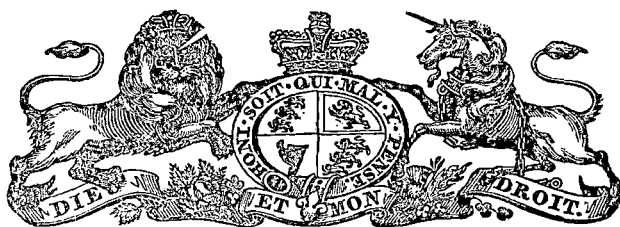


(No. 9.)



1866.

SESSION II.

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T A S M A N I A.

LEGISLATIVE COUNCIL.

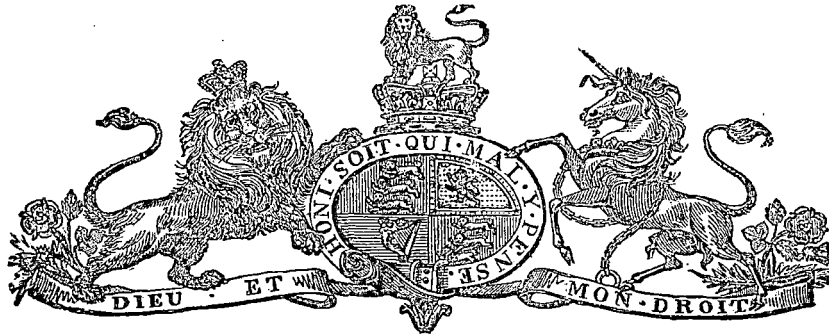
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DEBENTURES SOLD,

FROM OCTOBER 1, 1866, TO JANUARY 16, 1867.

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Laid upon the Table by Sir R. Dry, and ordered by the Council to be printed,  
January 24, 1867.



*MEMO. of DEBENTURES sold from the 1st of October, 1866, to the 16th day of January, 1867; showing the Acts under which the same have been purchased, together with the Amounts; viz.—*

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|                      | £     | s. | d. |
|----------------------|-------|----|----|
| 28 Vict. No. 14..... | 340   | 0  | 0  |
| 29 Vict. No. 3 ..... | 600   | 0  | 0  |
| 30 Vict. No. 3 ..... | 800   | 0  | 0  |
| 30 Vict. No. 5 ..... | 300   | 0  | 0  |
| 29 Vict. No. 3 ..... | 300   | 0  | 0  |
| 30 Vict. No. 5 ..... | 200   | 0  | 0  |
| 19 Vict. No. 18..... | 5500  | 0  | 0  |
|                      | <hr/> |    |    |
|                      | £8040 | 0  | 0  |
|                      | <hr/> |    |    |

*W. LOVETT, Assistant Colonial Treasurer and Accountant.*

*Colonial Treasury,  
24 January, 1867.*

JAMES BARNARD,  
GOVERNMENT PRINTER, TASMANIA.

This Public Bill originated in the House of Assembly and, having this day passed, is now ready for presentation to the Legislative Council for its concurrence.

C. K. MURPHY, *Clerk of the House.*  
May 26, 1965.

(*Brought in by the Minister for Lands and Works,  
the Honourable Douglas Alfred Cashion*)

#### ANALYSIS.

- |                              |   |
|------------------------------|---|
| 1. Short title and citation. | Jurisdiction.   |
| 2. Building Regulations.     | Powers and procedure.                                       |
| 3. Building appeals.         | Relation to the Supreme Court.                              |
| Interpretation.              | 4. Special powers.  |
| Building Appeal Board.       | 5. Loans for community centres.                             |
| Chairman and quorum.         | 6. Operation of Town Planning Scheme.                       |
| Disqualification.            | 7. Regulation of building, &c., pending approval of scheme. |
| Remuneration of members.     | 8. Sixth schedule.  |
| Panel.                       | 9. Small corrections.                                       |
| Failure of nomination.       |   |
| Cessation of term of office. |   |
| Declaration.                 |   |

## A BILL FOR

### AN ACT to amend the *Local Government Act* 1962.

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

**1**—(1) This Act may be cited as the *Local Government Act* 1965. Short title and citation.

(2) The *Local Government Act* 1962\*, as subsequently amended, is in this Act referred to as the Principal Act.

\* No. 67 of 1962. Amended by Nos. 18, 63, and 80 of 1963, and No. 62 of 1964.

Building  
Regulations.

**2** Section four hundred and twenty-five of the Principal Act is amended by omitting paragraph (c) of subsection (4) and substituting therefor the following paragraphs:—

“(c) incorporate by reference—

- (i) any of the standard rules, codes, and specifications of the bodies known as the Standards Association of Australia and the British Standards Institute and of any similar institution;
- (ii) any part of a publication on building of the Commonwealth Experimental Building Station, the Building Research Station, and the Joint Fire Research Organization in the United Kingdom, or any similar organization; and
- (iii) any standard rules or specifications approved by the Minister and published as he may direct.

“(ca) provide that a reference—

- (i) to any rules, code, specification, or publication mentioned in paragraph (c); or
- (ii) in any such rules, code, specification, or publication to any other such rules, code, specification, or publication,

shall be read as a reference to those rules or that code, specification, or publication as from time to time amended or replaced by the institution, organization, or person that issued them or it.”.

Building  
appeals.

**3**—(1) Sections four hundred and fifty-two to four hundred and fifty-five of the Principal Act are repealed.

(2) After section four hundred and sixty-one of the Principal Act the following Division is inserted:—

“ *Division IA—Building appeals.*

Interpre-  
tation.

“ 461A In this Division—

“the Board” means the Building Appeal Board constituted under section four hundred and sixty-one B;

“the Panel” means the Building Appeal Board Panel constituted under section four hundred and sixty-one F.

Building  
Appeal Board.  
No. 41, 1919  
(N.S.W.),  
ss. 317AB,  
317AC.

“ 461B—(1) There shall be a Board of Appeal to be called the “Building Appeal Board”, which shall consist of five members appointed by the Governor, of whom—

- (a) one shall be the chairman;

- (b) one shall be an architect selected by the Governor from three architects nominated by the Royal Australian Institute of Architects, Tasmanian Chapter;
- (c) one shall be a structural engineer selected by the Governor from three structural engineers nominated by the Institution of Engineers, Australia, Tasmanian Division;
- (d) one shall be a member of the Australian Institute of Builders, Tasmanian Chapter, selected by the Governor from three members of that Institute nominated by that Chapter; and
- (e) one shall be an alderman or councillor selected by the Governor from four such officers nominated by the Municipal Association.

“(2) The members of the Board shall, subject to this Division, hold office for three years.

“(3) The Minister may in the case of the absence through sickness, disqualification, or otherwise of a member other than the chairman from time to time appoint a deputy member to act in the place of that member.

“(4) A deputy member so appointed shall be a member of the Panel and shall be a person nominated to the Panel by the same body which nominated the member of the Board in whose place the deputy member is appointed to act.

“(5) A person shall not be concerned to enquire whether or not any occasion has arisen requiring or authorizing a deputy member to act in the place of a member and all acts and things done or omitted to be done by a deputy member when so acting shall have the same consequences as if they had been done or omitted to be done by the member in whose place the deputy member has acted.

“(6) An officer or servant of a municipality shall not be a member of the Board except as provided in paragraph (e) of subsection (1).

“461C—(1) The chairman, or in his absence the person known as the deputy chairman, of the Board shall preside at the meetings of the Board. Chairman and quorum. Ibid., s. 317AD.

“(2) In the absence of the chairman and of the person known as the deputy chairman of the Board from a meeting of the Board the members present at the meeting may elect from amongst their number a vice-chairman to preside at that meeting.

“(3) The deputy chairman and any vice-chairman have when so presiding all the powers and authorities of the chairman.

“(4) Where the voting on a question at a meeting of the Board is equal the chairman may have a casting vote in addition to his deliberative vote.

"(5) Three members of the Board form a quorum.

Disqualifi-  
cation.  
*Ibid.*, s. 317AE.

"461D—(1) A member or deputy member of the Board is disqualified from acting and shall not act as a member or deputy member on an appeal to the Board or on any reference to the Board under this Division with respect to any building of which he is the owner, architect, or engineer or in which he is in any manner directly or indirectly interested.

"(2) A member or deputy member of the Board being an alderman or councillor is disqualified from acting and shall not act as a member or deputy member on an appeal relative to a building proposed to be erected in the municipal district of the municipality of which he is an alderman or councillor.

Remunera-  
tion of  
members.  
*Ibid.*, s. 317AF.

"461E A member or deputy member of the Board is entitled to receive such remuneration and such travelling and other expenses as may be prescribed.

Panel.  
*Ibid.*, s. 317AG.

"461F—(1) There shall be a Building Appeal Board Panel consisting of fourteen members appointed by the Governor, of whom—

- (a) one shall be known as the deputy chairman of the Board;
- (b) three shall be architects selected by the Governor from six architects nominated by the Royal Australian Institution of Architects, Tasmanian Chapter;
- (c) three shall be structural engineers selected by the Governor from six structural engineers nominated by the Institute of Engineers Australia, Tasmania Division;
- (d) three shall be members of the Australian Institute of Builders, Tasmanian Chapter, selected by the Governor from six members of that Institute nominated by that Chapter; and
- (e) four shall be aldermen or councillors selected by the Governor from eight such officers nominated by the Municipal Association.

"(2) The members of the Panel shall, subject to this Division, hold office for three years.

Failure of  
nomination.  
*Ibid.*, s. 317AH.

"461G—(1) Every nomination for the appointment of a member of the Board or the Panel shall be made as and within the time prescribed and shall be accompanied by the written consent of the person nominated to serve on the Board or Panel, as the case may be, if appointed.

"(2) If within the time prescribed the necessary nomination for membership of the Board or Panel, as the case may be, has not been validly made by the persons entitled to make the nomination the Governor may appoint a person or persons, as the case may require, having the appropriate qualification as representative or representatives on the Board or the Panel.

“461H—(1) A member of the Board or Panel shall cease to hold his office if he—

Cessation  
of office.  
*Ibid.*, s. 317AL.

- (a) holds any position of profit under or in the gift of any municipality other than mayor, warden, or treasurer;
- (b) is an undischarged bankrupt;
- (c) is taking the benefit of Part XI or Part XII of the *Bankruptcy Act 1924* of the Commonwealth as from time to time amended or re-enacted;
- (d) is a patient within the meaning of Part VI of the *Mental Health Act 1963*;
- (e) is convicted after solemn trial in this State or elsewhere of a crime or similar offence which is punishable by imprisonment for twelve months or upwards;
- (f) being summoned is absent from three consecutive sittings of the Board without leave granted by it;
- (g) resigns his office in writing under his hand to the chairman of the Board; or
- (h) is removed from office by the Governor.

“(2) Upon a vacation of office under this section the Governor may forthwith appoint a new member to be nominated in accordance with the provisions of section four hundred and sixty-one B or four hundred and sixty-one F, as the case may require, to fill the vacant office.

“(3) A person appointed to fill a vacancy occasioned otherwise than by the expiration of the term of office of a member of the Board or Panel shall, subject to this Division, hold office for the residue of his predecessor’s term.

“461J Before—

Declaration.  
*Ibid.*, s. 317AJ.

- (a) a member of the Board; or
- (b) a member of the Panel who takes the place of a member of the Board,

acts in his office he shall make the following declaration before a judge or a police magistrate—

“I, A.B., do solemnly and sincerely declare that I will diligently, faithfully, and impartially execute my duties as a member of the Building Appeal Board under the *Local Government Act 1962*.”

“461K—(1) A person, including the Commissioner, who is aggrieved by—

Jurisdiction.  
Cf. *ibid.*,  
ss. 317AK,  
317AL, 317AO,  
No. 6299  
(Vic.), 33rd  
sch., par. 7,  
No. 67 of  
1962, s. 452.

- (a) a decision of any authority to refuse or permit building or to approve or otherwise deal with plans, specifications, or drawings of a building or structure proposed to be erected or altered; or
- (b) the neglect or delay by any authority to give within forty days after application therefor a decision in respect of permitting building or

approving plans, specifications, or drawings of a building or structure proposed to be erected or altered,

may appeal to the Board.

“(2) A person concerned with the erection or alteration of a building or structure proposed to be erected or altered or in course of erection may refer to the Board the question whether in the case of that building or structure any provision of the Building Regulations or a by-law with respect to building is inappropriate or any such provision may reasonably be varied or modified without detriment to the public interest.

“(3) On an appeal under this section the Board shall hear the appellant and any authorities and other persons appearing to it to be concerned and may—

- (a) reject the appeal; or
- (b) modify or vary the decision appealed from, if any;
- (c) give such decision as it thinks the authority appealed against should have given; or
- (d) give directions to the authority appealed against on how it shall act or decide, with power to modify or vary the Building Regulations for the particular case and to direct that authority to revoke its decision and give another or to modify or vary its decision, whether or not it has power otherwise so to do.

“(4) On a reference under this section the Board may direct that any provision referred to in subsection (2) shall not apply to the building or structure concerned or shall apply to that building or structure with such modifications or variations as the Board may determine.

“(5) In determining appeals and references the Board shall have regard to all relevant Acts, regulations, and by-laws, any special knowledge or competence of an authority appealed against, the circumstances of the case, and the public interest.

Powers and  
procedure.  
Cf. No. 67 of  
1962, s. 454,  
No. 41, 1919  
(N.S.W.), ss.  
317AM, 317AO,  
317AF.

“461L—(1) On an appeal or reference the Board may—

- (a) cause parties to be added as prescribed;
- (b) where it appears that a decision involved depends on the decision of another authority extend the scope of the appeal or reference so as to settle the whole matter, causing to be added all proper parties for that purpose;
- (c) appoint one of its members to make any inquiry or any survey that appears to it necessary or expedient for the purposes of the appeal or reference;
- (d) use the knowledge of its own members, however gained;
- (e) rely on, and adjourn proceedings to obtain, reports of tests of competent persons;



- (f) if a party warned of the time and place of hearing does not appear proceed with the hearing and determine it as if he were present; and
- (g) if a party's expenses have in the Board's opinion been caused or increased by unreasonable or improper conduct of another party order the latter to pay the former such sum by way of costs as it may fix.

“(2) The Governor may, by regulation, provide for—

- (a) a clerk, officers, and servants of the Board to be appointed under the *Public Service Act 1923*;
- (b) the mode and time of instituting appeals and making references;
- (c) the procedure of the Board;
- (d) fees to be paid by appellants and other parties and for inspecting documents and for copies of documents;
- (e) payment to witnesses;
- (f) deposits to be paid by appellants and their disposal;
- (g) recording of appeals and references; and
- (h) giving effect to the decisions of the Board.

“(3) Except as otherwise prescribed the Board may regulate its own proceedings.

“(4) The Minister may provide for publication of decisions of the Board.

“461M—(1) The Board may at any time, and shall if ordered by a judge in chambers, on an application in a summary way made by any party to the appeal or reference, state a case for the opinion of the Supreme Court on any question of law arising in an appeal or reference.

Relation to  
the Supreme  
Court.  
No. 67 of  
1962, s. 455.

“(2) The Supreme Court shall hear and determine the question of law arising on the case stated by the Board and remit its opinion to the Board, which shall be bound thereby, and the Supreme Court shall make such order as to the costs of the case and in the Supreme Court as it thinks fit.

“(3) No application may be made to a judge under this section except by a party who has already asked the Board to state a case on the question.

“(4) Except as provided in this section every decision of the Board is final and binding on the parties to the appeal or reference.”.

4 Section five hundred and fifty of the Principal Act is amended by omitting paragraph (c) of subsection (1) and substituting therefor the following paragraph:—

Special  
powers.

- “(c) pay a subsidy to the Crown in consideration of—
  - (i) its making the services of a legally-qualified medical practitioner available to the inhabitants of the municipality

or a part thereof or to the corporation as municipal medical officer of health; or

(ii) its testing dogs in the municipality for hydatids;”.

**5** After section six hundred and eighty-five of the Principal Act the following section is inserted:—

Loans for  
community  
centres.

“685A—(1) The corporation may lend money (including money borrowed by it for the purpose) to persons for works as defined in the *Community Centres Loans Act* 1959, upon the borrower’s entering into covenants approved by Her Majesty’s Treasurer for repayment, interest, and other matters.

“(2) For the purposes of the *Audit Act* 1918 a person (including in the case of an association the trustees, if any, of its property) who is liable to repay moneys lent under this section shall be deemed to be a public body as defined in that Act.”.

Operation  
of Town  
Planning  
Scheme.

**6** Section seven hundred and thirty-one of the Principal Act is amended—

- (a) by inserting in subsection (1), after the word “description”, the words “or kind whatsoever”;
- (b) by inserting after the word “person” the words “, public or private”; and
- (c) after the word “existing”, by inserting the word “such”.

Regulation of  
building, &c.,  
pending  
approval  
of scheme.

**7** Section seven hundred and thirty-four of the Principal Act is amended by inserting, after subsection (9), the following subsections:—

“(9A) Subject to subsection (9B), an appeal under this section may not be instituted more than sixty days after, in the case of an appeal against—

- (a) an interim order, the publication thereof; or
- (b) a dispensation or determination, the corporation’s notification of the dispensation or determination has been advertised on a Saturday in a newspaper and by posting a copy on the land directly affected so as to be plainly seen and read from the highway, or principal highway, if more than one, giving access to that land.

“(9B) Subsection (9A) does not apply to an appeal by a person who has—

- (a) been refused a dispensation under subsection (2); or
- (b) under subsection (4) been refused the corporation’s consent or granted it conditionally or been prohibited from erecting a building or carrying out a work.”.

8 The sixth schedule to the Principal Act is amended by inserting, after paragraph 26, the following paragraph:— Sixth schedule.

“26A. That the Council may delegate to the municipal architect, the approval of plans and other things and matters mentioned in paragraph 2 of this schedule.”.

9 The sections and schedule of the Principal Act mentioned in the schedule to this Act are amended as therein set forth. Small corrections.

### THE SCHEDULE.

(Section 3.)

| Section or schedule. | How amended.   |
|----------------------|--|
| 72                   | By omitting from paragraph (e) of subsection (1) the word “votes” and substituting therefor the word “voters”.   |
| 111                  | By omitting the word “Juries” and substituting therefor the word “Jury”.   |
| 361                  | By omitting from paragraph (b) of subsection (7) the word “the” (second occurring).  |
| 471                  | By inserting at the beginning of paragraph (b) of subsection (1) the word “within”.  |
| 472                  | By inserting in sub-paragraph (ii) of paragraph (b) of subsection (3), after the symbol “(c)”, the words “of subsection (1)”.  |
| 481                  | (a) By omitting from subsection (1) the numeral “(17)” and substituting therefor the numeral “(20)”.<br>(b) By omitting from subsection (10) the numerals and word “(9) to (19)” and substituting therefor the numerals and word “(11) to (25)”. |
| 482                  | By omitting from subsection (1) the numeral “(17)” and substituting therefor the numeral “(20)”.   |
| 485                  | By omitting from subsection (4) the numerals and words “(8) to (17) and (19)” and substituting therefor the numerals and word “(9) to (25)”.   |
| Sixth schedule       | By omitting from paragraph 31 the words “a building appeal board” and substituting the words “the Building Appeal Board constituted under Division IA of Part XVI”.  |
| Eighth schedule      | By omitting from Part I the item “Fingal Water Amendment Act 1921 12 Geo. V No. 13”.   |