers and servants, to enter at all reasonable hours in the daytime into and upon any land or building within the limits of the town for the purposes of inspecting any work authorised to be executed by them, or of executing such work:

Provided that, except with the consent of the owner or occupier, no such entry shall be made until after the expiration of twenty-four hours notice for that purpose given to such owner or occupier.

Liability of Council for

119. The Council in its corporate capacity shall be liable and responsible in damages at the suit of any person aggrieved for

all sorts and acts of omission or neglect of duty, misfeasances and malfeasances, of any of its officers or servants in all matters within the scope of their authority or employment; but each of those officers and servants shall be liable and responsible to the Council in the full amount of the damages and costs, with all costs of suit as between solicitor and client.

120. Informations and complaints in respect of any offences against the provisions of this Ordinance, or any by-laws, rules, or regulations made by the Council under this Ordinance or any other Ordinance, may be laid and made by any town constable in his own name, and any town constable may also conduct the proceedings before the magistrate in all cases in which any town constable is the complainant under the powers conferred by this section.

Town constable may lay information and prosecute before magistrate.

Part XIV.

TOWN TAXES.

121. The Council shall have full power and authority to assess, levy and raise town taxes, and to superintend and direct the collection and appropriation thereof, for all or any of the following purposes, namely,—

Power to raise taxes for certain purposes.

- (a) the maintenance of the public streets, roads, thoroughfares, dams, trenches, drains, ways, places, sluices, kokers, stellings, bridges, and canals of the town which are vested in or under the control of the Council;
- (b) the exercise or discharge of any authority or obligation for the benefit of public health within the town vested in or imposed on the Council by the Public Health Ordinance, 1934, or any other Ordinance;
- (c) the supply of water for the use of the town as herein provided;
- (d) the provision and maintenance of any burial ground, public garden, pound, market or slaughter house;
- (e) the equipment and maintenance of a fire brigade and payment of wages in respect thereof;
- (f) the lighting of all public streets, roads, thoroughfares, stellings and bridges of the town;
- (g) the acquisition of land under the provisions hereinafter contained;
- (h) the repayment of any moneys raised on loan as hereinafter specified, and the payment of interest on any part of those moneys for the time being not repayable;
- (i) the payment of the salaries and wages of all officers and servants duly employed by the Council;
- (j) the award of pensions and gratuities to officers and servants employed by the Council;
- (k) the payment of any expenditure which the Council is by this or any other Ordinance, authorised to incur; and
- (l) generally for the welfare and good government of the town.

Audit of accounts. 122. (1) The accounts of the Council shall at some date between the first day of January and the thirty-first day of March in each year be audited by the Director of Audit who shall give one month's notice in writing to the Town Clerk of the date he intends to commence the work of audit, and at the audit any taxpayer may be present and shall be at liberty to communicate with the Director of Audit on any matter relating to the accounts of the Council. The expenses of the audit shall be borne by the Council.

Account to be made up. (2) An account duly made up and balanced of all moneys received and of all moneys expended and applied by the Council during the year preceding the audit, together with all rate books, account books, contracts, accounts, vouchers, and receipts, relating thereto, shall be deposited in the Town Clerk's office and be open to the inspection of all taxpayers for fourteen days before the audit, and the taxpayers may take copies thereof or extracts therefrom without payment; and the Town Clerk, or any officer or servant of the Council, who, being liable to make up the account fails to do so, or who alters it or allows it to be altered when made up, or refuses to allow inspection thereof, shall be liable to a penalty not exceeding twenty-five dollars.

Penalty. Taxpayer may recover money spent without authority. (3) Any taxpayer may, by action before any court of competent jurisdiction, recover with costs any sum which has been paid or applied without legal authority from any member of the Council who has authorised or taken part in authorising the payment or application, or, if the payment was not authorised, from the person who was the Town Clerk making the payment or application, and any sum so recovered shall be paid to the Town Clerk in aid of the town funds.

(4) The Council may appoint auditors for the purpose of making monthly audits and remunerate them as it thinks proper.

Annual reports to be submitted to the Governor. 123. (1) On or before the twenty-eighth day of February in each year the Council shall transmit to the Governor a written report, signed by the Mayor, containing an account of all moneys received, expended, and applied by the Council during the preceding year.

(2) The report shall also contain—

- (a) an estimate of the sum required for the expenses of the current year, with a statement of ways and means;
- (b) the amount of the tax, calculated upon the appraised value of all lots within the town, levied to meet those expenses; and
- (c) the estimated revenue from the Electricity and Water Works;

and the report so transmitted shall be published forthwith in the *Gazette* for four successive weeks.

(3) On or before the fifteenth day of November in each year the Council shall transmit to the Governor a written report, signed by the Mayor, containing —

- (a) an estimate of the sum required for the expenses of the ensuing year, with a statement of ways and means;
- (b) the amount of the tax, calculated upon the

appraised value of all lots within the town levied to meet those expenses, and the estimated revenue from the Electricity and Water Works,

and the report so transmitted shall be forthwith published in the *Gazette* for four successive weeks.

124. (1) After the publication prescribed in subsection (3) of the last preceding section, the Council may levy in each year the amounts of the taxes upon the appraised value of lots within the town not exempted from taxation, and all those lots shall be liable and executable therefor. Power of Council to levy.

(2) The tax shall be due and payable in each year in the instalments and on the dates following—

One half not later than the sixteenth day of February in each year;

One half not later than the sixteenth day of June in each year.

(3) Subject to the provisions of subsection (2) of this section, the Town Clerk shall receive any payment not being less than ten dollars, on account of any instalment of tax for the time being due and payable.

(4) When any instalment of tax remains unpaid for more than two months from the date fixed for the payment of the tax, interest at the rate of six per centum per annum from that date until the date of the payment of the instalment shall be liable by way of surcharge upon the amount of the instalment and shall be recoverable in the manner provided for the recovery of the instalment, and the Town Clerk shall not receive the amount of the tax without that interest.

125. Where default is made in the payment of any tax or instalment the Town Clerk may, and, if the default has continued for more than three months, shall proceed for the recovery of the tax or instalment with interest, if any, by parate execution, and shall forthwith report to the Council that this has been done. Mode of recovering tax.

126. If any joint proprietor of any lot refuses or neglects to contribute his joint proportion of any town taxes levied under this Ordinance, payable in respect of the lot, any joint proprietor paying or being compelled to pay the whole amount of the whole instalment then assessed and payable in respect of the lot, may recover by action from his several co-proprietors the several sums due by them respectively as a contribution together with his costs. Enforcement of contribution from co-proprietor of lot.

127. Where any proceedings have been commenced for the recovery of any tax, rate or instalment of debt specified in the preceding section against any lot which is subject to an agreement of lease for a term of not less than one year, the lessee, without prejudice to any rights or remedies which he may otherwise have, may pay to the Town Clerk the amount of such tax, rate or instalment of debt together with interest and costs and thereafter may recover by action from the proprietor of the lot the amount so paid by him: Lessee may recover amount paid by him on account of proprietor of a lot.

Provided, however, that the lessee shall not be entitled to recover any portion of that amount which, by the terms of the agreement of lease, is payable by him.

Taxes and interest preferent except as against Crown or Colony.

128. (1) Every tax and interest shall be preferent over and above all claims of whatever nature, whether they be against the lots or against the proprietors thereof, except claims due to the Crown or the Colony, anything in any Ordinance or enactment to the contrary notwithstanding.

(2) The claim of the Council for taxes and interest shall be enforceable against any company, or the property of any company in liquidation, anything in any Ordinance or enactment to the contrary notwithstanding.

Crown and Colony property subject to tax.

129. All lands and buildings within the town the property of the Crown or of the Colony shall be liable and subject to any town tax in the same manner and degree as lots and buildings the property of private persons.

Exemption of certain lands and buildings.

130. The following lands and buildings within the town shall be exempt from taxation while used for the purposes hereinafter mentioned —

- (a) all churches and chapels and any mosque, temple or school and the land therewith solely and exclusively used for religious or educational purposes;
- (b) all buildings and the land therewith used by the owner thereof solely as schools for elementary, industrial, or secondary education with the approval of the Council;
- (c) the Ursuline Convent and the land therewith occupied;
- (d) any manse, rectory, parsonage or presbytery owned by a religious body and used solely as a residence by a minister or priest thereof with the approval of the Council;
- (e) any lot or portion of land, with any buildings or erections owned in the town by the Young Men's Christian Association or any organisation approved of by the Council, so long as they are used for the convenience of the members of that Association, or similar organisation;
- (f) the land and buildings of the Catholic Youth Organisation;
- (g) the land and buildings of every lodge, chapter or preceptory of freemasons;
- (h) the land and buildings of every friendly society registered under the Friendly Societies Ordinance;
- (i) all lands and the buildings thereon used by the Salvation Army solely for religious purposes with the approval of the Council;
- (j) all land and the buildings therewith used as homesteads for the relief of widows and orphans with the approval of the Council.

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Proof of amount of town taxes.

131. In any proceeding for the recovery of any town taxes, the signature of the Town Clerk subscribed to any document containing a statement of the amount claimed for taxes in respect of each lot whether with or without buildings thereon, shall,

without proof of that signature and without proof of any other matter or thing, be deemed in all courts and for all other purposes to be *prima facie* evidence that the amount so claimed is due and payable.

132. In any proceedings for the recovery of town taxes a Mode of summation against the owner, or representative of the owner of any lot, or any building or buildings on any land, the name of the owner or representative not being mentioned, shall be deemed to be sufficiently served if it is affixed to the principal building, or if there is no building, then to any railing, bridge, tree, or post, on the lot or to any other part thereof which the marshal thinks most suitable for the purpose. Mode of serving summation.

133. The Council shall also have power by resolution, with the approval of the Governor in Council, to levy a special rate upon the assessed value of all lots and buildings in the town, or within any portion of it, for the liquidation of any claim for compensation admitted or awarded for loss sustained by reason of any building, paling, or erection, being pulled down or otherwise destroyed for the purpose of arresting the progress of any fire in the town, and that rate shall be preferent and shall be recoverable in the same manner as a town tax. Special rate.

134. The Official Receiver and the Registrar of Deeds shall, if the proceeds of the sale of any lots and buildings in the city sold by them are sufficient to enable them to do so, after paying all the expenses of the sale and the amount of all claims due to the Crown and the Colony, deduct from the proceeds of the sale the amount of all taxes, rates, and interest payable to the Council in respect of those lots and buildings and pay it over to the Council. Official Receiver or Registrar to deduct taxes due after sale of lots.

Provided that the obligation imposed by this section on the Official Receiver and Registrar shall not in any case arise unless the Town Clerk before the sale gives notice in writing to the Official Receiver or the Registrar as the case may be, of the existence of the unpaid taxes, rates, or interest, and of the amount thereof.

135. The Council may not grant any exemption from taxation, except as provided by section one hundred and thirty of this Ordinance. Council may not exempt from taxation.

PART XV.

TOWN APPRAISEMENTS.

136. The Council shall order and direct a general appraisal of all properties in the town to be made within four years of the commencement of this Ordinance, and thereafter at such intervals, not exceeding five years as the Council may consider necessary. Council may order general appraisal.

137. (1) The Council may from time to time as it thinks proper appoint appraisers, not being members or officers of the Council, for the purposes of this Ordinance, and may fill any vacancies occurring in the number of the appraisers either by death, resignation, refusal to act, or in any other manner. Appointment of appraisers.

- (2) Every appraiser, appointed as hereinafter mentioned—
- (a) shall receive remuneration for his services at the rates and on the terms the Council thinks proper;
 - (b) shall, before he enters upon his office, take and subscribe an oath or affirmation before the Mayor, who is hereby authorised to administer it, that he will faithfully, honestly, and diligently perform the duties of his office.

(3) Notice of intention to make a general appraisal shall be published in the *Gazette* and in the one or more newspapers in the town for four successive weeks before the appraisal is made; and within the four weeks every proprietor of every lot within the town shall fill up or cause to be filled up a schedule to be furnished gratuitously to everyone applying therefor at the Town Clerk's office, setting forth such particulars of the lot or building as may be prescribed.

(4) The schedule so filled up shall be handed over on the premises to the appraisers on demand, and if it is not so handed over the appraisers shall make their appraisal on the best information they can obtain.

Duty of appraisers.

138. The appraisers so appointed shall, whenever directed by the Council, appraise the several lots and buildings of the town, and, in making their appraisements shall have special regard to their description, condition, and locality respectively.

Powers of entry of appraisers.

139. (1) The appraisers, in the discharge of their duty, shall have full power and authority to enter on any lot between the hours of eight o'clock in the morning and six o'clock in the evening of any business day.

(2) Every person who assaults, molests, or obstructs an appraiser in the discharge of his duty shall be liable to a penalty of twenty-four dollars, and the penalty may be recovered on the complaint of the Town Clerk and shall be applied in aid of the town funds.

Re-appraisal of any lot or building which has deteriorated in value.

140. (1) The proprietor, or the representative of a proprietor, of a lot within the town which he considers to have deteriorated in value since the last appraisal may at any time not less than two years after the last appraisal require the Council to make a re-appraisal of that lot or building which shall take effect as from the first day of January, in the year following.

Provided that —

(a) before any such re-appraisal is made, he shall pay into the town funds the sum, not exceeding fifteen dollars, fixed by the Council as the cost thereof; and

(b) if any re-appraisal is made after the thirty-first day of August in any year, the previous valuation shall, for the purpose of taxation during the following year, be unaffected thereby.

(2) If a lot is at any time sub-divided, the proprietors of a divided portion may require the Council to apportion the appraised value of that lot between the respective proprietors,

and thereafter each divided portion shall be liable only for the amount so apportioned.

Provided that the proprietor requiring the apportionment shall in the first instance pay into the town funds, the sum of ten dollars as the costs thereof, but he shall be entitled to claim from the proprietor of the other portion his share of that cost.

(3) The Council shall have power, at any time after the commencement of this Ordinance and before the next general appraisalment, and also at any time between any general appraisalment and the one next following, to order the re-appraisalment of any lot on which any building has been erected or improved since the last appraisalment:

Provided that fourteen days' notice of that appraisalment shall be given by the Council to the proprietor or occupier of the lot or building.

141. The appraisalment shall be lodged in the office of the Town Clerk where all information may be had respecting it, and notice that it has been lodged shall be forthwith published in the *Gazette* and one or more newspapers in the town. Appraisalment to be lodged with the Town Clerk.

142. (1) Any proprietor, or the representative of any proprietor, who considers the appraisalment of his lot or building excessive, may appeal therefrom to the magistrate's court by filing with the clerk of court, within one month of the publication in the *Gazette*, a plaint in writing setting forth the grounds of appeal, and within the time herein specified, serving a copy thereof on the Town Clerk. Appeal.

(2) The clerk of court, after the plaint has been filed, shall thereupon fix a date for the hearing of the appeal and give the parties seven days' notice thereof, and the practice, procedure, fees and costs as prescribed by the Summary Jurisdiction (Magistrates) Ordinance and the Summary Jurisdiction (Petty Debt) Ordinance shall *mutatis mutandis* apply thereto. Cap. 9.
Cap. 15.

(3) The court shall inquire into the matter of the appeal and make any order it may deem just, and the decision of the court shall be final.

(4) All appraisements shall take effect as from the first day of January, in the year following.

PART XVI.

VESTING AND ACQUISITION OF LAND.

143. The Council shall have full power and authority —

(a) to acquire lease, purchase and hold lands and other property, movable and immovable for such purposes and on such terms as the Governor in Council may approve, and to sell, exchange, lease or mortgage any property, movable or immovable, vested in the Council. Acquisition of property.

Provided that the Council may not sell, exchange, alienate, lease for a term of years exceeding three, or mortgage any land or other immovable property except with the approval of the Governor in Council, after notice of the intention to apply for that approval has been

published in the *Gazette* for two successive weeks;

- (b) to purchase, or under and subject to such restrictions as may be approved by the Governor in Council, to take possession of, all lands and buildings within the town which the Council requires to enable it to effect any of the following objects —
- (i) opening any new, or extending, widening or improving any existing street, thoroughfare or public place;
 - (ii) digging any public well or reservoir for water, or establishing any public tank or fountain;
 - (iii) establishing any public stelling or landing place;
 - (iv) making any new, or extending or improving any existing drainage or sewerage;
 - (v) improving the sanitary conditions of the town;
 - (vi) erecting any public building for municipal purposes;
- (c) to purchase, or under and subject to such restrictions as aforesaid, to take possession of, and demolish, any building which the Town Engineer certifies in writing to be, in his opinion so situated, or in such a state from any cause as greatly to increase the risk of fire:

Provided that the certificate shall set forth at length the reasons of the Town Engineer for his opinion.

Procedure where Council wishes to take possession of property.

144. (1) Where the Council wishes to take possession of any property under the provisions of this Ordinance, it shall present a petition to the Governor in Council, setting forth the object for which possession is sought, and in any case coming within paragraph (c) of the preceding section, shall send in with the petition the certificate of the Town engineer.

(2) The Council shall also cause a copy of the petition, and, whenever the certificate is necessary, a copy thereof, to be served on the owner or representative of the property, and in the case of land held on a lease duly recorded, also on the holder of the lease, if the owner, representative, or holder of the lease is known; but if there is no owner, representative or holder of the lease known, the Council shall cause copies of all documents of which copies are required to be served on the owner, representative or holder of a lease when known, to be affixed to some conspicuous part of the property, and published for three successive weeks in the *Gazette* and two daily newspapers circulating in the Colony.

Governor in Council may authorise Council to take possession.

145. On the expiration of thirty days after the petition is laid before the Governor in Council, he may, if satisfied that the service required to be made on any owner, representative or holder of a lease as aforesaid has been duly made on or before the day on which the petition was sent in, (or in any case where the owner, representative or holder of a lease is not known, on proof that

the copies hereinbefore required to be affixed were duly affixed on or before the day on which the petition was sent in) and that the publications hereinbefore required to be made have been duly made, pass a resolution authorising the Council to take possession of the property, and thereupon that property shall at once vest absolutely in the Council for the object or objects set forth in the petition, and no transport, transfer or conveyance thereof shall be necessary:

Provided that the price or value of the property, when agreed or determined, or assessed in the manner hereinafter provided, shall be retained in the hands of the Town Clerk for two successive weeks, and a public notice thereof given by him in the *Gazette* and in a daily newspaper of the Colony circulating in the town, and during that time the amount so retained in his hands shall remain liable and leviable at the instance of any creditors who would by law have been entitled to oppose the passing of a transport thereof.

146. (1) When the persons interested in property of which possession is taken, whether as owners, representatives or holders of leases as aforesaid, are known, and no agreement for the price of the property can be made between them and the Council, the value shall be determined or assessed by the magistrate who, on the application of the Council, or of anyone interested on the other side, shall give notice to all parties interested in the property to appear before him at a place and time specified in the notice, the notice to be served at least fourteen clear days before the day named for appearance.

Assessment of value of property where persons interested are known.

(2) On the day named, and on the appearance of the parties, or in their absence, the magistrate may hear the matter and determine the value, and may award to any party such sum for costs and expenses as he may think fit.

(3) Any party dissatisfied with the award of the magistrate may appeal to the Full Court in the manner provided by the Summary Jurisdiction (Appeals) Ordinance.

Cap. 16.

147. (1) If the parties interested in the property are not known, the magistrate shall first procure an appraisal of the property by two disinterested persons, and shall thereafter proceed to determine the value of the property.

Assessment of value of property where persons interested are not known.

(2) The amount determined by the magistrate shall be deposited in the Registry of the Supreme Court, and may be paid out on the order of a judge of the Supreme Court on the petition of any person or persons proving a right thereto.

148. Whenever any dispute arises among several claimants, or when in the absence of any dispute the magistrate entertains any doubts as to the apportionment or appropriation of the amount determined or assessed, the amount shall be deposited in the Registry, and the apportionment or appropriation thereof shall be determined by a judge of the Supreme Court, on the petition of any interested party.

Dispute or doubts as to apportionment of amount assessed.

149. At any hearing under this Ordinance, the parties interested and their witnesses shall be examined on oath or affirmation, and their attendance shall be enforced in like manner as is provided

Examination, attendance

and remuneration of witnesses. by any Ordinance for the time being in force regulating the procedure before magistrates in the exercise of their civil jurisdiction, and they shall be entitled to the remuneration prescribed thereunder.

PART XVII. STREETS.

Council to keep streets in repair. 150. The Council shall cause all streets in the town to be levelled, paved, metalled, flagged, altered, or repaired as the occasion may require, and they may cause the soil of such street to be raised, lowered, or altered as they may think fit, and may place and keep in repair fences and posts for the safety of foot passengers.

Protection of streets. 151. (1) No person shall break up or open the surface, pavement, or soil of any street in the town or lay any pipe or wire or any other matter or thing whatsoever in or under any such street or any part of the sub-soil thereof for any purpose whatsoever, or place or erect any pole, post, hoarding or barricade or other structure in any such street without the previous consent of the Council; and every person offending against this section shall be liable to a fine not exceeding ninety-six dollars, and to a further fine of ten dollars for every day that any wire, pipe, pole, post, hoarding, or barricade, or any other matter or thing shall remain so laid or erected after written notice of the offence from the Council:

Provided that this section shall not apply to the Director of Public Works, the District Engineer or any one authorised by him or any other person lawfully authorised.

(2) The Council may, by resolution or by agreement under the common seal of the Council for such consideration as shall be specified in such resolution or agreement, authorise any person to break up or open the the surface or soil of any street vested in the Council or to lay any pipe or wire or any other matter or thing whatsoever in or under any such street, and at any depth in the sub-soil thereof, or to place or erect any pole, post, hoarding, barricade or other structure in any such street upon such terms and conditions as the Council shall in each case think proper.

(3) Any damage done by the breaking up or opening of the pavement, surface, or soil of any street shall be made good by the person performing the acts or may, at the option of the Council, be made good by them at the expense of such person, and such expense may be recovered in any Court of competent jurisdiction.

Encroaching on streets. 152. (1) Any person who encroaches on any street or on any part thereof—

- (a) by erecting thereon or thereover any structure of any kind whatsoever or any signboard, or
- (b) by erecting, planting, or digging thereon any fence, hedge, ditch, arch, bridge, or drain, or
- (c) in any other manner whatsoever,

shall be liable for every such offence to a fine not exceeding ninety-six dollars.

(2) It shall be lawful for the Town Engineer to remove every such obstruction or to cause such building or other struc-

ture, hedge, ditch, arch, bridge, or drain or other encroachment to be removed, taken down, or filled up or opened at the cost of the person so offending.

153. It shall be lawful for the Council to remove any bridge or other structure erected or standing over the side drains of any street. Council may remove structures over drains.

154. (1) The Council may, by notice in writing to the owner of any land adjoining any street, require such owner, within a time to be specified in such notice, to cause such land to be properly fenced to their satisfaction, and, where the fence of any such land is allowed to be or to remain out of repair, to require such fence to be repaired to their satisfaction. Notice to owner of land to provide fences.

(2) Any owner who makes default in complying with the requirements of any such notice shall be liable to a fine of twenty-four dollars, and to a further fine of one dollar for every day that the default continues after written notice thereof from the Council.

155. (1) The owner of any lot in the town shall, whenever required by the Council, cause such land to be enclosed on every side with a sufficient fence to the satisfaction of the Council. Owner of lot to provide fences.

(2) The owner of any lot of land in the town on which one or more houses have been erected shall, whenever required by the Council, cause the site of every such house, with the land appurtenant thereto, to be enclosed with a sufficient fence to the satisfaction of the Council.

(3) Any person who fails or neglects to comply with any requisition of the Council under this section within the time therein prescribed shall be liable to a fine of twenty-four dollars and to a further fine of one dollar for every day during which such non-compliance continues after notice thereof in writing from the Council. Penalty.

(4) Where the fence erected by the owner of any land in compliance with a notice served on him by the Council under this section divides the land of such owner from the land of an adjoining owner, one-half of the cost of such dividing fence shall be borne by such adjoining owner, and shall be a debt due by him to the owner on whom the notice was served by the Council and who has erected such fence, and may be recovered in a summary manner before a magistrate.

156. It shall be lawful for the Council to take over any existing street which is not under the control of the Council for the purpose of widening or effecting improvements to the drainage or surface of such street and for such purposes to acquire compulsorily, in the manner hereinbefore provided any land and buildings abutting on such street. Taking over streets.

157. The Council may authorise the erection in any street or public place within the town of any fountain, statue, or monument and may maintain the same, and they may at any time remove any fountain, statue, or monument erected in the town. Fountains, statues and monuments.

Trees. 158. The Council may, if they think fit, plant and maintain trees in any street vested in the Council, or in any square under their control, and may as they think fit, cut down, trim, or remove such trees or any of them, and may erect guards for the protection of any trees.

Abate-
ment of
nuisances. 159. (1) Where any tree or the branches thereof or any brushwood or hedge overhangs any street or drain, it shall be lawful for the Town Engineer to serve a notice on the owner or occupier of the lands where such tree, or brushwood, or hedge is planted or standing, requiring such owner or occupier to cut off or remove such overhanging branches, brushwood, or hedge within a time to be specified in such notice.

(2) Where any tree standing on any lands abutting on any street or drain is, in the opinion of the Town Engineer dangerous to passengers along such street, or likely to damage any electric cable, wire or telegraph pole, it shall be lawful for the Town Engineer to serve a notice on the owner or occupier of the lands whereon such tree is planted or standing, requiring such owner or occupier to cut down or trim such tree within a time to be specified in such notice.

(3) If any such owner or occupier refuses or neglects to comply with any notice served upon him under this section, within the time therein specified, it shall be lawful for the Council, or any person authorised by them in writing, to cut down or trim such tree, or to cut off and remove such branches, brushwood, or hedge, and for that purpose, if necessary, to enter into and upon the lands whereon such tree, brushwood, or hedge is planted or standing; and the expenses incurred by the Council in cutting down such tree, or in cutting and removing such branches, brushwood, or hedge may be recovered summarily from such owner or occupier.

By-laws. 160. (1) It shall be lawful for the Council to make by-laws —

- (a) for declaring and limiting the use by the public of any street, both or either as the time of such public use, or as to the character of the traffic on such street;
- (b) for the control, management, construction and repair of streets, and for the prevention and removal of any obstruction or projection thereon, for the prevention of the use thereof other than as a means of passage, and otherwise for the general management thereof;
- (c) for prohibiting the use upon any street of any vehicle and for regulating the manner in which and the conditions under which the same may be used or driven over a street;
- (d) generally for the purpose of carrying out the provisions of this Part of this Ordinance and for authorising the persons named in such by-laws to carry out, supervise or control the carrying out of such by-laws, and for providing for the manner in which and the persons from whom the expenses of carrying out the provisions of such by-laws are to be recovered.

(2) There may be imposed in respect of any breach of any of such by-laws a penalty not exceeding forty-eight dollars, or, in case of a continuing offence, a penalty not exceeding five dollars for each day during which such offence continues.

161. It shall be lawful for the Town Engineer, from time to time —

Town Engineer may stop traffic on any street which has become dangerous.

- (a) when a street or any part thereof has become dangerous; or
- (b) during the execution of any works or repairs in any street,

to order that the traffic on such street, or any part thereof, shall cease, and that such street or any part thereof shall be closed to traffic during such time as the Town Engineer may deem requisite for public safety, or for the proper and efficient performance of such works or repairs. Notice of such order shall be publicly posted in or near the street to which such order relates.

162. (1) Every person who shall prevent or obstruct or attempt to obstruct the use of any street, or any person who shall without reasonable excuse encroach on or use or attempt to use any street in contravention of this Part of this Ordinance or any by-law or regulation made thereunder shall be liable to a fine not exceeding forty-eight dollars.

Offences.

(2) It shall be lawful for the Town Engineer or any person authorised by him or any constable to seize and detain any animal or vehicles being used upon any street in contravention of this Part of this Ordinance or any by-law made thereunder.

163. (1) Where expenses have been incurred by the Council in repairing a street by reason of damage caused by excessive weight carried over or along the same, or by excessive traffic thereon, such extra expenditure so incurred may be recovered by the Council from the person responsible for such damage.

Council may recover expenses from persons causing damage in streets.

(2) If the Council agree with any person liable for damages in respect of the carriage of excessive weight or traffic to accept a fixed sum for and in respect of such damage, and such person shall pay such sum, then and in such case such person shall not be subject to any proceedings under this section.

Part XVIII.

SANITARY CONVENIENCES.

164. The Council may, if they think fit, provide and maintain in proper and convenient situations, sanitary conveniences in any street, square, or public place vested in the Council, and may employ and pay attendants and make reasonable charges for the use of any sanitary convenience (other than a urinal) so provided.

Sanitary conveniences.

165. The Council may make by-laws with respect to the management of any sanitary conveniences provided by them and as to the proper conduct of persons using the same.

By-laws.

166. The expression "sanitary conveniences" in the last two sections includes urinals, water closets, privies, ashpits, and every similar convenience.

Definition of sanitary conveniences.

Part XIX.

WATERWORKS.

Water supply.

167. The Council shall provide the town with a supply of water proper and sufficient for sanitary purposes, for extinguishing fires, and for private use to the extent required; and for those purposes or of any of them the Council may construct, lay down, and maintain waterworks and do and execute all works, matters and things necessary and proper; and the Council shall provide and keep in any waterworks constructed or laid down by them under this Ordinance a supply of water, and may make reasonable charges for the supply, and the water so supplied shall be constantly laid on at a pressure sufficient to convey it to the top storey of the highest dwelling house within the town or at any other suitable pressure directed by the Council.

Misuse of water appliances or diverting water.

168. Every person who wilfully or carelessly breaks, injures, or opens any lock, cock, waste pipe, or waterworks, constructed or maintained by the Council under this Ordinance, or unlawfully flushes, draws off, diverts, or takes water from any waterworks so constructed or maintained or from any water, creek, or stream by which the waterworks are supplied, or wilfully or negligently wastes or causes to be wasted any water with which he is supplied by the Council, shall for each offence, forfeit a penalty not exceeding twenty-four dollars, and a further penalty of five dollars for every day on which the offence is continued after a written notice in that behalf by the Town Clerk.

Offences.

169. Every person who bathes in any stream, reservoir, conduit, aqueduct, or other waterworks, constructed or maintained under this Ordinance, or washes, cleanses, throws, or causes to enter therein any animal, rubbish, filth, stuff or thing of any kind whatsoever, or causes or permits, or suffers to run or to be brought therein, the water of any sink, sewer, drain, engine, or boiler, or other filthy, unwholesome, or improper water, or does anything whatsoever whereby any water belonging to the Council or under its management or control, or any water contained in any reservoir, conduit, aqueduct, or other waterworks, so constructed or maintained, is fouled, shall for each offence, forfeit a penalty not exceeding twenty-four dollars, and a further penalty of five dollars for every day on which the offence is continued after written notice in that behalf by the Town Clerk.

Part XX.

COMPULSORY WATER SUPPLY.

Connection to be compulsory, efficient, and supply to be continuous.

170. (1) Every lot in the town shall be connected with the nearest water mains in the streets of the town by means of a service pipe on which there shall be placed at least one tap.

(2) The connection shall be for the purpose of effecting a continuous water supply to every lot from the waterworks, and shall at all times be kept in such proper condition, either by renewal of the service pipe or otherwise, as to secure that supply efficiently, and the supply therefrom shall be at all times continuous if it is available from the waterworks.

(3) If any lot is without a connection, the Council shall have power and is hereby authorised to make and shall make the connection.

(4) Whenever a connection has been made but has, at any time and from any cause whatever, become defective, for the purpose of maintaining a continuous water supply the Council shall have power and are hereby authorised to put that connection in proper and serviceable condition.

(5) The Council shall have the exclusive right to make any connection, any renewal thereof, and all repairs thereto, at any time found necessary.

(6) The cost of making a connection, any renewal thereof and all necessary repairs thereto, shall be a charge on the lot to which the connection, renewal or repairs has or have been made, and the lot shall be liable and leviable therefor.

(7) The cost of the service pipes and other materials up to the boundaries of the lots shall be borne by the Council, and the further cost thereof for the additional work on the lots shall be done at the cost of and be a charge against the owners and the lots.

Part XXI.

THE POUND.

171. (1) The Council shall keep a pound at some convenient place within the town, and notice of the appointment of a place to be a pound shall be published in the *Gazette* and in a newspaper of the Colony circulating in the town. Council to keep a pound.

(2) The pound shall be under the charge and superintendence of the Council and shall not be in any way affected by the provisions of the Pounds Ordinance. Cap. 93.

(3) The appointment of the pound-keeper shall be vested in the Council and all pound fees, penalties, and sums of money payable under the provisions of this Part of this Ordinance shall enure for the benefit of the town funds.

172. When any stray is found trespassing on private premises or land within the town, the owner or person in possession of the premises or land may send this stray to the pound and for doing so shall receive from the keeper thereof the sum of forty-eight cents for every horse, mare, gelding, pony, mule, bull, cow, ox, steer, or heifer, thirty-two cents for every ass, and twenty-four cents for every calf, sheep, or goat. Strays in town.

173. Any animal found grazing on the town savannah, unless the fee for its grazing has been paid to the Town Engineer or some other duly authorised person, shall be deemed a stray, and the Town Engineer, or some one duly authorised by him, may send it to the pound, and he shall receive from the keeper thereof the fee mentioned in the last preceding section. Stray on town savannah.

174. (1) The owner or person for the time being in charge of any horse, mare, gelding, pony, mule, ass, bull, cow, ox, steer, heifer, or calf, tethered, grazing, or straying on any public street, road, dam or place within the town, or within the burial ground hereinafter mentioned, shall be guilty of an offence and on conviction thereof shall be liable to a penalty not exceeding ten Stray on street or in burial ground.

dollars and the horse, mare, gelding, pony, mule, ass, bull, cow, ox, steer, heifer, or calf, may be seized and impounded by any member of the police force, any town constable, or any one authorised by the Town Engineer, and any sheep or goat tethered or straying as aforesaid may be seized and impounded by anyone.

(2) The same pound fees and expenses shall be paid and received in respect of that animal as are payable and receivable in respect of strays on private premises or land.

(3) All swine straying or trespassing on any public or private premises or and in the town may be destroyed and their carcasses shall belong to the destroyer.

Poundage
money and
expenses.

175. (1) The pound-keeper, before delivering any stray, shall demand and receive from the person claiming it the sum of forty-eight cents for every horse, mare, gelding, pony, mule, bull, cow, ox, steer, or heifer, and the sum of thirty-two cents for every ass, and the sum of twenty-four cents for every calf, sheep, or goat, as poundage money, and the expenses of feeding and advertising the stray.

(2) The pound-keeper shall be entitled to charge the sum of twenty-four cents per diem for feeding each horse, mere, gelding, pony, mule, ass, bull, cow, ox, steer, or heifer, and eight cents per day for feeding each calf, sheep, or goat, and no more.

Proviso.

Provided that the young of any mare, cow, ass, goat, or sheep, sent to the pound with its mother or dam and under six months old shall not be liable to poundage.

Time for
driving
cattle in
the town.

176. (1) All cattle kept in the town shall be driven to and from the grazing savannah along the back dam before the hour of eight o'clock in the morning and after six o'clock in the evening.

(2) All cattle brought into or driven through the town for any purpose shall be so driven between the hours of twelve o'clock midnight and five o'clock in the morning, but cattle may be conveyed in a cart through the town at any hour.

(3) All cattle driven through the town within the hours specified in subsection (2) or as mentioned in subsection (1) of this section shall be under proper control; that is to say, a single animal must be under the care of a minder or driver and when there are more animals than one they shall be yoked by twos or threes and shall be under the care of two or more minders or drivers.

Penalty.

(4) Any person for the time being in charge of any cattle who contravenes the provisions of this section shall be liable to a penalty of ten dollars.

Impound-
ing of
cattle
driven
through
the town.

177. All cattle brought into or driven through the town in contravention of the last preceding section may be seized and impounded by any one authorised to impound strays under section one hundred and seventy-four of this Ordinance, and the same pound fees shall be paid and received in respect thereof as are payable and receivable in respect of strays on private premises or land, and the owner or person claiming possession of the cattle shall in addition be liable to a fine of five dollars (for the benefit

of the town funds) for each head of cattle so impounded, and that fine shall be also paid to the pound-keeper before the release of the cattle.

178. Every person who —

- (a) damages or destroys the pound, or any lock or belt belonging thereto or with which it is fastened; or **Offences.**
- (b) rescues or releases, or attempts to rescue or release, on the way to the pound any stray taken for the purpose of being impounded under the authority of this Ordinance; or
- (c) rescues or releases, or attempts to rescue or release, any stray impounded under the authority of this Ordinance before it has been discharged by due course of law,

shall be liable to a penalty not exceeding fifty dollars.

179. (1) No person who takes an animal to the pound may ride or in any way beat or ill-use it, or take it to the pound by any way other than the nearest way thereto. **Riding or ill-using stray.**

(2) Every person who contravenes the provisions of this section shall forfeit all right to the poundage, and shall be liable to a penalty not exceeding twenty-four dollars.

180. (1) Any person who takes up a stray in the town with the intention of impounding it shall not detain it more than three hours before sending it to the pound, unless the stray is taken up after sunset, in which case he shall send it to the pound before eight o'clock on the following morning. **Time for sending stray to the pound.**

(2) Every person who contravenes the provisions of this section shall be liable to a penalty of five dollars. **Penalty.**

181. (1) The pound-keeper shall keep a book in which he shall enter the date when any stray is received, the name of every person sending a stray and the name of the person taking or delivering it to the pound, with the colour, description, and marks of each stray, the place whence it was sent and the sum paid to the party impounding; and the book shall be open to the inspection of any person during the day without any fee. **Keeping record of strays.**

(2) Any pound-keeper who neglects to make any entry in the book, or wilfully makes any false or incorrect entry, or demands any fee for making any entry, shall be liable to a penalty not exceeding fifty dollars.

182. The pound-keeper shall publish once every week in a newspaper circulating in the town a correct list of all the strays in the pound, describing them in every particular as recorded in his book; and if in any case he neglects to do so, he shall be liable to a penalty of five dollars. **Weekly publication of list of strays.**

183. The pound-keeper shall procure for, furnish, and give daily to each stray in the pound a sufficient quantity of good grass and water; and if in any case he neglects to do so, he shall be liable to a penalty of twenty-four dollars, and in addition shall be liable to immediate dismissal. **Providing grass and water for impounded stray.**

184. The pound-keeper, or some person appointed by him as his deputy and for whose acts or omissions in respect of any matter or thing under this Ordinance he shall be responsible, **Attend-ance of pound-**

keeper or his deputy. shall constantly be at the pound between the hours of six of the clock in the morning and six of the clock in the evening to receive and deliver all strays; and if he or his deputy makes default in that attendance, he shall be liable to a penalty of ten dollars for each default.

Penalty.

Hiring out or using stray.

185. If the pound-keeper —

- (a) hires out, lets, uses, works, or employs any stray; or
- (b) allows any stray to be taken out of the pound wrongfully; or
- (c) suffers any stray while impounded to be ill-used or injured;

Penalty.

he shall be liable to a penalty not exceeding fifty dollars.

Sale of unclaimed stray.

186. (1) If any impounded stray is not redeemed within three days after the impounding, it shall be sold.

(2) The pound-keeper shall advertise for sale one week in a newspaper of the Colony circulating in the town all strays, except sheep, and goats, and notify upon a board, to be placed in some conspicuous part of the pound, the intended sale of all strays for two days beforehand.

(3) The sale shall take place by public auction between the hours of eleven of the clock in the morning and three of the clock in the afternoon; and the pound-keeper, after deducting the sums of money due for rewards and the expenses, shall pay to the Town Clerk the balance of the proceeds of sale:

Provided that if any person proves to the satisfaction of the magistrate, within three months after the sale of any stray, that he was the owner of it, the Town Clerk shall, upon the order of the magistrate, pay to him the balance of the proceeds of the sale of the stray paid into the Town Clerk's hands.

(4) Any stray duly advertised and put up for sale under this Ordinance but not sold may be disposed of or destroyed by the pound-keeper.

Purchase of stray by pound-keeper void.
Penalty.

187. If the pound-keeper directly or indirectly purchases any unclaimed stray sold out of the pound, the purchase shall be void and the pound-keeper shall in addition be liable to a penalty not exceeding fifty dollars.

Part XXII.

THE BURIAL GROUND.

Public burial ground under the control of the Council.

188. On the commencement of this Ordinance, the public burial ground established in Stanley Town, including in that description any addition made thereto after the commencement of this Ordinance, shall be under the control of the Council; and the Council shall appoint a sexton to take charge thereof, and a sufficient number of fit and proper persons to be grave-diggers, with such remuneration as the Council may think fit.

Maintenance.

189. (1) The Council shall keep the burial ground free from bush and weeds and from nuisances of every kind, and shall keep in proper order and repair the fences, palings, bridges, roads, avenues, walks, and trenches of the ground and the drainage thereof.

(2) Any person who within the burial ground, behaves in a disorderly manner or plucks the fruit or flowers or injures any flowers, shrubs, or trees or any graves, vault, tombstone, tablet, rail, or any other thing there fixed or deposited may be arrested without a warrant by any member of the Police Force, town constable, rural constable or by any other person employed in the burial ground by the Council, and shall on conviction be liable to a penalty not exceeding twenty-five dollars.

Penalty.

190. All graves, vaults or tombs in the burial ground shall have a clear space of two feet between one another and shall be placed in uniform parallel lines; and each grave shall be of the depth of at least four and a half feet and until closed up, shall be kept clear of water; and a clear space of six feet shall intervene between the outside line of graves, tombs or vaults and the fences or palings of the ground.

Regulations for graves.

191. Any person wishing to acquire a right to build a vault or brick grave, or to enclose a grave with a railing or to place any stone or tablet upon any part of a grave for the purpose of acquiring a right of property in the grave within the burial ground, shall apply to the Council and the Council is hereby authorised to grant leave to do so on payment to it of the value of the land to be occupied or enclosed at the rate of sixty-seven cents per square foot superficial measure.

Regulations for vaults and tablets.

192. The Council in respect of any interment, shall have and be entitled to the dues, charges, and fees set forth in the Seventh Schedule hereto.

Fees.

Seventh Schedule.

193. Every person who buries a corpse or causes it to be buried in any yard, garden, or premises, or in any other place whatever within the limits of the town, shall be liable to a penalty of not less than fifty dollars and not more than ninety-six dollars to be recovered by the Town Clerk, in aid of the town funds.

Prohibition of burial of corpses in the town. Penalty.

194. The Town Clerk shall keep a register of all interments in the burial ground, specifying the name, designation, sex, age, and nationality, as far as practicable of every person interred therein, and also the number of the grave and the date of the interment; and, at the end of every three months, shall lodge or deposit in the Deeds Registry, Berbice, a duly certified copy of the register for that period; and the Town Clerk shall deliver a certificate of any interment aforesaid to any person applying for it, and shall be entitled to charge therefor the sum of fifty cents.

Register of interments.

PART XXIII.

BORROWING POWERS.

195. (1) The Council may, with the sanction of the Governor in Council, from time to time, borrow such sum or sums of money not exceeding six hundred thousand dollars as they shall deem necessary for the execution of any permanent works, or of any works which they are authorised to execute under this Ordinance or any other Ordinance for the time being in force, or for the repayment of any loans or any part thereof, or for any other purpose whatsoever, whether of the same nature as those above specified or not.

Council may borrow sums not exceeding \$600,000, with the sanction of the Governor in Council.

(2) Every application for the sanction of the Governor in Council to the raising of any loan shall state the amount proposed to be borrowed and the rate of interest proposed to be paid in respect of such loan, the purposes to which the proposed loan is intended to be applied, the period within which it is proposed that such loan should be repaid, the method of repayment of such loan, whether by equal annual instalments of principal, or of the principal and interest combined on the annuity system or otherwise; the security, if any, to be given for the repayment of the proposed loan, and where no security is intended to be given, the provision intended to be made for the repayment of the loan and interest thereon from the ordinary revenue of the Council.

Governor in Council may sanction application of any loan to other purposes.

196. The Governor in Council, may, on the application of the Council, sanction the application of any loan funds or any part thereof to purposes other than those to which such funds are allocated under any Ordinance, or by terms of any sanction given by the Legislative Council under this Ordinance.

Temporary loans.

197. The Council may, with the sanction of the Governor in Council, borrow as temporary advances, such sum or sums of money as they may think proper for defraying expenses included in the approved estimates payable out of the ordinary revenue of the Council, and they may, with the like sanction, enter into arrangements with the manager of any bank with which they have a current account, for allowing the Council to overdraw their account to such extent as may, in each case be specified in such sanction:

Provided always, that every such advance shall be repaid before the expiration of the financial year in which the same shall have been made to the Council.

PART XXIV.

BY-LAWS.

By-laws.

198. (1) Except as otherwise provided in the Public Health Ordinance, 1934, the Council may, with the approval of the Governor in Council, from time to time make by-laws, generally for the good rule and government of the town, for promoting the health of the inhabitants and for the prevention and suppression of nuisances; but the Council shall not make any by-law affecting any of the matters mentioned in section one hundred and sixty or one hundred and sixty-four of the Summary Jurisdiction (Offences) Ordinance.

Cap. 13.

(2) In particular and without prejudice to the generality for the foregoing subsection the Council may make by-laws relating to —

- (a) the restriction of the sub-division of lots within the town;
- (b) the regulation of markets, abattoirs, burial grounds and crematoria, and the imposition of fees and dues in respect thereof;
- (c) the regulation of the Colony House gardens and other public recreation ground;

- (d) the regulation of the number, dimensions and general character and style of buildings to be erected on lots in different portions of the town, and any other matters connected with the erection of buildings;
- (e) the prohibition of the establishment of provision shops and manufactories in certain parts of the town, and the regulation of the number of those shops and manufactories in other parts of the town;
- (f) the supervision, control and regulation of hackney carriages and carts plying for hire and of the drivers thereof; the control and regulation of the weight and class of all kinds of vehicular traffic in the town and the confinement to any street or streets or section of the town of any particular kind of vehicular traffic;
- (g) the supervision and control of the owners and boatmen of boats plying for hire in the harbour of New Amsterdam, and the regulation of the rates and fares to be charged by them;
- (h) the control and management of porters, jobbers and hucksters;
- (i) the protection of buildings from fire;
- (j) the safeguarding and removal of dangerous buildings and the removal of obstructions;
- (k) the marking of boundaries, the fencing of lots and the open spaces to be left on lots;
- (l) the control of the streets, public wharves and other public places;
- (m) trespass in alleyways and the encumbering of streets and the parapets thereof and of pavements.

(3) No by-laws shall come into force until they are published in the *Gazette*.

(4) There may be attached to any by-law a penalty for breach of it not exceeding one hundred dollars or three months imprisonment, and, in the case of a continuing breach, a further penalty not exceeding ten dollars for each day whereon the breach continues after a notice of the breach has been served by the Council.

(5) Any by-law may authorise the arrest of any person found committing a breach thereof and the seizure and forfeiture of any article in relation to which a breach of the by-law has been or is being committed.

PART XXV.

FIRE BRIGADE.

199. (1) The fire brigade of the town shall be under the control and management of the Governor in Council:

Provided that —

- (a) the cost of equipment and upkeep, as mutually agreed between the Governor in Council and the Council, shall be borne equally by the Council and the public revenue of the Colony; and

Fire
brigade to
be under
the control
of the
Governor
in Council.

(b) the expenditure so incurred by the Council shall be deemed to be expenditure which the Council is authorised to incur within the meaning of paragraph (e) of section one hundred and twenty-one of this Ordinance.

(2) The Governor in Council may from time to time make by-laws for the regulation of the fire brigade.

(3) Until by-laws are made under the provisions of subsection (2) of this section, the by-laws relating to the fire brigade in force at the commencement of this Ordinance shall continue in force and shall have effect as if there were substituted for the expression "the Council", the expression "the Governor in Council".

200. Any person in whom the control of any measure to be taken under any Ordinance or by-law applying to the town or in whom the control of the fire brigade is vested, is hereby empowered, if it appears to him necessary for the purpose of arresting the progress of any fire, to order any house or other building, paling, or erection, to be pulled down or otherwise destroyed, and he is also empowered to use any water in any tank, cistern, or other vessel or receptacle in the neighbourhood of the fire; and no action for damages in respect of anything so done shall be maintainable against anyone in whom that control is vested or against anyone acting by his authority.

PART XXVI.

LEGAL PROCEEDINGS.

201. (1) All offences under this Ordinance or any by-law made under this Ordinance shall be deemed to be offences punishable on summary conviction under the Summary Jurisdiction (Offences) Ordinance unless expressly stated to the contrary, and all such offences and all penalties, fines, forfeitures, costs and expenses under this Ordinance or under any such by-law directed to be recovered in a summary manner or the recovery of which is not otherwise provided for, may be prosecuted and recovered in the magistrate's court.

(2) All penalties, fines, forfeitures, costs and expenses recovered for offences under this Ordinance or under any by-law, shall be received by the magistrate and unless the contrary is expressly provided, be paid in by him to the Town Clerk for the use of the Council.

(3) Any information or complaint for any offence against the provisions of this Ordinance or of any other Ordinance for the time being in force for the breach of the provisions whereof the Council may institute proceedings, or for the breach of any by-laws made by the Council, may be made or laid in the name of the Council by the Town Clerk or any officer or officers of the Council duly authorised in that behalf by resolution of the Council, either generally or in respect of offences against the provisions of specific enactments, or of specified by-laws; and any officer or officers of the Council authorised in that behalf by resolution of the Council may conduct the proceedings before a summary court in all cases in which the Council are either complainants or defendants.

Power to destroy in order to arrest spread of fire.

Recovery of penalties.

Penalties to be payable to the Council.

202. All contracts entered into by the Former Council and all matters and things by them duly done and performed prior to the commencement of this Ordinance, shall be and are hereby ratified and confirmed, and the evidence relating to the action, outstanding town taxes, moneys, and property of every description, to which the Former Council was entitled prior to the commencement of this Ordinance shall vest and are hereby declared to vest in the Council under this Ordinance, and the Council shall have full power and authority to sue for, levy, recover and receive them. Ratification of acts of Former Council.

203. All bonds, debts, obligations and liabilities of the Former Council, and all charges upon its property and revenues, shall subsist and continue in full force and effect as against, and shall be due and owing by, the Council under the provisions of this Ordinance, and be charged upon its property and revenues with the like preference and in the same manner as if this Ordinance had not been passed, and nothing herein contained shall in any way prejudice, alter, or affect the right of preference of any creditor of the Former Council, who shall have and enjoy the same rights and preference against the Council under the provisions of this Ordinance and against its revenues and property as he had and enjoyed prior to the commencement of this Ordinance. Ratification of liabilities of Former Council.

204. No contract entered into by the Council, nor any matter or thing done by it, or by any officer or person whomsoever acting under its direction, shall, if the matter or thing was done, or the contract was entered into in good faith, for the purpose of executing this Ordinance, subject any of its members personally to any action, liability, claim, or demand whatsoever, and any expense incurred by the Council in its corporate capacity, or any officer or person acting under its direction, shall be borne and repaid out of the town funds. No personal liability for acts done in good faith.

205. The Council, and each and every member thereof, and each and every officer and servant thereof, and each and every person acting under its direction, shall be entitled with respect to all matters and things done or intended to be done under the provisions of this Ordinance, to the benefit and protection of the provisions of the Justices Protection Ordinance. Protection of Council and of officers generally. Cap. 254.

206. (1) The Attorney-General or any registered voter under this Ordinance may apply to the Supreme Court in its Civil Jurisdiction for a writ of mandamus or for an injunction to compel the performance by the Council of any duty, act, matter or thing to be by it as a corporation done and performed under this Ordinance, or to restrain it from the performance of any illegal or improper act. Proceedings for mandamus or injunction.

(2) The Court shall have full power and authority to grant the application, on just grounds being adduced for so doing, whether there exists any other legal remedy or not.

(3) Every application when granted shall be proceeded with in manner and form directed by any enactment for the time being in force relating thereto.

207. The Council may from time to time reduce or abolish any fee, toll, due, fare, or charge fixed by this Ordinance, and the

abolition of fees, tolls or charges. reduction or abolition shall be published in the *Gazette* and a newspaper of the Colony circulating in the town.

Limitation of proceedings. 208. Every proceeding before the magistrate under any of the provisions of this Ordinance shall be commenced within six months from the time when the right of complaint or proceeding first accrued, and the proceeding shall be conducted, as nearly as may be, according to the form or procedure and be subject to the appeal provided by any Ordinances for the time being in force regulating procedure before magistrates in the exercise of their summary jurisdiction and appeals from the decisions of magistrates.

Affirmation. 209. (1) Every person who is authorised by law to affirm instead of taking an oath may affirm in every case in which by this Ordinance an oath is required to be taken.

(2) If any person taking any oath required by this Ordinance or affirming instead of taking the oath, wilfully swears or affirms falsely, he shall be deemed guilty of perjury, and shall be liable to be indicted and punished accordingly.

PART XXVII.

MISCELLANEOUS PROVISIONS.

Transport and documents of title to be exhibited to the Town Clerk. 210. (1) Every person who becomes the owner of immovable property in New Amsterdam either by transport or otherwise shall, within three months after acquiring that property, exhibit to the Town Clerk for annotation by him in the books of the Council the transport or other documents evidencing the ownership.

Penalty. (2) Any person who refuses or neglects to exhibit that proof shall be guilty of an offence and be liable to a penalty not exceeding twenty-four dollars, to be recovered by the Town Clerk and, when so recovered, to be paid by him in aid of the town funds.

Purchase or sale of immovable property. 211. Whenever the Council purchases or sells any immovable property, the transport shall be passed either to or by the Council, as the case may be, and the Town Clerk shall execute the transport by signing his name and official description and affixing the common seal of the Council thereto.

Landing of cattle at New Amsterdam. 212. No cattle brought to New Amsterdam by water shall be landed except at the places specified in any by-law relating to those cattle or where the Council, subject to any terms and conditions it thinks fit, specially allows.

Savings. 213. All by-laws and regulations made by the Former Council in force at the commencement of this Ordinance shall continue in force and shall have effect as though they had been made by the Council under the provisions of this Ordinance.

Repeal. 214. The New Amsterdam Town Council Ordinance is hereby repealed,

FIRST SCHEDULE. (SECTION 7 (1)).**BOUNDARIES OF THE TOWN.**

- (a) Northern boundary — the **Ordnance** land;
- (b) Eastern boundary — Plantations Smythfield and Vryheid;
- (c) Southern boundary — Plantation Overwinning and extending westwards to low water mark of the spring tides of the Berbice river;
- (d) Western boundary — low water mark of the spring tides of the Berbice river.

SECOND SCHEDULE. (SECTION 8).**WARDS**

Number	District	Boundaries.
No. 1	Queens-town and Winkel	Northern boundary — North Road; Eastern boundary — Plantation Smythfield; Southern boundary — commencing from the eastern boundary westwards along Vryheid Street to low water mark of the spring tides of the Berbice river; Western boundary — low water mark of the spring tides of the Berbice river.
No. 2	Smyth-town, East	Northern boundary — Vryheid Street; Eastern boundary — Plantation Vryheid; Southern boundary — Pitt Street; Western boundary — Main Street.
No. 3	Smyth-town, West	Northern boundary — Vryheid Street; Eastern boundary — Main Street; Southern boundary — commencing from Main Street, extending westwards along Pitt Street to the Strand; thence in a westerly direction along the southern boundary of the market to low water mark of the spring tides of the Berbice river; Western boundary — low water mark of the spring tides of the Berbice river;
No. 4	Smyth-town, South and East	Northern boundary — Pitt Street; Eastern boundary — Plantation Vryheid; Southern boundary — Philadelphia Street; Western boundary — Main Street.

SECOND SCHEDULE. (SECTION 8)—Continued.

WARDS

Number	District	Boundaries.
No. 5	Smythtown, South and West	Northern boundary —commencing from low water mark of the spring tides of the Berbice river, eastward along the southern boundary of the market to the Strand; thence in an easterly direction to Pitt Street to Main Street; Eastern boundary —Main Street; Southern boundary —Philadelphia Street; Western boundary —low water mark of the spring tides of the Berbice river.
No. 6	Smythtown and Stanleytown.	Northern boundary —commencing from low water mark of the spring tides of the Berbice river eastwards to Philadelphia Street to Plantation Vryheid; Eastern boundary —Plantation Vryheid; Southern boundary —Islington and Plantation Overwinning; Western boundary —low water mark of the spring tides of the Berbice river.

THIRD SCHEDULE. (SECTION 20).

NOTICE OF CLAIM TO BE REGISTERED AS A VOTER.

To the Registering Officer of the Town of New Amsterdam.

I, A.B. of _____ hereby give you notice that I claim to have my name inserted in the register of voters for Ward No. _____ and the particulars of my qualification, and the proof thereof, which I produce, are as follows:—

(Here state the qualification and the evidence produced to prove it).

Dated this

day of

19

Signed A.B.

FOURTH SCHEDULE. (SECTION 21).

LIST OF PERSONS ENTITLED TO VOTE IN THE ELECTIONS OF MEMBERS OF THE TOWN COUNCIL FOR THE TOWN OF NEW AMSTERDAM FOR WARD No. FOR THE YEAR 19

No.	Date of Registration	Surname and Christian Name	Residence	Nature of Qualification.	Land or other description of land, etc.

FIFTH SCHEDULE. (SECTION 23).

NOTICE OF OBJECTION BY PERSON OMITTED FROM THE REGISTER OF VOTERS.

To the Registering Officer of the Town of New Amsterdam—

I, A.B. of hereby give notice that I object to the omission of my name from the register of voters for Ward No. for the year 19 ; and claim to have my name inserted in the said register on the following qualification of which I produce proof as follows:—

(Here state the qualification and the evidence produced to prove it).

Dated this day of 19

Signed A.B.

SIXTH SCHEDULE. (SECTION 38).

STATEMENT OF QUALIFICATION OF PERSON ELECTED TO BE A MEMBER OF THE TOWN COUNCIL OF THE TOWN OF NEW AMSTERDAM.

Qualification of A.B. of elected to be a member of the Town Council of the town of New Amsterdam for Ward No.

(Here state the qualification).

I, A.B. of do solemnly declare that the above statement is a true and correct statement of my qualification to be elected a member of the Town Council of the town of New Amsterdam.

Dated this day of 19

Signed A.B.

SEVENTH SCHEDULE. (SECTION 192).

FEES IN RESPECT OF INTERMENTS.

(a)	For the interment of the corpse of anyone above the age of twelve	\$3.00
(b)	for the interment of the corpse of an infant under the age of twelve	2.00
(c)	for the interment of the corpse of each person above the age of twelve interred at public expense	2.00
(d)	for the interment of the corpse of each infant under the age of twelve interred at public expense	1.25
(e)	for the entrance into the burial ground of every hearse carrying a corpse not interred at the public expense	1.00
(f)	for permission to erect a tomb or vault, including all fees on the entrance, into the burial ground of every vehicle carrying materials therefor	3.00
(g)	for permission to erect a railing enclosing a grave, or any stone or tablet upon any part of a grave	1.50
(h)	for permission to erect a head board	1.50