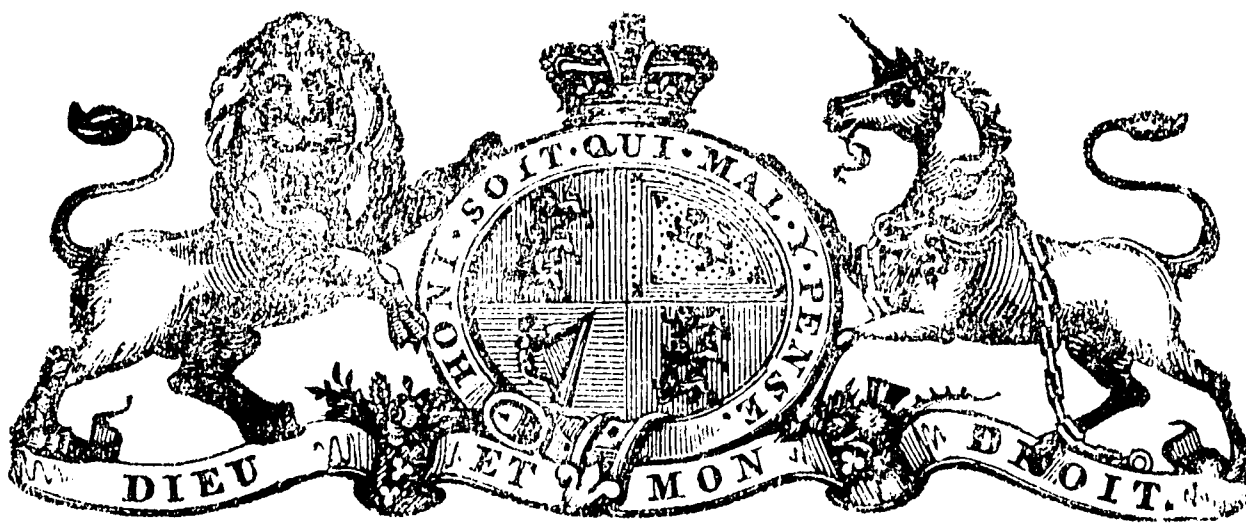


VICTORIA.



ANNO VICESIMO SEPTIMO

VICTORIÆ REGINÆ.

No. CLXXI.

An Act for the Improvement of the Municipal District of East Collingwood in the Colony of Victoria. [30th June, 1863.]

WHEREAS the area now constituting the Municipal District of East Collingwood in the Colony of Victoria is in several parts deficient of lines of drainage And whereas it is desirable to make provision for opening the streets of the said district and for the better drainage and improvement of the aforesaid Municipal District Be it therefore enacted by the Queen's Most Excellent Majesty by and with the advice and consent of the Legislative Council and Legislative Assembly of Victoria in this present Parliament assembled and by the authority of the same as follows (that is to say).—

I. It shall be lawful for the municipal council of East Collingwood to make widen and complete throughout the municipal district of East Collingwood the several streets and the one drain specified in the schedule hereunto annexed and generally to carry the purposes of this Act into execution in manner hereinafter mentioned and such streets and such drain may be commenced at one and the same time or in such order as the said council may think fit Provided always that it shall not be lawful for the aforesaid municipal council to purchase any property except such as may be required for the purpose of drainage only And provided also that the drain mentioned in the said schedule shall when commenced be carried on to completion without delay And the proprietor for the time being of the land through which such drain shall be cut shall be at liberty to make side entrances therein for the purpose of carrying off surface water.

Council may make new streets.

II. It shall be lawful for the said municipal council from time to time to estimate as correctly as may be what amount may be sufficient for the purposes aforesaid and in order to raise the amount so estimated the said municipal council is hereby authorised from time to time to order a separate rate not exceeding fourpence in the pound in any one year to be made upon the said municipal district and when determined the said rate shall be levied and raised upon all lands hereditaments and tenements in the said municipal district in the same manner as

Power to council to impose rate.

East Collingwood Improvement.

as rates may be levied and raised upon houses and lands in the said municipal district under the Acts in force for the time being for the establishment of municipal institutions in Victoria and the several provisions of the said Acts shall be applied and applicable to the said separate rate upon the said municipal district so far as is consistent with the said municipal district being as to the said municipal district separated from the ordinary rate of the said district and the treasurer of the said municipal district shall keep the sum levied and raised by such rate separate and distinct from the other funds of the said municipal district and shall keep separate accounts thereof as applicable to the purposes appointed by this Act and all such moneys shall be applied by the said municipal council for the purposes and objects of the Act.

Map or plan of intended streets to be deposited with town clerk.

III. A plan describing the lines of the intended streets and of the alterations of streets and of the streets to be produced and the lands on the site of which the same streets and the one drain are proposed to be made shall be prepared and be signed by the chairman of the said municipal council and town clerk of the said municipal district and deposited at the office of the said town clerk and the said plan shall remain at the said office to the end that all persons may at reasonable times have liberty to inspect and peruse the same without charge.

Land laid into the street to form parts thereof.

IV. When any street shall have been made or produced or set out under this Act the same shall be deemed and taken to be portion of the public thoroughfares of the said municipal district of East Collingwood.

Power to take lands &c.

V. For the purpose of providing land necessary to form such streets it shall be lawful for the said municipal council and they are hereby authorised and empowered to take and use any land and pull down and remove any building which it may be deemed necessary and expedient to take use or pull down or remove for the purposes of this Act. Provided that three calendar months' previous notice in writing from the town clerk of their intention to take and use or pull down or remove the same respectively shall either have been given to the owners or occupiers of such land or building or in case they cannot be found or ascertained left at the usual or last known places of their abode or with the tenants or occupiers of the same land or building or shall be affixed upon such land or building and inserted three times in two newspapers circulating within the said municipal district.

Power to arbitrators municipal council their surveyor &c. to enter upon lands &c. for surveying or valuing.

VI. It shall be lawful for the said arbitrators and the said municipal council and for their surveyors officers and workmen from time to time at all reasonable times in the day time upon giving for the first time twelve hours' and afterwards from time to time six hours' previous notice in writing to enter into and upon the said building and land authorised to be taken and used as aforesaid or any of them for the purpose of surveying or valuing the said premises without being deemed trespassers.

Municipal council empowered to treat for the purchase of houses &c.

VII. It shall be lawful for the said municipal council to treat and agree for the purchase of any land which they may deem necessary for the purposes of this Act to be taken and used by them and of any subsisting leases terms shares estates and interests therein and charges thereon or such of them or such part or parts thereof respectively as the said municipal council shall think proper and to enter into any contract which they may think fit in relation thereto and the land which shall be purchased in pursuance of this Act shall vest in the said municipal council and their successors in trust for the purposes of this Act.

Limitation of time of purchasing lands &c.

VIII. If the said municipal council shall not within the space of five years to be computed from the commencement of this Act purchase

or

East Collingwood Improvement.

or take the land or building or parts thereof respectively which they are empowered by this Act to take use and purchase as aforesaid then and from thenceforth the powers hereby granted to them for such purpose shall cease and determine.

IX. It shall be lawful for all trustees executors administrators and other persons and whether having a partial or qualified or an absolute and indefeasible estate not only for and on behalf of themselves their heirs executors and administrators respectively but also for and on behalf of their respective trusts whether infants femes covert idiots lunatics or persons not born or not ascertained and any persons entitled in remainder reversion expectancy or contingency or for any other future estate or interest and whether any of such persons shall not be ascertained or shall be incapable of contracting or selling or conveying the same and to and for all and every other person or persons whomsoever who are or shall be seised or possessed of or interested in any lands which by the said municipal council shall be thought necessary for any of the purposes of this Act to contract for sell and absolutely dispose of the same and every or any part thereof to the said municipal council and their successors for the purposes of this Act and all contracts agreements sales acts and deeds which shall be made by such person or persons as aforesaid shall be valid and effectual in the law and all persons whomsoever contracting for or disposing of as aforesaid are hereby indemnified for or in respect of any such sale which they or any of them shall respectively make by virtue or in pursuance of this Act.

Public bodies trustees and other persons empowered to sell and convey.

X. All trustees and other persons hereinbefore capacitated to contract for sell and absolutely dispose of any such lands as aforesaid and any other owners of any such lands or any estate or interest therein or charge thereon may accept and receive such satisfaction for the value thereof and also such compensation for improvement or for any injury or damage which may be sustained on account of the execution of this Act or in anywise relating thereto in such sum of money as shall be agreed upon between them respectively and the said municipal council and in case the said municipal council and the said persons interested in such lands or sustaining any injury or damage cannot agree as to the amount or value of such satisfaction recompense or compensation the same respectively shall be ascertained and settled in manner hereinafter directed Provided that no compensation whatever shall be given for any building erected or put up at any time after the passing of this Act on any land which may be set out as a public street under the provisions hereof Provided further that nothing herein contained shall enable any person whosoever to demand or receive any compensation for any land now laid out and used as a street but such land shall be deemed a public thoroughfare of the municipal district of East Collingwood.

Satisfaction to be made and may be accepted.

XI. If any person holding any share estate or interest in any land which the said municipal council are hereby empowered to purchase take and use for the purposes aforesaid shall neglect or refuse to treat or shall not agree in the premises or by reason of absence or disability shall be prevented from treating with the said municipal council for the sale or disposal of their respective estates and interests therein or cannot be found or known or shall not produce and evince to the said municipal council a clear title to the premises they may be in the possession of or to the interest they shall claim therein then and in every or any such case it shall be enquired into and ascertained by arbitrators as hereinafter mentioned what damages will be sustained by and what recompense and satisfaction shall be made to every such person interested for the value of such buildings or lands and of the proportionate value of the respective estates

If persons refuse to treat or shall not agree a jury to be summoned.

East Collingwood Improvement.

estates and interests of every person seised or possessed thereof or interested therein or any part thereof and such arbitrators shall assess the sum of money to be paid to each person respectively for the purchase of such buildings or lands and of such respective estates and interests therein and also for any damage or injury whatsoever that may affect any such person and also for and on account of the taking of such buildings and lands for the purposes or under and by virtue of this Act And the said arbitrators in estimating such recompense and satisfaction shall take into their consideration the increase in value of the residue of any property of which such land shall form part And the person claiming compensation shall be deemed the plaintiff and shall have all such rights and privileges as nearly as may be as the plaintiff is entitled to in the trial of actions at law and if either party so request in writing the said arbitrators shall summon and examine upon oath any person whomsoever who shall be thought necessary and proper to be examined as a witness touching or concerning the premises which oath the said arbitrators are hereby empowered to administer and such arbitrators shall use all other lawful means for their information in the premises and after the said arbitrators shall have ascertained and settled such damage recompense or satisfaction they shall thereupon order and award the sum of money so assessed to be paid by the said municipal council to the said persons interested therein which order so had and made shall be final and conclusive to all intents and purposes.

Penalty on witness
for neglect of duty.

XII. If any persons so summoned as a witness shall not appear or appearing refuse to be examined or to give evidence any person so offending being convicted thereof in a summary way before any two justices of the peace and having no reasonable excuse to be allowed by the said justices shall for every such offence forfeit and pay any sum not exceeding ten pounds which several and respective penalties shall and may be levied by virtue of any warrant under the hands and seals of the said justices by distress and sale of the goods and chattels of the persons so offending and all such fines shall be paid to the said municipal council to be applied for the purposes of this Act.

Arbitrators may
assess the value of
fee simple and then
apportion values of
respective interests
therein.

XIII. In all cases the arbitrators shall if required so to do on behalf of the said municipal council enquire of assess and ascertain the value of the fee simple of the entirety of any lands or share therein and shall afterwards apportion and divide the value so ascertained between and among all the different shares and charges which shall be claimed thereon and also between different parts of the said lands alleged to be held under different titles provided that the order or award of any arbitrators shall not defeat or prejudice any contract or sale which shall have previously been made of any share or charge although the value of the same may be ascertained to be different from the amount of the price recompense or satisfaction agreed to be paid for the same.

If the party make
default the enquiry
to proceed.

XIV. If the person on whom such notice shall have been served as aforesaid shall not appear at the time appointed for the enquiry assessment or arbitration such enquiry assessment or arbitration shall and may on proof of such notice having been served as aforesaid to the satisfaction of the said arbitrators be proceeded with in all respects as if such person had appeared and was present.

Verdicts of value of
lands and damages
to be ascertained
separately.

XV. The arbitrators shall award all orders and assessments concerning the value of any lands or of any share estate or interest therein or any charge thereon separately and distinctly for any loss or damage to be sustained in consequence of the execution of any of the powers of this Act and shall distinguish the value set upon the lands and the money assessed or adjudged for such loss or damage as aforesaid separately

East Collingwood Improvement.

separately from each other and when any money shall be assessed or adjudged for such loss or damage as aforesaid the arbitrators shall if required by the said municipal council declare whether the statement delivered by the claimant of the manner in which any amount of the money which shall have been demanded as a compensation for the same has been computed and made up give sufficient particulars to enable the said municipal council to make a proper offer.

XVI. Copies of all such awards shall be recorded in the office of the town clerk and all such awards shall be afterwards deposited with the clerk of the peace for Bourke to be kept and preserved by him amongst the records of the Court of General Sessions for Bourke and shall be deemed to be records to all intents and purposes whatsoever and the same or true copies thereof shall be allowed to be good evidence in all courts whatsoever and all persons shall have liberty to inspect the same and to take copies thereof.

Awards to be recorded.

XVII. In all cases in which any person shall claim any satisfaction or compensation for or in respect of any unexpired term or interest which he shall claim to be possessed of or entitled unto in any land intended to be taken or used under the authority of this Act under or by virtue of any demise or lease or agreement for demise or lease or grant thereof the said municipal council are hereby authorised to require such person to produce or show the demise or lease or agreement for demise or lease or grant in respect of which such claim to satisfaction or compensation shall be made or the best evidence thereof in his power and if such demise or lease or agreement for demise or lease or grant or such best evidence thereof as aforesaid shall not be produced or shown within twenty-one days after demand made by the said municipal council the person claiming such satisfaction or compensation shall be considered and treated as holding only from year to year.

Persons holding under leases to produce the same.

XVIII. In case any difference shall arise between the said municipal council and any of the owners or occupiers of the land to be taken or used for the purposes of this Act as to the amount of value of or compensation for any lands required under the provisions of this Act or any share interest or charge therein or thereon or of the damages done by the said municipal council their agents or workmen to such land in the execution of any of the powers of this Act and such difference cannot be adjusted and settled between the parties the same shall be ascertained and determined by arbitrators to be chosen in the following manner The municipal council of the said municipal district of East Collingwood shall by resolution of a meeting of the said municipal council duly convened appoint one person on behalf of the said municipal council as arbitrator and the chairman of the municipal district of East Collingwood shall and he is hereby empowered to convene a meeting of the owners and occupiers whose properties are to be taken or used for the purposes of this Act by public notice of twenty-one days in one or more newspapers circulating in the said municipal district which said meeting or a majority thereof shall and they are hereby empowered to appoint one other arbitrator not being a member of the said municipal council and it shall be lawful for the Governor in Council to appoint one other person as arbitrator which said persons so appointed as aforesaid shall constitute arbitrators under this Act and all vacancies in the number of the said arbitrators by death resignation or otherwise shall be filled in the manner provided for the appointment of the original arbitrators and in case of any difference of opinion between the said arbitrators the order and award of any two of them shall be deemed the order and award of all three of such arbitrators Provided that such board before exercising any of the

For settling disputes as to value damage or compensation.

East Collingwood Improvement.

the powers vested in them under the provisions of this Act shall be duly sworn fairly and impartially to make their award which oath any justice of the peace is hereby authorised and empowered to administer and such arbitrators upon application made to them by both or either of the said parties shall examine into the matter in dispute and shall determine and settle the amount of compensation which shall be payable by the said municipal council and such arbitrators may examine witnesses and administer oaths in all respects and with the same consequences as to false swearing as if the same were a judicial matter brought before them on which they were by law entitled to adjudicate.

Municipal council not to take possession until the purchase moneys are produced or paid.

XIX. All sums of money or other consideration recompense or satisfaction to be made or paid pursuant to any such agreement or award as aforesaid shall be paid or tendered to the person entitled to the same or into such bank in Melbourne as the said arbitrators may appoint as hereinafter mentioned before the said municipal council shall proceed to take possession or pull down any buildings comprised in or affected by such agreement or award respectively or to use the land for any purpose of this Act.

Municipal council empowered to take possession on payment of purchase money into bank.

XX. Upon payment of such sum of money as shall have been contracted and agreed or shall have been awarded by the said arbitrators in manner aforesaid to be paid for the purchase of or for the value of any lands acquired under the provisions of this Act or any share estate or interest therein or charge thereon into such bank as aforesaid for the use of the person interested in or entitled thereto or upon payment to the person entitled to receive the same such lands or shares estates interests or charges and the fee simple and inheritance thereof together with the yearly profits thereof and all the estate right title interest use trust property possession claim and demand at law and in equity of the person to whose credit such money shall be paid of into and out of the lands to be purchased as aforesaid shall from thenceforth vest in the said municipal council and their successors who shall be deemed in law to be in the actual seisin and possession thereof to all intents and purposes freed and discharged from all former and other estates rights titles and interests claims and demands as fully and effectually as if every person having any estate in the premises had actually conveyed the same by any valid or effectual conveyance or assurance whatsoever and the same had been actually registered according to law and such payment shall not only bar all right title interest claim and demand of the person of in and to the same premises to whose credit such payment or tender shall have been made but also shall extend to or be deemed and construed to bar the dower of the wife of such person and all estates tail or other estates in possession reversion remainder expectancy or contingency and the issue of such person and every other person whomsoever and the said premises shall and may thereupon be pulled down and made use of and employed for the purposes aforesaid according to the directions of the said municipal council and under the regulations of this Act mentioned and contained.

Application of purchase money in certain cases.

XXI. Where any money shall be agreed assessed ordered or awarded to be paid for any buildings or lands or any share estate or interest therein or charge thereon or for any other right matter or interest of what nature and kind soever purchased taken or used by virtue of this Act which shall belong to any person who cannot be found or shall not be known or ascertained or shall not be able to make a good title to the premises to the satisfaction of the said municipal council such money shall in case the said municipal council shall see fit remain in the possession of the said municipal council provided there be deposited in such bank as aforesaid to the joint credit of the said municipal council and the person

East Collingwood Improvement.

person who shall be interested in the same a debenture of like amount with the money so agreed assessed ordered or awarded to be paid bearing interest at the rate of six pounds per centum per annum which debenture shall render the said municipal council liable to the payment of the said money with interest as aforesaid to such person whenever fully entitled to receive the same such debenture to be signed by the chairman of the said municipal council of East Collingwood and town clerk for the said municipal district of East Collingwood provided that the aggregate of all such debentures do not exceed the average amount of the revenue of the said municipal council for the period of one year.

XXII. Where such money so agreed awarded ordered or assessed to be paid as hereinbefore mentioned shall be less than forty pounds the same shall be applied to the use of the person who would for the time being have been entitled to the rents and profits of the land so purchased taken or used for the purposes of this Act in such manner as the said municipal council shall think fit or in case of the infancy lunacy or other incapacity of such person then such money shall be paid to his guardian committee or trustee to and for the use and benefit of such person.

When less than forty pounds.

XXIII. All persons having any mortgage on any lands which shall be required to be taken for the purposes of this Act and whether entitled thereto in their own right or in trust for any other person and whether in possession of such lands by virtue of such mortgage or not and whether such mortgage shall affect such lands solely or jointly with any other lands which shall not be required shall on payment or tender by the said municipal council of the principal money and interest due on such mortgage and the just costs (if any) then due together with the amount of six calendar months' interest on the said principal money which tender and payment the said municipal council are hereby authorised to make and to deduct the same from any sum agreed or directed ordered or awarded to be paid for the estate or interest of the person entitled to the equity of redemption of and in the land so mortgaged in case the same shall be sufficient for the purpose immediately convey assign and transfer the respective interests of such mortgagees in the lands which shall be so required to the said municipal council and their successors or in case such mortgagees shall have notice in writing from the said municipal council or from the person entitled to the equity of redemption of and in the same land that he will pay off the principal money and interest which shall be due on such mortgage at the end of six or less number of calendar months to be computed from the day of giving such notice then at the end of six or less number of calendar months on payment or tender by the said municipal council of the principal money and interest which would become due at the end of six calendar months from the time of giving such notice together with any just costs then due such mortgagee shall convey assign or transfer his interests in the lands which shall be so required for the purposes of this Act to the said municipal council and their successors and in case any such mortgagee shall refuse to convey assign or transfer as aforesaid on such payment or tender respectively as aforesaid then on payment of such money interest and costs by a debenture as hereinbefore provided into such bank as aforesaid all interest on every such mortgage debt and all claim and right of every such mortgagee thereto shall thenceforth cease and determine provided always that in case any such mortgagee shall in either of the cases aforesaid neglect or refuse to convey assign or transfer as aforesaid then upon payment of the principal money and interest and costs (if any) due on any such mortgage as aforesaid into such bank as aforesaid

Mortgagees to convey to the municipal council.

East Collingwood Improvement.

aforesaid by a debenture as aforesaid or at the end of six calendar months from the day of giving such notice as aforesaid or as soon after as possible or in lieu of such notice and in addition to the said other moneys of six calendar months' interest in advance for the use of such mortgagee at any time after tender of the principal interest and costs and six calendar months' interest in advance as aforesaid by debenture as aforesaid thereupon all the estate right title interest use trust property claim and demand of such mortgagee and of all persons in trust for him or for whom he shall be trustee shall without any conveyance vest in the said municipal council and their successors who shall be deemed to be in actual possession of the premises and estate comprised in such mortgage or so much thereof as shall be required for the purposes of this Act to all intents and purposes whatsoever as if a conveyance thereof had been duly made to the said municipal council and had been registered.

As to the case where the mortgage is more than the value of the premises or a part only of the premises is taken.

XXIV. In all cases in which any land subject to any mortgage shall be required for the purposes of this Act and which land shall be of less value than the principal moneys interests and costs secured thereon or in which a part only of the land subject to any mortgage shall be required for the purposes of this Act and such part shall be of less value than the principal moneys interests and costs secured on such land and the mortgagee thereof shall not consider the remaining part of such land to be a sufficient security for the money charged thereon or shall not be willing to release the part required for the purposes of this Act from the principal or mortgage money and all interest due and to become due thereon and all costs the value of such land or as the case may be of such part of such land as shall be so required for the purposes aforesaid and also the compensation (if any) for any damage done in respect of the parts so required shall be settled and agreed upon by and between such mortgagee and the person entitled to the equity of redemption of such lands whether absolutely or for such estate as might capacitate him to convey for the purposes of this Act on the one part and the said municipal council on the other part and in case of any difference between them then such value and compensation shall be determined by the said arbitrators in the same manner as in other cases of difference and the amount of such value and compensation being so agreed upon and determined as aforesaid shall be paid to such mortgagee in satisfaction of his claim (so far as the same will extend) and such mortgagee shall thereupon convey assign and transfer all his interest in such mortgaged land the value whereof shall so have been agreed upon or determined as aforesaid or in case of his neglecting or refusing to convey assign or transfer as hereinbefore directed then the amount of such value and compensation shall be paid into such bank as aforesaid to the credit of the said mortgagee as by this Act is provided in cases of the like nature and such payment to the mortgagee or into such bank as aforesaid shall be accepted in satisfaction of the claim of such mortgagee so far as the same will extend and also in full discharge and exoneration of such part of the mortgaged premises as shall be so taken or used from all principal and interest and other money due or secured thereon and thereupon such mortgaged lands absolutely vested in the said municipal council who shall be deemed to be in the actual possession thereof to all intents and purposes whatsoever as if a conveyance had been duly made and registered provided that all mortgagees shall have the same powers and remedies for recovering or compelling payment of their mortgage money or the residue thereof (as the case may be) or the interest thereof respectively upon and out of the residue of the mortgaged land not required for the purposes aforesaid as they would have had or been entitled to for recovering or compelling payment thereof
upon

East Collingwood Improvement.

upon or out of the whole of the land originally comprised in such mortgage Provided also that when a part only of the land subject to any mortgage shall have been taken for the purposes of this Act as aforesaid and the value of the land so taken shall have been paid by the said municipal council to the mortgagee thereof in part satisfaction of his mortgaged debt a memorandum of what shall have been so paid shall be endorsed on the deed creating such mortgage and shall be signed by the said mortgagee and a copy of such memorandum shall at the same time (if required) be furnished by the said municipal council to the person so entitled as aforesaid to the equity of redemption of the land comprised in such mortgage deed.

XXV. Every tenant at will or for a year or any other person in possession of any such building or land or any part thereof which shall be purchased by virtue of this Act or vested in the said municipal council for the purposes aforesaid who shall have no greater interest in the premises than as tenant at will or lessee for a year or from year to year shall at the end of six calendar months next after notice in writing signed on the part of the said municipal council by their town clerk shall have been given to him or left at the premises which are the subject of such notice and whether such notice be given with reference to the time or times of such tenants holding or not quit and relinquish the said premises unto the said municipal council or to such persons as shall be by them authorised to receive possession thereof and in case any such lessee shall be compelled to quit before the expiration of his term or interest in any such premises the said municipal council shall give satisfaction or compensation for the loss or damage which he shall sustain thereby and in case of any difference as to the amount of such satisfaction or compensation the same shall or may be settled and ascertained by the said arbitrators in the same manner as the sums of money to be paid for the purchase of any land are hereinbefore directed to be ascertained and every person in possession of any building or land which shall or may be purchased in pursuance of this Act by the said municipal council or vested in them for any of the purposes aforesaid shall upon payment or tender as aforesaid of such recompense or satisfaction for any of his term estate or interest in the premises as shall be mutually agreed upon or as shall be settled ascertained or awarded by the said arbitrators in manner aforesaid quit and relinquish the said premises so in their respective possessions unto the said municipal council or to such person as shall be by them authorised to take possession of the same and all the leases demises contracts and agreements whatsoever under or by virtue whereof any such person shall hold said premises shall at and from the end and expiration of such six calendar months or upon such payment or tender as aforesaid be absolutely void and of none effect as against the said municipal council and their assigns and if any tenant at will lessee or other person as aforesaid shall refuse or neglect to deliver up the premises in his or their possession at the expiration of such six calendar months or upon such payment or tender as aforesaid it shall be lawful for any justice of the peace acting in and for the said municipal district of East Collingwood to issue his precept or warrant to any constables of the said municipal district requiring such constables or any of them to cause possession of the said premises to be taken and afterwards delivered to such person as shall in such precept or warrant be nominated to receive the same on behalf of such municipal council and the said constables are hereby authorised and required to cause such possession to be taken and delivered accordingly provided that nothing in this Act contained shall prevent or restrain the said municipal council whenever they may deem it just and reasonable so to do from granting compensation

Tenants at will or
from year to year
to quit after notice.

East Collingwood Improvement.

sation to any tenant at will for giving up the possession of the premises under or by virtue of this Act in any case where special injury shall be proved to their satisfaction.

Power to clear the ground and sell old materials.

XXVI. It shall be lawful for the said municipal council and they are hereby empowered to pull down or cause to be pulled down all buildings which shall be purchased or otherwise taken by virtue of this Act and to level and clear the ground on which the same stand and all other the ground to be purchased by virtue of this Act in such manner as they shall think proper and to sell the materials of the buildings to be taken down and removed pursuant to this Act and the moneys to be produced by the sale thereof after deducting the expenses for pulling down such buildings respectively and of such sales shall be applied and disposed of for or towards the purposes of this Act or any of them.

Interpretation clause.

XXVII. In the construction of this Act from sections one to twenty-six inclusive unless there be something either in the subject or context repugnant thereto the word "land" shall extend to messuages lands tenements and hereditaments of any tenure the word "building" shall include house dwellinghouse warehouse shop counting house offices stables outoffices and any erection or building of any kind whatsoever the word "person" shall include any corporation body politic corporate or collegiate ecclesiastical or lay aggregate or sole company or association the word "owner" shall be understood to mean the person or corporation for the time being entitled to the rents and profits of the land or building and who under the provisions of this Act would be enabled to sell and convey lands to the said municipal council and the word "street" shall mean any street square or public way.

SCHEDULE REFERRED TO IN THIS ACT.

1. Elizabeth Street from Wellington Street to Nicholson Street.
2. Gipps Street from Wellington Street to Nicholson Street.
3. Drain in Line of Ryrie Street from Hoddle Street to the Yarra passing through land now in the possession of one Dight and of sufficient depth to carry off the storm water lined throughout with brick or stone properly fitted and covered the whole length with stone or gum planking not less than four inches thick.
4. Gold Street from Johnston Street to Easey Street.

MELBOURNE :

By Authority: JOHN FERRES, Government Printer.