

No. IX.

An Act to explain and amend an Act of the Governor and Council intituled "An Act for "better regulating the Alignment of Streets in "the Town of Sydney." [9th October, 1835.]

SYDNEY STREETS
ALIGNMENT.

WHEREAS an Act of the Governor of New South Wales with Preamble. the advice of the Legislative Council thereof was passed in the fifth year of the reign of his present Majesty intituled "An Act for better regulating the Alignment of Streets in the Town of Sydney" whereby it was amongst other things enacted That from and after the passing and publication of the said recited Act it should not be lawful for any person to erect any building of any kind or description whatsoever within the said Town of Sydney within twelve feet of the outer curb-stone or exterior edge of such foot-way as in the said Act mentioned unless as thereafter provided and

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whereas it was by the said recited Act further enacted that before the Surveyor General should set out the foot-way in any street or part of a street or public place in the said town after the passing of the said Act he should lay before the Governor and Executive Council a plan of the same setting forth the proposed breadth of the carriage and foot-ways and thereupon it should be lawful for the said Governor and Council by notice in the "*New South Wales Government Gazette*" to fix and declare the distance from the curb-stone or exterior edge of the said foot-way in any such street or part of a street or public place within which it should not be lawful to erect any buildings provided such distance should in no case exceed twelve feet unless with the consent of the proprietor of the soil and whereas the Surveyor General in pursuance of the provisions of the said recited Act having laid before the Governor and Executive Council a plan of the proposed breadth of the carriage and foot-ways in certain streets in the said Town of Sydney and the Governor and Council having been pleased to approve thereof a notice to that effect bearing date the thirty-first day of December one thousand eight hundred and thirty four was published in the "*New South Wales Government Gazette*" whereby notice was given that the breadth of the foot-ways in the said streets therein mentioned should be and it was by the said notice declared to be twelve feet and that it should not be lawful for any person to erect any building within twelve feet of the curb-stone or exterior edge of the said foot-way in any streets in the said notice mentioned and whereas in pursuance of the said notice so published in the said "*New South Wales Government Gazette*" the foot-ways in the said streets in the said notice mentioned have been duly laid out by the Town Surveyor of the said town and whereas doubts have arisen in certain cases where the breadth of the carriage-way of some of the streets from house to house is in parts wider than the number of feet mentioned in the said notice above-mentioned the breadth of the said foot-way should be measured from the curb-stone or exterior edge of the said foot-way as laid down by the Town Surveyor as aforesaid or from the centre of the carriage-way mentioned in the said Government Notice and including half the breadth of the said carriage-way and the said breadth of twelve feet therein mentioned as the declared breadth of the said foot-ways and whereas it is expedient that such doubts should be removed and the uniformity of the said foot-ways preserved within the said town and streets of Sydney Be it therefore enacted by His Excellency the Governor of New South Wales with the advice of the Legislative Council thereof and it is hereby declared That the admeasurement of the breadth of the said foot-ways in the said Town of Sydney in the Colony aforesaid shall in all cases be taken and measured from the curb-stone or exterior edge of the said foot-ways as laid down by the said Town Surveyor under the provisions of the said recited Act without reference being in any manner had to the breadth of the carriage-way adjoining to the said foot-ways or any parts or part thereof whether such carriage-way may or may not in any part exceed the breadth of the carriage-way mentioned in the said Government Notice above-mentioned or in any other notice whatever.

The breadth of the foot-ways in all cases to be measured from the curb-stone or exterior edge of the foot-ways without reference to the breadth of the carriage-way.

2. And whereas it was by the said recited Act provided that all lands which should have been at the time of the publication of the general objects of the said Act in the "*New South Wales Government Gazette*" or should at any time thereafter be left open and used as a carriage or foot-way within the said town should be deemed and taken to be dedicated to the public and should not be fenced in or resumed on any pretence whatever but be subject to all such and the like regulations orders powers and authorities to which land used as a public thoroughfare then was or thereafter should be subject by law and whereas

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whereas it would tend to the uniformity of the buildings and improve the appearance of the said streets if the owners or possessors of certain land within the said town which have been heretofore left open and used as a carriage or foot-way should be permitted under certain conditions and regulations to resume the possession of such part of the said lands as may be deemed expedient Be it therefore further enacted Land heretofore used as a carriage or foot-way may be resumed. That it may be lawful for the Governor of the said Colony with the advice of the Executive Council thereof by any writing under his hand countersigned by the Clerk of the said Council to permit and suffer at the discretion of the said Governor and Council the owner or possessor of any land adjoining to any foot-way within the said Town of Sydney which has been heretofore left open and used as a carriage or foot-way to resume the possession of so much of the said land as shall exceed the distance of twelve feet from the outer curb-stone or exterior edge of the foot-ways within the said town as at present or hereafter to be laid down by the said Town Surveyor and as to the said Governor and Council shall seem fit subject however to and under and upon such conditions regulations and restrictions as shall be directed by the said Governor and Executive Council respecting the same.

3. And be it further enacted That all informations to be hereafter brought or filed against any party or parties for any offence or violation of the regulations or enactments of the said recited Act or of this Act except in cases where the Town Surveyor shall himself be the party prosecuted shall be commenced and prosecuted only under the direction and in the name of His Majesty's Attorney General or of the said Town Surveyor and the penalties and forfeitures recovered levied and received under the said recited Act or this present Act shall be paid and applied in manner as in the said recited Act is mentioned and directed.

Informations to be in the name of Attorney General or Town Surveyor.