

No. VI.

An Act for regulating Buildings and Party-walls
and for preventing mischiefs by Fire in the
Town of Sydney. [8th September, 1837.]

Preamble.

Buildings divided
into six rates or
classes.

WHEREAS it is expedient for the safety of the inhabitants of the Town of Sydney and the security of property therein that provision should be made for the better regulation of buildings and party-walls and for the prevention of mischiefs by fire in the said town Be it therefore enacted by His Excellency the Governor of New South Wales with the advice of the Legislative Council thereof That the several churches chapels meeting-houses or other places of public worship dwelling-houses and all other buildings whatsoever at any time heretofore begun or built or which shall at any time or times hereafter be begun or built within the said town on new or old foundations or on foundations partly new and partly old shall be distinguished by and divided into the six several rates or classes of building hereinafter described and such six several rates or classes of building shall be under the rules and directions hereinafter contained concerning the same.

First-rate of build-
ing.

2. And be it enacted That every church chapel meeting-house and other place of public worship and every house or building for distilling or brewing of liquors for sale for making of soap for melting of tallow for dying for boiling or distilling turpentine for casting brass or iron for refining of sugar for making of glass for chemical works for sale of what dimensions soever the same respectively are or may be and also every warehouse and other building whatsoever not being a dwelling-house now built or hereafter to be built (except such buildings as are hereinafter particularly declared to be of the fifth or sixth rate or class of building) which does or shall exceed three clear stories above ground exclusive of the rooms (if any) in the roof thereof or which is or shall be of the height of thirty-one feet from the surface of the pavement ground or way above the area before either of the fronts thereof to the top of the blocking-course or the coping on the parapet thereof and every dwelling-house which does or shall exceed nine squares of building on the ground-floor each square containing one hundred superficial feet shall be deemed the first-rate or class of building.

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3. And be it enacted That every front side end or other external wall (not being a party-wall) which shall after the first day of January in the year of our Lord one thousand eight hundred and thirty-eight be built to any first-rate building or to any addition thereto or enlargement thereof shall be built and remain at the foundation thereof of the thickness of two bricks and a-half in length or one foot nine inches and a-half at the least and shall from thence regularly and gradually diminish on each side of the wall two inches and a-quarter to the top of the footing of every such wall except where any immediate adjoining building will not admit of such footing being made on the side of such wall next such adjoining building in which case such footing shall be made as near to the dimensions herein directed as the case will admit which footing shall be nine inches high at the least and wholly below the upper surface of the pavement and flooring-boards of the cellar-story two inches at the least and every such wall shall from the top of such footing be of the thickness of two bricks in length or one foot five inches and a-half at the least up to the under side of the one pair of stairs' floor and from thence of the thickness of one brick and a-half in length or thirteen inches at the least up to the under side of the plate under the roof or gutter of every such building and from thence of the thickness of one brick in length or eight inches and a-half at the least up to the under side of the blocking-course or coping on the parapet of every such first-rate building except such parts of every such wall as shall be wholly of stone which parts so being of stone shall be of the thickness of fourteen inches at the least below the ground-floor and of nine inches at the least above the ground-floor and except all recesses above the ground-floor in the said walls which shall be arched over in every story so nevertheless as that the arch and the back of such recess shall be respectively of the thickness of one brick in length or eight inches and a-half at the least.

4. And be it enacted That every party-wall which shall after the said first day of January be built to any first-rate building or to any addition thereto or enlargement thereof shall be built and remain at the foundation thereof of the thickness of three bricks and a-half in length or two feet six inches and a-half at the least and shall from thence regularly and gradually diminish on each side of the wall four inches and a-half to the top of the footing of every such wall which footing shall be one foot high at the least and wholly below the upper surface of the pavement and flooring-boards of the cellar-story two inches at the least and every such party-wall shall from the top of such footing be of the thickness of two bricks and a-half in length or one foot nine inches and a-half at the least up to the under side of the ground-floor and from thence of the thickness of two bricks in length or one foot five inches and a-half at the least up to the under side of the floor of the rooms (if any) in the roof of the highest building adjoining to such party-wall and from thence of the thickness of one brick and a-half in length or thirteen inches at the least up to the top of every such party-wall.

5. And be it enacted That every warehouse stable and other building not being a dwelling-house except such buildings as are herein particularly declared to be of the first fifth or sixth rate or class of building now built or hereafter to be built which does or shall exceed two clear stories and shall not contain more than three clear stories above ground exclusive of the rooms (if any) in the roof thereof or which is or shall be of the height of twenty-two feet and shall not be of the height of thirty-one feet from the surface of the pavement ground or way above the area before either of the fronts thereof to the top of the blocking-course or coping on the parapet thereof

Thickness of external walls to the first-rate.

Thickness of party-walls to the first-rate.

Second-rate.

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thereof and every dwelling-house which does or shall exceed five squares of building on the ground plan and shall not amount to more than nine squares of building on the ground plan thereof shall be deemed the second-rate or class of building.

Thickness of external wall to the second-rate.

6. And be it enacted That every front side or other external wall (not being a party-wall) which shall after the said first day of January be built to any second-rate building or to any addition thereto or enlargement thereof shall be built and remain at the foundation thereof of the thickness of two bricks in length or one foot five inches and a-half at the least and shall from thence regularly and gradually diminish on each side of the wall two inches and a-quarter to the top of the footing of every such wall except where any immediate adjoining building will not admit of such footing being made on the side of such wall next such adjoining building in which case such footing shall be made as near to the dimensions herein directed as the case will admit which footing shall be nine inches high at the least and wholly below the upper surface of the pavement and flooring-boards of the cellar-story two inches at the least and every such wall shall from the top of such footing be of the thickness of one brick and a-half in length or thirteen inches at the least up to the under side of the one pair of stairs' floor and from thence of the thickness of one brick in length or eight inches and a-half at the least up to the under side of the blocking-course or the coping on the parapet of every such second-rate building except such parts of every such wall being above the ground-floor as shall be wholly of stone which parts so being of stone shall be of the thickness of nine inches at the least and except all recesses above the ground-floor in the said walls which shall be arched over so nevertheless as that the arch and the back of each such recess shall respectively be of the thickness of one brick in length or eight inches and a-half at the least.

Thickness of party-walls to the second-rate.

7. And be it enacted That every party-wall which shall after the said first day of January be built to any second-rate building or to any addition thereto or enlargement thereof shall be built and remain at the foundation thereof of the thickness of three bricks and a-half in length or two feet six inches and a-half at the least and shall from thence regularly and gradually diminish on each side of the wall four inches and a-half to the top of the footing of every such wall which footing shall be nine inches high at the least and wholly below the upper surface of the pavement and flooring-boards of the cellar-story two inches at the least and every such party-wall shall from the top of such footing be of the thickness of two bricks and a-half in length or one foot nine inches and a-half at the least up to the under side of the ground-floor and from thence of the thickness of two bricks in length or one foot five inches and a-half at the least up to the under side of the floor of the two pair of stairs' story and from thence of the thickness of one brick and a-half in length or thirteen inches at the least up to the top of every such party-wall.

Third-rate.

8. And be it enacted That every warehouse stable and other building not being a dwelling-house except such buildings as are herein particularly declared to be of the first fifth or sixth rate or class of building now built or hereafter to be built which does or shall exceed one clear story and shall not contain more than two clear stories above ground exclusive of the rooms (if any) in the roof thereof or which is or shall be of the height of more than thirteen feet and shall not be of the height of twenty-two feet from the surface of the pavement ground or way above the area before either of the fronts thereof to the top of the blocking-course or the coping on the parapet thereof and every dwelling-house which does or shall exceed three squares and a-half of building on the ground plan and shall not amount

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amount to more than five squares of building on the ground plan thereof shall be deemed the third-rate or class of building.

9. And be it enacted That every front side end or other external wall (not being a party-wall) which shall after the said first day of January be built to any third-rate building or to any addition thereto or enlargement thereof shall be built and remain at the foundation thereof of the thickness of two bricks in length or one foot five inches and a-half at the least and shall from thence regularly and gradually diminish on each side of the wall two inches and a-quarter to the top of the footing of every such wall except where any immediate adjoining building will not admit of such footing being made on the side of such wall next such adjoining building in which case such footing shall be made as near to the dimensions herein directed as the case will admit which footing shall be six inches high at the least and wholly below the upper surface of the pavement and flooring-boards of the cellar-story two inches in the least and every such wall shall from the top of such footing be of the thickness of one brick and a-half in length or thirteen inches at the least up to the under side of the ground-floor and from thence of the thickness of one brick in length or eight inches and a-half at the least up to the under side of the blocking-course or coping on the parapet of every such third-rate building.

10. And be it enacted That every party-wall which shall after the said first day of January be built to any third-rate building or to any addition thereto or enlargement thereof shall be built and remain at the foundation thereof of the thickness of three bricks in length or two feet two inches at the least and shall from thence regularly and gradually diminish on each side of the wall four inches and a-half to the top of the footing of every such wall which footing shall be nine inches high at the least and wholly below the upper surface of the pavement and flooring-boards of the cellar-story two inches at the least and every such party-wall shall from the top of such footing be of the thickness of two bricks in length or one foot five inches and a-half at the least up to the under side of the ground-floor and from thence of the thickness of one brick and a-half in length or thirteen inches at the least up to the top of every such party-wall.

11. And be it enacted That every warehouse stable and other building not being a dwelling-house except such buildings as are herein particularly declared to be of the first fifth or sixth rate or class of building now built or hereafter to be built which does not or shall not exceed one clear story above ground exclusive of the rooms (if any) in the roof thereof or which is not or shall not be of the height of more than thirteen feet from the surface of the pavement ground or way above the area before either of the fronts thereof to the top of the blocking-course or coping on the parapet thereof and every dwelling-house which does not or shall not exceed three squares and a-half of building on the ground plan thereof shall be deemed to be of the fourth-rate or class of building.

12. And be it enacted That every front side end or other external wall which shall after the said first day of January be built to any fourth-rate building or to any addition thereto or enlargement thereof shall be built and remain at the foundation thereof of the thickness of two bricks in length or one foot five inches and a-half at the least and shall from thence regularly and gradually diminish on each side of the wall two inches and a-quarter to the top of the footing of every such wall except where any immediate adjoining building will not admit of such footing being made on the side of such wall next such adjoining building in which case such footing shall be made as near to the dimensions herein directed as the case will admit which footing shall be six inches high at the least and wholly

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wholly below the upper surface of the pavement and flooring-boards of the cellar-story two inches at the least and every such wall shall from the top of such footing be of the thickness of one brick and a-half in length or thirteen inches at the least up to the under side of the ground-floor and from thence of the thickness of one brick in length or eight inches and a-half at the least up to the under side of the blocking-course or coping on the parapet of every such fourth-rate building.

Thickness of party-walls to the fourth-rate.

13. And be it enacted That every party-wall which shall after the said first day of January be built to any fourth-rate building or to any addition thereto or enlargement thereof shall be built and remain at the foundation thereof of the thickness of two bricks in length or one foot five inches and a-half at the least and shall from thence regularly and gradually diminish on each side of the wall two inches and a-quarter to the top of the footing of every such wall which footing shall be nine inches high at the least and wholly below the upper surface of the pavement and flooring-boards of the cellar-story two inches at the least and every such party-wall shall from the top of such footing be of the thickness of one brick and a-half in length or thirteen inches at the least up to the under side of the ground-floor and from thence of the thickness of one brick in length or eight inches and a-half at least up to the top of every such party-wall.

Party-walls to be between house and other buildings except in such parts where each have independent walls.

14. And be it enacted That from and after the said first day of January every house or building thereafter to be built and being of the first second third or fourth rate or class of building hereinbefore directed and not having each of them a separate and distinct side-wall on the part or parts where they are or shall be contiguous shall have party-walls between house and house or other buildings or between so much of such house and house or other buildings as shall not respectively have such separate and distinct walls as aforesaid and such party-walls shall extend to the outer surfaces of the external enclosures of each of the adjoining houses or buildings and all party-walls and also all chimneys and chimney-shafts hereafter to be built shall be built wholly of good sound bricks or stone or of good sound bricks and stone together except such timber wood lead or iron work as shall or may be laid therein according to the directions hereinafter contained and also except such piling bridging or planking as may be necessary for the foundation thereof and every such party-wall shall be topped or copped with stone tile or brick and shall be of the dimensions hereinbefore directed and one half of every such party-wall between house and house or between other buildings shall be built on the ground or site of one of the adjoining houses or buildings and the other half thereof shall be built on the ground or site of the other of the adjoining houses or buildings and it shall be lawful for the first builder of any such party-wall and for the workmen employed in building the same to enter upon the ground adjoining thereto in order to the building such party-wall in manner aforesaid.

All party-walls above four stories high to be built as of the first-rate.

15. Provided nevertheless and be it enacted That every party-wall which shall after the said first day of January be built to any dwelling-house exceeding four stories in height from the foundation thereof exclusive of the rooms (if any) in the roof of either of the buildings adjoining thereto shall be built in every particular according to the directions hereinbefore contained with respect to the party-walls of the first-rate or class of building notwithstanding such house shall not be of the first-rate or class of building and every party-wall which shall after the time aforesaid be built to any dwelling-house containing four stories in height from the foundation thereof exclusive of the rooms (if any) in the roof of either of the buildings adjoining thereto

Party-walls to fourth-rate houses being four stories high to be built as of the third-rate.

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thereto shall be built in every particular according to the directions hereinbefore contained with respect to party-walls of the third-rate or class of building notwithstanding such house shall be of the fourth-rate or class of building only.

16. And be it enacted That every internal enclosure to be made after the said first day of January for separating any building of the first second third or fourth rate or class of building from any other building where such buildings shall be in separate occupations and every addition or enlargement to such internal enclosure shall be of brick or stone or artificial stone or stucco or of brick and stone or artificial stone or stucco together except such timber wood lead or iron work as may be laid therein according to the directions herein-after contained for external enclosures to such first second third or fourth rate or class of building and also except such piling bridging or planking as may be necessary for the foundation of the same.

17. And be it enacted That in measuring the several buildings hereinbefore declared to be of the first second third or fourth rate or class of building for the purpose of ascertaining the rate thereof such measurement shall be made by the surveyor or surveyors to be appointed pursuant to this Act or any one of them by as true a measure as the nature of the case will admit and in ascertaining the squares of building contained in every such building being a dwelling-house the same shall be taken by the surveyor or surveyors as aforesaid on the level of the floor at the principal entrance to such dwelling-house and no more than such parts of the party-walls as belong to such dwelling-house shall be included in such admeasurement and in case the owner or any other person interested in such building shall apprehend him or herself to be injured by the admeasurement made by such surveyor or surveyors as aforesaid it shall be lawful for such owner or other person to apply to any two Justices of the Peace for the district of Sydney and the said Justices shall enquire into the matter and shall by their order declare such building to be of such rate or class as the same shall to them appear to be of according to the description of the several rates or classes hereinbefore contained and it shall be lawful for any of the parties between whom such order shall be made to appeal to the Justices of the Peace at their General Quarter Sessions of the Peace whose order and determination shall be binding and conclusive upon all parties.

18. And be it enacted That every dwelling-house warehouse stable and other building (except such buildings not being dwelling-houses as are hereinbefore particularly declared to be the first-rate or class of building) which is or shall be at the distance of four feet and not eight feet from any public road street or causeway and is or shall be detached from any other building not in the same possession therewith sixteen feet at the least and not thirty feet or connected with any other building only by a fence or fence-wall shall be deemed to be of the fifth-rate or class of building and shall and may be built of any dimensions whatever.

19. And be it enacted That every dwelling-house warehouse stable and other building (except such buildings not being dwelling-houses as are hereinbefore particularly declared to be of the first-rate or class of building) which is or shall be at the distance of eight feet from any public road street or causeway and is or shall be detached from any other building not in the same possession therewith at least thirty feet or connected with any other building only by a fence or fence-wall shall be deemed to be of the sixth-rate or class of building and shall and may be built of any dimensions and with any materials whatever.

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Detached offices
deemed of the same
rate as if indepen-
dent of any other
building.

How long old sound
party-walls may re-
main.

Where one adjoining
built with indepen-
dent walls.

The owner of the
other to have but
half the materials
and half the site of
the old party-wall
when pulled down.

Party-walls not being
of sufficient thick-
ness to be taken
down when one of
the houses is rebuilt.

Ends of timbers
lying through old
party-walls to be cut
off when one building
is rebuilt.

20. And in order to prevent doubts which may arise concerning the rate or class of building of any office or offices now built or hereafter to be built belonging to any building hereinbefore declared to be of the first second third or fourth rate or class of building Be it enacted That every such office which shall be entirely free and detached from such building to which the same belongs or shall be connected therewith only by a fence or fence-wall or covered passage open on one or both sides shall be deemed to be of the rate or class of building such office would be of if the same did not appertain to any dwelling-house or other building.

21. And whereas some houses or other buildings erected or begun to be erected before the said first day of January may have one or more good sound party-wall or party-walls although not built agreeably to the several rules hereinbefore directed to be observed concerning party-walls to be built after the said first day of January and in such case it may happen that one of the adjoining houses may have been or may hereafter be rebuilt without making use of such

party-wall or party-walls Be it therefore enacted That every such wall may remain as a party-wall until both the houses or buildings to which the same belongs or the remaining house or building where one has been already rebuilt shall be rebuilt (if such wall shall so long continue sound) and no longer and that in case either of the houses or buildings to which any such party-wall does belong has been or shall hereafter be rebuilt with a wall against such party-wall (without making use of such party-wall) of the heights and thicknesses hereinbefore prescribed for side walls the proprietor of such remaining house or building shall not when such remaining house or building or when such old party-wall shall be taken down be entitled to more than one-half of the materials of such old party-wall nor to more than one-half of the ground on which such old party-wall was erected nor shall such proprietor build on more than one-half of the said ground unless he shall have agreed with and satisfied the owner or owners of such adjoining rebuilt house for the other half thereof and in case the parties cannot agree concerning the same and both or either of them shall be desirous of buying or selling the price and the matters in difference shall be settled by a jury to be summoned returned and impanelled as hereafter is mentioned concerning mixed property

but if such remaining house or building be of the first second or third rate or class of building or be four stories high from the foundation thereof exclusive of the rooms (if any) in the roof thereof and if in that case such old party-wall shall not be of the thickness of two bricks in length or one foot five inches and a-half at the least from the foundation thereof to the under side of the ground-floor and from thence upwards to the top thereof of the thickness of one brick and a-half in length or thirteen inches at the least then such old party-wall shall when either of the houses or buildings to which the same belongs shall be rebuilt be considered as if the same had been condemned or adjudged ruinous pursuant to the directions hereinafter contained for condemning or adjudging ruinous any unsound party-wall or if such old party-wall shall have any timber or timbers of any adjoining building lying through the same and if when either of the houses or buildings to which the same belongs shall be rebuilt the owner or owners of such adjoining or remaining house or building will not permit so much of such timber to be cut off as shall leave full six inches of clear brick work beyond the end of every such timber then every such wall shall be considered as if the same had been condemned or adjudged ruinous pursuant to this Act and the same shall be taken down and rebuilt in such manner as is hereinafter directed concerning party-walls which shall be so condemned or adjudged ruinous.

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22. And whereas some houses or other buildings erected or begun to be erected before the said first day of January one thousand eight hundred and thirty-eight may have one or more good and sound timber partition or timber partitions between the same and the adjoining house or building be it enacted That every such timber partition may remain until one of the adjoining houses or buildings to which the same belongs shall be rebuilt or shall have one of the fronts which shall abutt on such timber partition or two-third parts of one of such fronts taken down to the bressummer or one pair of stairs floor and rebuilt or until such timber partition shall be condemned pursuant to the directions hereinafter contained concerning ruinous or defective party-walls and party-partitions and no longer.

23. And as a further security against fire be it enacted That no wall or walls of any building of the first second third or fourth rate or class of building already erected or built or hereafter to be erected or built or of any addition or enlargement made or to be made to any building of such first second third or fourth rate or class of building which shall not be a party-wall on the said first day of January shall ever be or become a party-wall unless the same shall be and remain of the heights and thicknesses above the footings and of the materials hereinbefore directed concerning party-walls to be erected after the time aforesaid.

24. And as a greater security from fire be it enacted That every party-wall which shall be built after the said first day of January and every addition or enlargement which shall be thereafter made to any party-wall then built or thereafter to be built shall be carried up and remain one foot six inches at the least above the roof of the highest building which shall gable against or adjoin to such party-wall in every part of such party-wall where such building shall gable or adjoin thereto measuring at a right angle with the back of the rafters of such roof and every such party-wall shall be carried up and remain one foot at the least above the gutters of the highest of such buildings except the height of such party-wall where so carried up shall exceed the height of the blocking-course or parapet of either of the fronts abutting on the same of the highest building adjoining thereto in which case the end only of every such party-wall next such blocking-course or parapet may be less than one foot above the gutter for the distance of two feet six inches from the front of such blocking-course or parapet and in case any dormer or other erection is or shall be fixed in the flat or roof of any building within four feet of any party-wall then every such party-wall shall be carried up against every such dormer or other erection and shall extend for the breadth of at least two feet wider and to the full height of every part of every such dormer or other erection as shall be within four feet of such party-wall and no recess shall be made in any party-wall hereafter to be built to any building of the first second third or fourth rate or class of building (except for chimneys flues girders and beams and other timbers and for the ends of walls or piers as hereinafter is directed) so as to reduce such wall in any part thereof under the thickness by this Act required for the party-wall to the highest rate or class of building to which such party-wall belongs and there shall not be any opening whatever after the said first day of January made in any party-wall except for communication from one stack of warehouses to another and from one stable building to another all which communications shall have thereto iron doors in such manner as is hereinafter directed and also except such passages or ways on the ground for foot passengers cattle or carriages as may be necessary all which passages or ways shall be arched over with brick or stone or brick and stone together throughout of the thickness of thirteen inches

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inches at the least in every building of the first and second rate or class of building and of the thickness of eight inches and a-half at the least in every building of the third or fourth rate or class of building and if there be any cellar or vacuity under any such passage every such cellar or vacuity shall be arched over throughout with brick or stone or brick and stone together in the same manner as the passage or way over such cellar or vacuity is hereby directed to be arched.

House ends of beams
may be laid into
party-walls.

25. And be it enacted That no timber shall at any time after the said first day of January be laid into any party-arch except for bond to the same nor into any party-wall other than such templets chains and bond-timbers as shall be necessary for the same and other than the ends of girders beams purlings and of binding or trimming joists or of other principal timbers all which timbers shall have at least eight inches and a-half of solid brick-work between the ends and sides of every such piece of timber and the timber of any building adjoining thereto and the end of every girder beam purling binding or trimming joists and of every other piece of principal timber may be laid beyond the centre of any party-wall hereafter to be built so nevertheless as that there be left eight inches and a-half at least of solid brick or stone work at the end of every such piece of timber except in places where any part of the ends of any such timber shall lie opposite to and level with any part of the ends of any timber of any adjoining building or buildings in which case no part of such timbers shall approach nearer than four inches to the centre of the said wall.

Party-arches and
party-walls not to
be maimed for what
uses party-walls
may be cut into.

26. And be it enacted That no person shall cut or maim any party-arch nor the shaft of any chimney now built or hereafter to be built or any party-wall for any purpose whatsoever and that no person shall cut or maim any party-wall now built or hereafter to be built other than for the purposes and in the manner hereinafter mentioned that is to say when the front or back wall of any house or building being in a line with the front or back wall of the house or building adjoining thereto shall at any time hereafter be built it shall be lawful to cut or break not more than nine inches deep from the external face of such front or back wall and to the centre of such party-wall for the purpose of inserting therein the end of such new front or back wall and in every such case where a bressummer and story-posts shall be fixed in the ground-story of such new front or back wall such break may be cut from the foundation of such new front or back wall to the top of such bressummer fourteen inches deep from the external face of such front or back wall and the same may be four inches wide in the cellar-story and two inches wide in the ground story for the purpose of placing therein such story-posts and bressummers agreeably to the directions of this Act and it shall be lawful to cut into any party-wall for the purpose of tailing in stone steps or stone landings or for placing in such party-wall timber for bearers to wood stairs so as no timber bearer be laid into any party-wall nearer than eight inches and a half to any chimney or flue whatever or to any timber of the adjoining house or building or nearer than four inches to the internal finishing of such adjoining house or building and for the purpose of laying therein stone corbels for the support of chimney jambs girders beams purlings binding or trimming joists or of other principal timbers and it shall also be lawful to cut perpendicular recesses into any party-wall not being less than thirteen inches thick for the purpose of inserting walls and piers therein so nevertheless as that no such recess be more than fifteen inches wide or more than four inches deep and that no such recess be nearer than ten feet to any other recess and it shall be lawful to cut off the footing on the side of any party-wall where either of the adjoining buildings shall be

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be rebuilt with a wall against such party-wall but every person who shall cut into any party-wall for any of the purposes aforesaid shall immediately make good and well and effectually pin up with brick stone slate tile shell or iron bedded in mortar every defect which shall be occasioned by the cutting of any such party-wall and no party-wall shall be cut for any of the purposes aforesaid if the cutting thereof will injure displace or endanger the timbers chimneys flues or internal finishings of the adjoining buildings.

27. And be it enacted That the back of every chimney in every party-wall which shall after the said first day of January be built shall be at least thirteen inches thick in the cellar story and eight inches and a-half thick in every other story from the hearth of every such chimney to the height of twelve inches above the mantle in every such chimney and that no chimney which shall after the said first day of January be built in any party-wall where either of the buildings adjoining thereto is of the first-rate or class of building shall be built with the back thereof against the back of any other chimney unless the back of each chimney in the cellar-story be at least eight inches and a-half and the back of each chimney in any of the upper stories be at least four inches and a-quarter from the centre of such party-wall and that no chimney which shall after the said first day of January be built in any party-wall where either of the buildings adjoining thereto is of the second third or fourth rate or class of building shall be built with the back thereof against the back of any other chimney unless the back of each chimney in the cellar-story be at least six inches and a-half and the back of each chimney in any of the upper stories be at least four inches and a-quarter from the centre of such wall and that no flue shall be built opposite to another flue in any party-wall unless the back of each flue be at least two inches from the centre of such party-wall the breast of every flue which shall after the said first day of January be built whether such flue be in a party-wall or not shall be of brick or stone at least eight inches and a-half thick in every cellar-story and at least four inches thick in every other story all the withs or partitions between any flues which shall after the said first day of January be built shall be of brick or stone and every such with or partition of brick shall be at least half a brick thick and every breast and back of every chimney and every breast back and with or partition of any flue hereafter to be built shall be rendered or pargetted within and without except the outside thereof which shall be next to vacant ground in which case the back of every chimney and flue next such vacant ground shall be by line or in some durable manner marked and distinguished except in a fore-front back-front or side-front of any building not likely hereafter to be built against and every back of every such chimney and flue so being against such vacant ground shall be rendered or pargetted as soon as any building shall be erected to such wall.

28. Provided always and be it enacted That if any person or persons being possessed of or entitled unto any part of the ground whereon a party-wall is intended to be built shall be desirous of having chimney jambs breast and flues of chimneys made in any such party-wall on his her or their part thereof or shall be desirous of having a recess or recesses left in the said party-wall of the several breadths and depths in and by this Act allowed to be left or cut into any party-wall for the purpose of inserting therein external or internal walls or piers or for any other purpose allowed by this Act and of such desire shall give notice in writing under his her or their hands particularly describing every such chimney jamb breast and flue and every such recess to the builder or builders of such party-wall or any

Thickness of backs
of chimneys in party-
walls—How
chimneys may be
built back to back in
party-walls.

How flues may be
built back to back
in party-walls—
Thickness of breasts
of flues and withs.

Chimneys to be par-
geotted.

Chimney jambs
breasts &c. to be
placed in party-walls
when desired by
owner of adjoining
ground.

Sydney Building.

any one of them at any time before such party-wall shall be begun to be built then such builder or builders of such party-wall shall after such notice so given erect in a proper substantial and workmanlike manner such and so many chimney jambs breasts and flues of chimneys in all such parts of every such party-wall as shall be by the person or persons giving such notice required and shall also leave such recesses in every such party-wall not being in any respect contrary to the rules regulations and restrictions in and by this Act prescribed and from and after the erecting such jambs breasts and flues of chimneys so required the person or persons giving such notice his her or their executors and administrators shall be deemed to have made use of such party-wall and shall from thenceforth be liable to pay the whole expense of erecting and setting up all such jambs breasts and flues of chimneys erected in pursuance of such notice and also such proportional part of the expense of erecting such wall as is hereinafter directed concerning party-walls to be built after the said first day of January to be recovered in case of non-payment with full costs of suit in like manner as any proportion of any party-wall is by this Act made recoverable by the builder thereof from any other person liable to contribute thereto.

Regulation of party-walls &c. between intermixed property.

29. And whereas several houses and other buildings within the limits aforesaid are or may be built in some part thereof over a public way and in several houses or other buildings within the limits aforesaid several of the rooms or floors of such houses or buildings are or may become the property of different owners and lie intermixed without being separated by any party-wall and without being arched over and under each other with brick or stone or brick and stone throughout Be it therefore enacted That when any house or other building except as hereinafter is excepted so built in any part thereof over a public way or any house or building except as hereinafter is excepted having any rooms the property of different persons and intermixed as aforesaid shall be rebuilt there shall be a party-wall according to the directions hereinbefore contained for the highest rate or class of building adjoining thereto with a party-arch or party-arches of the thickness of one brick and a-half in length or thirteen inches at the least in every building of the first and second rate or class of building and of the thickness of one brick in length or eight inches and a-half at the least in every building of the third and fourth rate or class of building between house and house or other building or between the different rooms or floors so being the property of different persons as aforesaid.

Owners may be compelled to join in building party-walls &c.

30. And whereas it may sometimes happen that no party-wall or party-arch can be built upon proper foundations between such houses and other buildings over public ways or having rooms or floors the property of different persons lying intermixed as aforesaid without pulling down such houses or buildings and laying parts of each to the others of such houses or buildings and it may happen that the parties interested therein or some or one of them will not or cannot by reason of some legal disability or otherwise join in building such party-wall or party-arches as aforesaid or in pulling down such houses and in laying parts of each to the other or others of such houses in all which cases differences may arise amongst the said several owners and the rebuilding the same and the said party-walls or party-arches thereof may be thereby prevented or delayed to the great injury or inconvenience of such of the owners as are desirous of rebuilding For remedy thereof and in order to prevent the fatal effects of fire be it enacted That in all and every or any of such cases when any owner or owners of any such house or other building within the limits aforesaid built over any public way or intermixed as aforesaid shall be

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be desirous of rebuilding such house or other building and the owner or owners of the adjoining house or building or of the other parts of such intermixed house or building shall not be willing or shall not by reason of some legal disability or otherwise be able to join in such rebuilding then the party or parties so desirous of rebuilding shall give notice in writing to the owner or owners of such adjoining house or houses or other buildings or of the other parts of such intermixed house or building that he she or they so intending to rebuild will apply to the Justices of the General Quarter Sessions of the Peace to be next holden in the district of Sydney after fourteen days from the delivery of such notice in order to obtain the judgment and determination of the said Court of Quarter Sessions touching the rebuilding of such house or houses or other buildings or such party-walls or party-arches to be described in such notice and for ascertaining the site of a party-wall or party-walls or the situation of any party-arches to be built according to the directions and restrictions in this Act contained by delivering a true copy of such notice to the owner or owners of such adjoining house or houses or other buildings or of the other parts of such intermixed house or building or in case such owner or owners shall be under the disability of *coverture* *infancy* *idiocy* or *lunacy* then to the husband or husbands of such owner or owners under *coverture* or to the guardians trustees or committeees of such owners being under the disability of *infancy* *idiocy* or *lunacy* respectively or by leaving the same at his her or their last or usual place of abode or by delivering a true copy of such notice to the tenant in possession of such adjoining house or houses or other buildings or of the other parts of such intermixed house or building or in case such house or buildings shall be uninhabited then by fixing such copy written fair and in a legible hand to or upon the door or some other notorious part of such adjoining or intermixed house or other building which shall be uninhabited and in every such case it shall and may be lawful to and for the said Court of Quarter Sessions and they are hereby authorized and required upon application to them by the party or parties so desirous to rebuild and upon such proof of such notice as they shall deem reasonable to issue their warrant or warrants precept or precepts to the Sheriff of New South Wales requiring him to impannel and return a competent number of substantial and disinterested persons qualified to serve on juries within the respective distances to which they are summoned not less than twenty-four nor more than thirty-six and out of such persons so to be impannelled summoned and returned a jury of twelve persons shall be drawn by some person by the said Court of Quarter Sessions appointed in such manner as juries are directed to be drawn for the trial of issues joined in the Supreme Court which persons so to be impannelled summoned and returned are hereby required to come and appear before the said Court of Quarter Sessions at such time and place as in such warrant or warrants precept or precepts shall be appointed and there to attend from day to day until discharged by the Court and all parties concerned shall and may have their lawful challenges against any of the said jury but shall not be at liberty to challenge the array and the said Court of Quarter Sessions is hereby authorized and empowered by precept or precepts from time to time as occasion may require to call before them all and every person or persons who shall be thought proper or necessary to be examined as a witness or witnesses before them on oath concerning the premises and the said Court if they think fit shall and may likewise authorize the said jury to view the place or places in question in such manner as they shall direct and shall have power to command such jury and all such witnesses and parties as shall be necessary

Where owners are under disabilities or houses are uninhabited how differences are to be settled respecting the building of party-walls.

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Jury to determine what proportion of expense shall be paid by the owners of the adjoining premises.

necessary or proper to attend until all such affairs for which they are summoned shall be concluded and the said jury upon their oaths (which oaths as also the oaths to persons called upon to give evidence the said Court are hereby empowered and required to administer) shall enquire and try and determine by their verdict whether the premises in any of the cases aforesaid ought to be rebuilt or not and if the same ought to be rebuilt shall award and determine the sight of a party-wall or party-walls and also what party-arches may be necessary over or under any rooms of such house or houses or other buildings so intended to be rebuilt or shall ascertain the quantity of the soil or ground or other parts of the premises (if any) necessary to be laid to or taken from the house of the person or persons desirous to rebuild permitting such person or persons to erect a party-wall or party-walls party-arch or party-arches and shall ascertain and award what (if any) compensation should be made and paid by either or any of the said parties in difference to the other or others of them in lieu of the lessening either of the said houses or other buildings by such party-wall or party-walls party-arch or party-arches or as a satisfaction for such other injury (if any) as shall be done or occasioned thereby to any or either of the said parties and shall also ascertain and award what proportion of the expense of building such party-wall or party-walls party-arch or party-arches shall when the same are so built be repaid by either or any of the parties in difference to the person or persons

Court to give judgment according to verdict

so rebuilding as aforesaid and the said Court of Quarter Sessions shall give judgment according to such verdict as well for determining the site of such intended party-wall or party-walls party-arch or party-arches as also for such sum or sums of money (if any) so assessed by the said jury and likewise for such proportion of the expense of building such party-wall or party-walls party-arch or party-arches so found or awarded by the said jury to be repaid to the person or persons who shall rebuild or shall have rebuilt the same and shall and may (if they see fit) award to either of the parties such costs as they shall deem

And judgment to be binding.

reasonable which verdict or verdicts and the judgment order or determination thereupon shall be binding and conclusive against all and every person and persons bodies politic and corporate claiming any estate right title trust use or interest in to or out of the said premises or any part thereof either in possession reversion remainder or expectancy as also against the King's Most Excellent Majesty His Heirs and Successors and against infants and issue unborn persons in reversion or remainder lunatics idiots and females covert and persons under any other legal incapacity or disability and against all trustees and cestuique trusts his her and their successors heirs executors and

Verdict &c. to be recorded by Clerk of the Peace.

administrators and against all other persons whomsoever and all and every the said verdicts judgments orders and determinations and all other proceedings of the said Court of Quarter Sessions so to be made given and pronounced as aforesaid shall be by the Clerk of the Peace entered and filed as of record of the said Court (for the entry and filing whereof and for every order of Court and copy thereof the said Clerk of the Peace shall be paid after the rate of twelve pence for every one hundred words and no more) and the said Clerk of the Peace is hereby empowered and required to make and deliver to any person requiring the same an exemplification under his hand and seal of any such verdict judgment order and determination being paid for the same after the rate of twelve pence for every one hundred words and every such exemplification shall and may be taken and read as evidence in all Courts of Law and Equity whatever and after the expiration of fourteen days from and after the obtaining such judgment and payment or tender in manner hereinafter

Within fourteen days after judgment and payment or

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hereinafter directed of the sum or sums of money (if any) thereby tender of the money assessed or awarded or where no sum of money shall be so assessed or awarded after the expiration of fourteen days from and after the obtaining such judgment the person or persons who shall have applied for and obtained such judgment his her or their heirs executors or administrators servants or workmen shall and may pull down his her or their own house or other building and rebuild the same in the manner so ascertained by such judgment and to that end shall and may in the presence of a constable or other officer of the peace after the end of fourteen days after such judgment order and determination shall have been obtained enter upon the site of ground so ascertained for a party-wall or party-walls party-arch or party-arches and into the house or other building (if any be) adjoining to the house or party-wall or party-walls party-arch or party-arches intended to be rebuilt at any time between the hours of six in the morning and seven in the afternoon (Sunday Good Friday and Christmas Day excepted) and if the outer door of such house or other building be shut and the occupier or any other person therein refuse to open the same being thereunto required or if such house or other building be empty and unoccupied shall and may break open such outer door and remove to some other part of the same premises or in case there be no room on the premises sufficient for that purpose to remove to any other place any goods furniture shelves or other thing obstructing the building of such intended party-wall or party-walls party-arch or party-arches or the pulling down any wall partition or other thing necessary to be pulled down and removed in order to the building such intended party-wall or party-walls party-arch or party-arches and from and after such entry as aforesaid and at all usual times of working it shall be lawful for the builder or builders employed to erect such intended party-wall or party-walls party-arch or party-arches and his and their servants and all others employed by him or them to enter into and upon the premises and abide therein the usual times of working for the shoring up the said house or other building so broken into or entered upon and for taking down and removing any party-wall or party-walls partition wainscot or other thing necessary to be taken down and removed for the purpose aforesaid and to build such intended party-wall or party-walls party-arch or party-arches and if any such owner or occupier or other person or persons shall in any manner hinder or obstruct any workman or workmen employed for any of the purposes aforesaid or wilfully damage or injure the said works every such owner or occupier or other person so offending shall for every such offence forfeit and pay the sum of ten pounds to be levied recovered and applied as the several penalties of ten pounds hereinafter mentioned are directed to be levied recovered and applied.

31. Provided also and be it enacted That within ten days after such party-wall or party-walls party-arch or party-arches shall be so built the person or persons who shall have rebuilt the same his her or their executors administrators or assigns shall leave a true account in writing of the expense of building the same with the party or parties so awarded by the jury as aforesaid to contribute to the expense thereof or at his her or their last or usual place of abode or in case such party or parties be under coverture to her or their respective husbands or if infants idiots or lunatics then to their respective guardians trustees or committees or in the case of any body corporate being so awarded to contribute as aforesaid then to the acting chief officer of such Corporation who shall pay to the person or persons who shall have rebuilt such party-wall or party-walls party-arch or party-arches as aforesaid his her or their executors administrators or assigns the proportion of the expense of building

And may remove
goods and furniture.

Persons hindering
the workmen or
damaging the work
to forfeit £10.

Builders to be repaid
a part of the expense
according to the
verdict.

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building the same so awarded by the said jury as aforesaid within twenty-one days after demand thereof or in case the same be not so paid it shall be lawful for the tenant or occupier of the house or building so chargeable therewith to pay the same and to deduct the money so paid out of the next rent which shall become due to the owner or owners of such house or building or the same may be recovered from the party or parties so awarded to pay the same by action of debt bill plaint or information in the Supreme Court with double costs of suit.

Court may be held in any part of the town of Sydney appointed by the Justices in Quarter Sessions.

32. Provided always and be it enacted That upon every application to the General Quarter Sessions of the Peace for the district of Sydney for or concerning any matter to be by such Quarter Sessions ordered directed or done in pursuance of this Act the jury (if any) to be empanelled and all parties required to attend the said Quarter Sessions pursuant to such application may at the discretion of said Court be empanelled and required to attend at some general or special adjournment of the said Quarter Sessions within six weeks next after such application which said adjournment shall be to some convenient place in the said town of Sydney to be appointed by the Justices in the said Quarter Sessions and that from time to time every further meeting of the said Quarter Sessions for any thing to be done upon such application shall be appointed at or within the space of three weeks from the last meeting which adjournment and adjournments the Justices of the Peace for the said district and every of them are hereby empowered and required to make and hold from time to time as there shall be occasion.

Court may fine the Sheriff or Under Sheriff making default and also any witness making default.

33. And be it enacted That it shall and may be lawful to and for the said Court of Quarter Sessions and they are hereby empowered and required from time to time to impose any reasonable fine or fines on the said Sheriff or his deputy or deputies making default in the premises and on any of the persons who shall be summoned and returned on such jury and shall not appear at the time and place in such summons specified or appearing shall refuse to be sworn on such jury or to give his or their verdict or in any manner wilfully neglecting his or their duty therein contrary to the true intent and meaning of this Act and on any of the persons having notice to attend to give evidence touching the premises who shall not attend or attending shall refuse to be sworn examined and give evidence and from time to time in default of payment thereof on demand to levy such fine or fines in such manner as other fines set by the said Court have been usually levied so that no fine shall exceed the sum of ten pounds upon any one person for any one offence and such fine or fines when so received or levied and recovered shall be applied to and for the use of the person or persons so applying to the said Court of Quarter Sessions and to and for no other use or purpose whatsoever and if such person or persons having notice to attend and give evidence as aforesaid shall not attend and give evidence accordingly having had ten days previous notice in writing thereof under the hands of the party on whose behalf such evidence shall be wanted his guardian trustee committee attorney or agent and having been tendered his reasonable charges and expenses for such attendance he she or they so neglecting or refusing to give evidence shall be liable to an action on the case to be brought in the Supreme Court against him her or them respectively by the party or parties on whose behalf any such notice to attend as aforesaid shall have been given in which the plaintiff or plaintiffs shall recover their damages occasioned by such non-attendance with full costs of suit and such and no other justification or excuse shall be allowed for non-attendance as is by law allowable for the non-attendance of witnesses legally summoned to appear and give evidence on trials of issues joined in the said Supreme Court

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Court provided the Court of Quarter Sessions where such witness or witnesses shall appear may (if they shall think fit) order such further sum to be paid to such witness or witnesses respectively for their attendance on such Court as to them shall seem reasonable in proportion to the time such witness or witnesses shall attend and such witness or witnesses shall not be compelled to give evidence before such further sum or sums (if any) as shall be so ordered shall be paid to them respectively.

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Surveyors to be appointed to view party-walls and party-arches.

And every such owner if he is known and can be met with or in case such owner be under any disability as aforesaid then such person or persons as aforesaid to whom such notice shall be so given or otherwise the occupier to whom such notice shall be so given shall appoint two surveyors or able workmen to meet at the time and place in such notice mentioned and they together with the two surveyors or workmen named by the party giving such notice and whose names shall be expressed in such notice may view such party-wall party-arch or party-fence wall and certify the state and condition thereof and whether the same or any part thereof ought to be repaired or pulled down and rebuilt and such surveyors so respectively named as aforesaid or in case the owner or occupier of such adjoining house or building or such other person as aforesaid having notice as aforesaid shall refuse or neglect to name such two surveyors or able workmen according to such notice then the two surveyors or workmen named in such notice together with two other surveyors or able workmen also to be named by the party giving such notice as aforesaid shall and may within six days after the time appointed in such notice view the party-wall party-arch or party-fence wall intended to be repaired or pulled down and shall certify in writing under their hands to the said Justices of the Peace in their next General or Quarter Sessions of the Peace the state and condition of such party-wall party-arch or party-fence wall and whether the same or any part thereof ought

If the major part of the surveyors do not certify within one month another surveyor to be named by a Justice.

to be repaired or pulled down and rebuilt and in case the major part of the surveyors or workmen appointed in manner aforesaid to view such party-wall party-arch or party-fence wall so intended to be repaired or pulled down shall not within the space of one month next after such appointment sign such certificate in writing then and in every such case it shall and may be lawful to and for any one or more of His Majesty's Justices of the Peace for the district of Sydney in the Colony aforesaid and such one or more Justice or Justices is and are hereby authorized and required upon application to him or them for that purpose by the party giving such notice as aforesaid to name and appoint one other able surveyor or workman to be added to the surveyors or workmen appointed as aforesaid and all the said surveyors or workmen so appointed or the major part of them shall meet for that purpose (six days' notice having been given to or left at the dwelling-house of each and every of them of such intended meeting) and shall view the party-wall party-arch or party-fence wall so proposed to be

Walls being certified by the surveyors to be ruinous a copy of certificate to be delivered to the owners &c. in three days.

repairs or pulled down and in case the major part of such surveyors or workmen appointed in manner aforesaid shall certify in writing under their hands that the party-wall party-arch or party-fence wall described in such notice or any part thereof is decayed and ruinous or is not sufficiently secured against fire if any should happen and that the same ought to be repaired or pulled down then within three days next after such certificate made by such major part of the said surveyors or workmen as aforesaid a copy thereof shall be delivered to the owner or occupier owners or occupiers of or left at such adjoining house or building or fixed on the door thereof in case the same be unoccupied and such certificate shall be immediately filed with the Clerk of the Peace for the district of Sydney paying such Clerk one shilling for filing thereof and no more and such last mentioned owner or occupier owners or occupiers shall and may (if he she or they think fit) appeal from or against such certificate to the next General or Quarter Sessions to be holden for the district of Sydney and the Justices at the said General or Quarter Sessions to which such appeals shall be made shall summon before them one or more of such surveyors or workmen and such other person

Owners thinking themselves aggrieved may appeal to the General Quarter Sessions.

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son or persons as they think fit and shall examine the matter upon oath which oath or oaths they are hereby empowered to administer and upon such examination or examinations the said Justices are hereby authorized and required to make such order or orders in the premises as they in their discretion shall think to be just and reasonable which order or orders shall be entered and filed on record by the Clerk of the Peace for the said district of Sydney in like manner as the judgments of any Court of Quarter Sessions concerning intermixed property are hereinbefore directed to be entered and filed of record and the determination of the said Justices shall be final and conclusive to all parties without any appeal from the same and on default of appealing to such next General or Quarter Sessions as aforesaid or if upon any appeal there be no order made to the contrary then and in every such case and not otherwise it shall be lawful for the party intending to repair or pull down and rebuild such party-wall party-arch or party-fence wall as aforesaid after the expiration of fourteen days after delivering or leaving the copy of such certificate as aforesaid or after the determination of such appeal as aforesaid to cause such party-wall party-arch or party-fence wall or any parts thereof to be repaired or pulled down and to have and exercise the like power of entry into or upon the adjoining house or houses building or buildings or of breaking open the same in the presence of a peace officer in case the same be unoccupied or be refused to be opened and of removing wainscot shelves furniture and other things and of shoring up the said adjoining house or houses building or buildings as is given or allowed to the owners of intermixed houses or buildings in and by this Act and shall and may erect and build a new party-wall or party-walls party-arch or party-arches or any part or parts thereof of such materials and of such thicknesses and height and in such manner and subject to such restrictions and directions as are in and by this Act prescribed.

35. And whereas several old houses and other buildings of the first second and third rate or class of building within the limits aforesaid have instead of party-walls of the respective thicknesses hereinbefore directed for the same between such houses or other buildings and the adjoining houses or buildings party-walls not being of greater thickness than one brick and a-half in length or thirteen inches from the foundation to the ground-floor thereof or than one brick in length or eight inches and a-half from thence to the coping thereof and whereas disputes may arise concerning the pulling down such old party-walls and concerning the building party-walls agreeably to the rules and directions herein contained in the place and stead of such old party-walls whenever the owner or owners of any or either of the houses or buildings adjoining to any such party-walls may be desirous to rebuild any such house or rebuild any such house or building of the first second or third rate or class of building or so much thereof as may subject the same or the party-walls thereto to the rules and regulations contained in this Act. Be it enacted That if the owner or owners of any house or building of the first second or third rate or class of building to which any such old party-wall belongs shall be desirous of pulling down and rebuilding such house or building or so much thereof as aforesaid and of such his her or their desire shall give three months' notice in writing to the owner or owners occupier or occupiers of the next adjoining house or building of his her or or their intention in three months from the date thereof to pull down such party-wall and instead thereof to build a party-wall agreeably to this Act then and in that case from and after the expiration of the three months expressed in such notice it shall be lawful for the owner of such house or building so intended to be rebuilt to pull down the said party-wall and to have and exercise the like power of entering into

Whose determination
shall be final.

Power of parties
intending to repair
&c. in default of
appeal.

Owners of houses
of the first second
and third class shall
give three months'
notice in writing
before pulling down
old party-walls.

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into and upon the said adjoining house or building or of breaking open the same in the presence of a peace officer in case the same be unoccupied or be refused to be opened and of removing any wainscot shelves furniture or other things and of shoring up the said adjoining house or building as by this Act is given and allowed to the owners of intermixed houses or buildings and shall and may in the place and stead of every such old party-wall build a new party-wall of such materials thickness and height and in such manner and subject to such restrictions and directions as are in and by this Act prescribed.

36. And whereas several old houses or other buildings within the limits aforesaid have instead of a party-wall between such house or other building or between such houses or other buildings and the houses or other buildings and ground adjoining thereto one timber or wood partition or two old timber or wood partitions with or without brick-nogging in one or more of the stories thereof one belonging to each house or other building and whereas disputes may arise concerning the pulling down such partitions and the wall or walls under or over the same if any such there be and concerning the building party-walls agreeably to the rules and directions herein contained in the place and stead of such partition or fence whenever it may be expedient to rebuild any such house or building or so much thereof as may subject the same and the partitions abutting on the same to the rules and regulations contained in this Act Be it enacted

That if the owner or owners of any house or building to which any such timber or wood partition or partitions or wooden fence belongs shall be desirous of pulling down and rebuilding such house or building or so much thereof as aforesaid and of such his her or their desire shall give three months' notice to the owner or owners occupier or occupiers of the next adjoining house or building of his her or their intention to pull down such timber or wood partition or partitions after the end of three months after the date of such notice and instead thereof

And afterwards may pull down the said partition remove furniture &c. as before directed.

to build a party-wall or party-walls agreeably to this Act then and in that case from and after the expiration of the three months expressed in such notice it shall be lawful for the owner of such house or building so to be rebuilt to pull down the said partition or partitions and the wall or walls under or over the same if any such there be and the said wooden fence or fences and to have and exercise the like power of entry into and upon the said adjoining house or building and ground or of breaking open the same in the presence of a peace officer in case the same be unoccupied or be refused to be opened and of removing any wainscot shelves furniture or other things and of shoring up the said adjoining house or building as by this Act is given and allowed to the owners of intermixed houses or buildings and shall and may in the place and stead of such partition or partitions and of the wall or walls under or over the same if any such there be or of such wooden fence or fences build a new party-wall or party-walls of such materials thickness and height and in such manner and subject to such restrictions and directions as are in and by this Act prescribed.

How owners are to be reimbursed part of their expense and in what proportion who have built said partitions or party-walls.

37. And be it enacted That the person or persons at whose expense any party-wall or party-arch shall be built agreeably to the directions of this Act shall be reimbursed by the owner or owners who shall be entitled to the improved rent of the adjoining building or ground and who shall at any time make use of such party-wall or party-arch a part of the expense of building the same in the proportion after-mentioned that is to say if the adjoining building then erected or afterwards to be erected be of the same rate or class of building as or superior to the building belonging to the person or persons at whose expense the said party-wall was built then the owner or occupier of such adjoining building or ground shall pay one moiety

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moiety of the expense of building so much of the said party-wall or party-arch as such owner or occupier shall make use of and if the adjoining building then erected or afterwards to be erected be of an inferior rate or class of building then the owner or occupier of such adjoining building or ground shall pay a sum of money equal to one moiety of the expense of building a party-wall or party-arch of the thickness by this Act required for the rate or class of building wherof such adjoining building shall be and of the height and breadth of so much of the said party-wall or party-arch as such owner or occupier shall make use of and in the meantime and until such moiety or other proportional part of the expense of building such party-wall or party-arch be so paid the sole property of such whole party-wall or party-arch and of the whole ground whereon the said party-wall shall stand shall be vested entirely in the person or persons at whose expense the same shall be built and such moiety or other proportional part of the expense of building such party-wall or party-arch shall be so paid to the person or persons at whose expense the same shall be built or in whom the property thereof shall be vested at the times hereinafter mentioned that is to say in respect of every such party-wall to any house or building whereunto at the time of building the same no other house or building was adjoining so soon as such party-wall shall be first cut into or made use of and in respect of every such party-wall or party-arch as shall be built against or adjoining to any other house or building so soon as such party-wall or party-arch shall be completely built and finished and in respect of such last-mentioned party-wall or party-arch the owner or occupier of such adjoining house or building shall together with such proportional part of the expense of building such party-wall or party-arch also pay a like proportional part of all other expenses which shall be necessary to the pulling down the old party-wall or timber or wood partition and the whole of all the reasonable expenses of shoring up such adjoining house or building and of removing any goods furniture or other things and of pulling down any wainscot or partition and also all such costs if any as may have been awarded by the said Court of Quarter Sessions as aforesaid but not any part of the expense of pulling down and clearing away any such old party-wall or party-arch or old partition if any such there was and it is hereby directed that the expense of building such party-wall or party-arch shall be estimated for the new work by any two surveyors appointed under the provisions of this Act one of whom shall be chosen by each of the parties interested and who before proceeding to such estimate shall nominate an umpire to decide between them in case of dispute deducting thereout the value of the materials (if any) of so much of the old wall or arch as did belong to such adjoining building or ground and also the value of the materials (if any) of so much of the old timber partition as did belong to such adjoining building or ground the value of such materials respectively being assessed by the said surveyors and umpire in manner aforesaid and that within ten days after such party-wall or party-arch shall be so built or so soon after as conveniently may be such first builder or builders shall leave at such adjoining house or building a true account in writing of the number of rods in such party-wall or party-arch for which the owner or owners of such adjoining building or ground shall be liable to pay and of the deduction which the owner or owners shall be entitled to make thereout on account of such materials and also on account of such other expenses and costs as aforesaid whereupon it shall be lawful for the tenant or occupier of such adjoining building or ground to pay one moiety or such proportional part as aforesaid to such first builder or builders

Until payment of expense the property of the party-wall &c. vested in the builder.

When a proportional part is to be paid.

Rates for building of party-walls.

Ten days after party-wall is finished an account to be left with the owner of adjoining buildings what he is liable to pay.

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How expense may be recovered.

If the plaintiff before action gives three months' notice

And recovers his whole charge he shall be entitled to double costs.

Party-walls shall be such as are required for the highest rate of building adjoining and not to be of less thickness.

And may be raised by the owner of one side.

If the owner of the other side make use of it he must contribute to the expense.

Party-fence walls may be raised by the owner of one side but not to be used as a party-wall unless of sufficient thickness &c.

Owner of one side may take down a

builders for the same and also for shoring and supporting such adjoining building as aforesaid and for all such other expenses as are hereinbefore directed to be paid by the owner or owners of such adjoining building or ground and to deduct the same out of the rent which shall become due from him or her to such owner or owners under whom he or she holds the same respectively until he or she shall be reimbursed the same and in case the same be not paid within twenty-one days next after demand thereof then the same shall and may be recovered together with full costs of suit of and from such owner or owners by action of debt or on the case in the Supreme Court of said Colony and if the plaintiff or plaintiffs in any such action shall three calendar months at the least before the commencement thereof give notice in writing to the person or persons against whom such action is intended to be brought of his her or their intention to bring the same or leave the same at his her or their last or usual place of abode and shall in such notice specify the sum for which it is to be brought and also annex to such notice a bill of the just and true particulars of the expenses and charges with which the intended defendant or defendants is or are to be charged then such plaintiff or plaintiffs if he she or they recover the full sum specified in such notice shall also recover and be entitled to double costs of suit and shall have and be entitled to the like remedies for recovery thereof as are usually given for costs in other cases of costs at law.

38. And be it enacted That every party-wall hereafter to be built and every addition which shall be made thereto or to any party-wall which is already built or begun shall be built agreeably to the directions herein contained concerning the party-wall of the highest rate or class of building to which such party-wall shall adjoin when such additions are completed and that no party-wall now built or hereafter to be built shall after the same and the buildings adjoining thereto is and are completed be raised unless the same when raised be of the full thickness such party-wall is of in the story next under the roof of the highest adjoining building nor shall any party-wall hereafter be raised unless the same can be done with safety to such wall and the several buildings adjoining thereto but all such party-walls as will when raised be of the materials heights and thicknesses hereinbefore required or as can be safely raised may together with the shaft or shafts of the chimneys belonging thereto be raised by and at the expense of the proprietor or occupier of any building to which the same belong to any height he she or they shall think proper but if the proprietor or occupier of any builing adjoining to the said party-wall and chimney shafts shall make use of any part of such party-wall and chimney shaft other than the use he makes of the chimney flues therein which shall be so raised then such person so making use thereof for the part so used shall be chargeable with a proportionable share of the expense of raising such party-wall and chimney shafts and such charge shall be estimated in manner hereinbefore mentioned and the proportion such person shall be liable to pay shall be recovered in such manner as is hereinbefore particularly declared concerning the first building of a party-wall.

39. Provided always and be it enacted That any party-fence wall now built or hereafter to be built may be raised by and at the expense of the proprietor or occupier of the ground on either side adjoining thereto but no party-fence wall shall hereafter be built upon or against or used as a party-wall unless the same be of the materials height and thickness hereinbefore directed for party-walls to the rate or class of building so to be erected against or upon the same and in case of the insufficiency of such wall for the purposes aforesaid or if instead of such party-fence wall there be only a wooden

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wooden fence the proprietor or occupier of either of the adjoining premises shall be at liberty at his own expense to take down such wall or fence and erect a new party-wall in lieu thereof making good every damage that may accrue to the adjoining premises by such rebuilding so nevertheless as that such new party-wall shall not extend on the surface of such adjoining ground more than seven inches beyond the centre line of such party-fence wall or fence but no proprietor or occupier of such adjoining premises shall make use of such party-wall otherwise than as a party-fence wall unless he she or they pay a proportionable share of the whole expense to be estimated as aforesaid of erecting such parts of such wall according to the use he she or they shall make of the same.

40. Provided also and be it enacted That in case any such party-wall shall extend further upon the ground of the party building the same than the party-fence wall did yet the party rebuilding the same shall not thereby lose any part of the soil whercon such party-wall shall be built nor shall the owner or owners of the other part of such party-wall claim or be entitled to any right of soil more than what he was before entitled to.

41. And be it enacted That if the fore-front and back-front of any building now built shall after the said first day of January be rebuilt as low as the bressummer or one pair of stairs floor within the space of five years from each other the party-walls of every such building shall from thenceforth be in all respects subject to the several regulations hereinbefore contained concerning the party-walls of houses to be built after the said first day of January and for the further prevention of fire the back of every chimney to be built after the said first day of January in any building of the first-rate or class of building not being in a party-wall shall be in the cellar-story at least thirteen inches thick from the hearth to the height of twelve inches above the mantel and shall be at least eight inches and a-half thick from the hearth to the height of twelve inches above the mantel in every other story except where any such chimney shall be built against a wall in which case the back of every such chimney from the hearth to the height of twelve inches above the mantel may be half a brick thinner and that the back of every chimney hereafter to be built in any building of the second third or fourth rate or class of building not being in a party-wall shall be in every story at least eight inches and a-half thick from the hearth to the height of twelve inches above the mantel except where any such chimney shall be built against a wall in which case the back of every such chimney from the hearth to the height of twelve inches above the mantel may be half a brick thinner and that there shall be no timber whatever over the opening of any chimney to be built after the time aforesaid for supporting the breast of such chimney but there shall be an arch of brick or stone or an iron bar or bars over the opening of every such chimney to support the breast thereof and that no timber shall after the said time be laid in any wall under the hearth of any chimney thereafter to be built unless the same shall be in every part thereof which shall lie under such hearth of eighteen inches at the least lower than the surface of such hearth and that the hearth of every chimney to be built after the time aforesaid shall be laid wholly on brick or stone except the same be in a cellar or ground-story and be laid and bedded on the solid earth and every such chimney shall have a slab or slabs or foot paces before the same of tile stone marble or iron at least eighteen inches broad and at least one foot longer than the opening of every such chimney when finished and such slab or slabs or foot paces shall be laid on brick or stone trimmers at least eighteen inches broad from the opening of such chimney or from the perpendicular face of the arch

If the owner of the other side uses it other than as a party-fence wall he must contribute to the expense.

First builder not to lose any right of soil on account of party-wall not being half on each ground.

If the fore and back fronts are taken down within five years this is deemed a rebuilding.

Thickness of backs of chimneys not in party-walls.

Breast of chimney not to be supported by timber.

Timber under the hearth must be eighteen inches lower.

Hearth must be laid on brick or stone or on the ground.

Slabs before hearths and brick trimmers under them.

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No timber in the
brick-work of ovens
coppers &c.

Distance of timber
laid in the brick-
work of chimneys
stoves &c.

Wood-work on the
front of chimneys to
be fixed by iron
nails.

No chimney to be
erected on timber.

Materials of external
walls.

Sash frames and door
frames to be in
reveals.

Story-posts and bres-
summers to be but
two inches in party-
walls.

over the opening which supports the breast of such chimney except the same be in a cellar or ground-floor and be laid and bedded on the solid earth and that no timber or wood-work whatever shall be laid in the brick-work of any oven stove copper still boiler or furnace to be built after the said first day of January nor within two feet of the inside of any such oven stove copper still boiler or furnace nor shall any timber whatever be laid in the brick-work of any chimney to be built after the said time nearer than nine inches to the opening of such chimney or than five inches to the inside of the flue of any chimney oven stove copper still boiler or furnace or than nine inches to the inside of the flue of any such oven stove copper still boiler or furnace where any such timber shall lie or be placed nearer than five feet above the mouth of the same and that no wood-work whatever shall at any time after the time aforesaid be affixed to the front of any jamb or mantel or to the front or back of any chimney or flue except such wood-work be affixed by iron nails or holdfasts or other iron fastenings and no iron nail iron holdfast or other iron fastening shall lie or be driven more than three inches into the wall against such chimney or flue or nearer than four inches to the inside of the opening of any chimney and that no chimney shall after the time aforesaid be erected on any timber-work whatever except on such piling bridging or planking as may be necessary below the foundation of the building in which such chimney is erected but every chimney thereafter to be built shall be erected on such piling bridging or planking or on solid ground or on a brick or stone foundation or shall be set upon brick or stone corbels or iron brackets or upon iron shores which iron shores shall be supported by brick or stone foundations.

42. And be it enacted That every external wall or external inclosure of every building of the first second third fourth or fifth rate or class of building which shall be erected and built after the said first day of January and of every addition or enlargement thereafter to be made to any building of the first second third fourth or fifth rate or class of building now erected or hereafter to be erected shall be of brick stone artificial stone lead copper tin slate tile or iron or of brick stone and such artificial stone lead copper tin slate tile and iron together except the necessary piling bridging and planking for the foundation of the same and also except the necessary templets chains bond timbers and also except the doors sashes window shutters and door and window frames to such buildings and the tiers and stories of door cases and doors to all such warehouses as are or shall be of the first second third or fourth rate or class of building all which window frames and door frames shall be set in reveals and recessed at least four inches from the front of the building in which such window frames and door frames shall be fixed and also except the bressummers story-posts and plates which may be made on the ground-story only and also except all stall-boards for the conveniency of any shop or shops which may be made on the ground-story only which bressummers story-posts and plates and the tiers or stories of door cases and doors to all such warehouses as before mentioned are not hereby required to be fixed in reveals but no story-post or bressummer shall at any time after the said first day of January be fixed more than two inches deep in any party-wall or be placed in any front nearer than seven inches to the centre line of the party-wall of such building if such party-wall be of the thickness of two bricks or nearer than four inches and a-half to the centre of such party-wall if such party-wall shall not exceed one brick and a-half in thickness but no timber-work whatever other than and except such bressummer story-posts and plates and such tiers or stories of door cases and doors shall be laid in any such external wall nearer than four inches to the external

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external surface thereof and every such story-post which shall be fixed as a support to two fronts being the corner of any streets square place court or way shall be of hardwood or stone and at least twelve inches square. Corner story-posts to be of hardwood or stone and twelve inches square.

43. And be it enacted That no bow window or other projection shall after the time aforesaid be built with or added to any building of the first second third or fourth rate or class of building next to any public street square court or way so as to extend nearer to the curb-stone or exterior edge of the foot-way in front of any such house than the breadth of any such foot-way as by law determined except such projections as may be necessary for copings cornices facias door and window dressings or for open porticos steps or iron pallisades and also except such window to any shop or shops on the ground-floor story of any such building the stall-boards of which windows shall not in any street or way thirty feet wide or more project above ten inches nor in any street or way less than thirty feet wide above five inches from the upright line of the building in such street or way respectively and no cornice or covering thereof to any such shop window shall in any street or way thirty feet wide or more project more than eighteen inches nor in any street or way less than thirty feet wide more than thirteen inches from the upright line of the building to which such shop window belongs. No bow windows to be built extending beyond the line of the street except projections for decorations.

44. Provided always and be it enacted That nothing herein contained shall prejudice lessen or defeat the powers which may have been or may hereafter be granted to the Town Surveyor or any Commissioners for paving any streets or other places within the limits of the said town of Sydney. Saving to Commissioners of paving.

45. And be it enacted That every external wall or other external inclosure to any building which is built or begun to be built before the said first day of January not being of the several materials in and by this Act required for external walls or external inclosures thereafter to be built may be at all times thereafter repaired with the same sort or sorts of materials as the materials of which such external wall or other external inclosure is erected but in case any such external wall or other external inclosure be at any time hereafter taken down or otherwise demolished to the bressummer or one pair of stairs floor or the place where the bressummer is usually fixed then every part of the same not being built of the several materials in and by this Act required for external walls or other external inclosures thereafter to be erected shall be taken down and the same shall be entirely rebuilt of such materials and in such manner in all respects as in and by this Act required for all external walls or other external inclosures thereafter to be built according to the rate or class of building to which such wall or other external inclosure belongs. Old external walls or inclosures may be repaired with the same materials.

46. And be it enacted That no stack of warehouses to be erected after the said first day of January shall contain more than thirty-five squares of building on the ground plan thereof including all the external and internal walls and so much of the party-walls if any as belong to such stack of warehouses and no enlargement shall be at any time thereafter made to any stack of warehouses already built or begun so as to increase the same beyond the said thirty-five squares on the ground plan including such walls as aforesaid except such stack of warehouses be separated and divided by one or more party-wall or party-walls built in every respect according to the directions hereinbefore contained concerning party-walls into divisions of not more than thirty-five squares each including such walls as aforesaid on the ground plan of such warehouses and that no stack of warehouses shall communicate with any other warehouse or building through a party-wall unless the door case and sill of every such communication

No stack of warehouses to be above 35 squares including internal and external walls.

No communication through party-walls unless by stone door cases and iron doors.

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No timber within eighteen inches of such door.

No stables to contain more than twenty-five squares of building including internal and external walls.

No communication door without having stone cases &c.

Buildings hereafter divided into distinct tenures on the ground floor deemed separate buildings.

Not to prevent proprietors from dividing warehouses.

Nor from dividing stables subject to restrictions mentioned.

Buildings of the fifth and sixth rates in distinct tenures and not at the

munication be of stone and unless there be to every such communication a door of wrought iron of the thickness of a quarter of an inch at least in the pannels thereof and no timber bond or lintel shall be laid into any wall in any such stack of warehouses nearer than eighteen inches to the opening of such communication.

47. And be it enacted That no building for stables to be erected after the said first day of January shall contain more than twenty-five squares of building on the ground plan thereof including all the external and internal walls and so much of the party-walls (if any) as belong to such building for stables and no enlargement shall be at any time thereafter made thereto or to any building for stables already built or begun to be built so as to increase the same beyond the said twenty-five squares on the ground plan including such walls as aforesaid except such building for stables be separated and divided by one or more party-wall or party-walls built in every respect according to the directions hereinbefore contained concerning party-walls into divisions of not more than twenty-five squares each including such walls as aforesaid on the ground plan of such stables and that no such building for stables shall communicate through a party-wall with any other stables or building unless the door case and sill of every such communication be of stone and unless there be to every such communication a door of wrought iron of the thickness of a quarter of an inch in the pannels thereof and no timber bond or lintel shall be laid into any wall in any such building for stables nearer than eighteen inches to the opening of such communication.

48. And be it enacted That if any building whatsoever of the first second third or fourth rate or class of building be at any time hereafter converted into two or more dwelling-houses workshops stables or other buildings which shall be in distinct tenures on the ground-floor thereof then each such tenement shall be considered as a separate building and the same shall be divided from each other by a party-wall or party-walls and every such party-wall shall be of the materials height and thickness and shall be from time to time under the several regulations respecting party-walls herein directed to be observed with respect to the party-wall of the highest rate or class of building adjoining to such party-wall or party-walls.

49. Provided nevertheless and be it enacted That nothing in this Act contained shall extend to prevent any person being the proprietor or leaseholder of any stack of warehouses from dividing the said warehouses from time to time into divisions for the convenience of letting the same to under-tenants so nevertheless as that if any stack of warehouses contain more than thirty-five squares of building on the ground plan the same shall be separated and divided by a party-wall or party-walls as aforesaid into divisions of not more than thirty-five squares each as is hereinbefore directed concerning stacks of warehouses to be erected after the said first day of January.

50. Provided also and be it enacted That nothing in this Act contained shall extend to prevent any person being the proprietor or leaseholder of any stable yard or livery stables from dividing the said stables from time to time into divisions for the convenience of letting the same to under-tenants so nevertheless as that if any building for stables contain more than twenty-five squares of building on the ground plan the same shall be separated and divided by a party-wall or party-walls as aforesaid into divisions of not more than twenty-five squares each as is hereinbefore directed concerning buildings for stables to be erected after the said first day of January.

51. And be it enacted That if any building hereinbefore declared to be of the fifth or sixth rate or class of building be hereafter divided into two or more distinct tenures and the several parts of such

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such building in such separate tenures be not at the several distances from each other hereinbefore particularly directed for every such fifth or sixth rate building then every such several part of such building in every such separate and distinct tenure being nearer to each other than the said several distances shall be deemed a public nuisance and shall be immediately taken down as such.

52. And be it enacted That no iron tin copper or other pipe Funnel for smoke. or funnel for conveying smoke or steam shall be at any time after the said first day of January fixed next any public street square court or way or the front of any building of the first second third or fourth rate or class of building nor shall any such pipe or funnel be fixed on the inside of any such building nearer than fourteen inches to any timber or other combustible material whatever nor shall any brick funnel be thereafter built or placed on the outside of any front next to any public street square place court road or way of any building of the first second third or fourth rate or class of building so as to extend beyond the general line of the houses in the public street square place court or way in which the same is erected.

No brick funnel in the front to extend beyond the line of the street.

53. And be it enacted That every church chapel meeting-house dwelling-house or other building and every party-wall and other wall which shall after the said first day of January be built within the limits of this Act shall be built pursuant to such rules and regulations and with such materials as are hereinbefore particularly appointed and if any person or persons presume to build or to begin building or to cause the building or beginning to build or to alter or cause to be altered any building already erected in any respect contrary thereto and be thereof convicted by the oaths of two or more credible witnesses before the Court of Quarter Sessions for the district of Sydney (which oaths the said Court of Quarter Sessions is hereby empowered and required to administer) then the said house building or wall so irregularly built or begun to be built or so irregularly altered or begun to be altered shall be deemed a common nuisance and the builder and the owner thereof or one of them as the said Court shall require shall enter into a recognizance in such sum as the said Court of Quarter Sessions shall appoint for abating and demolishing the same within such convenient time as the said Court shall appoint or otherwise to amend the same according to such rules and regulations as are hereinbefore contained and in default of entering into such recognizance the person or persons so making default shall be committed to the common gaol of Sydney there to remain without bail or mainprize until he shall have abated or demolished or otherwise amended the same or until such irregular house or building shall be abated or demolished by order of the said Court which order the said Court is hereby empowered to make provided always that such conviction be had within three months after such building shall be finished.

And the builder and owner to enter into recognizance to demolish the same.

54. And be it enacted That it shall be lawful for the said Court or any two or more Justices of the Peace for the said district of Sydney to order every house or building so irregularly built or begun to be built or so irregularly altered or begun to be altered as shall have been adjudged to be a common nuisance by the said Court of Quarter Sessions under the provisions of this Act to be abated or taken down and to order the person or persons authorized to abate or take down the same to sell and dispose of the materials thereof and out of the monies arising by the sale thereof to pay to themselves and all persons by them employed for the purposes aforesaid the reasonable charges of abating or taking down such nuisance and to pay the surplus of the monies arising by such sale (if any be) to the owner or owners of such materials and if the monies arising by such sale be not

And materials sold to defray the expense.

not

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not sufficient to pay such charges the deficiency shall be made good by such owner or owners and may be levied in like manner as is hereinafter directed concerning the expense of taking down ruinous buildings and putting up hoards for the safety of passengers.

Governor to appoint
surveyors in town of
Sydney.

And administer
oaths.

The oath.

Surveyor to leave
notice of his abode.

Notice of building
to be given to
surveyors.

55. And be it enacted That the Governor of the said Colony for the time-being shall and may nominate and appoint such and so many discreet persons skilled in the art of building as he may think fit to be during his will and pleasure the surveyors or supervisors to see the said rules and regulations well and truly observed in and throughout the said town of Sydney and shall appoint the several districts which shall be under their respective surveys and it shall be lawful for the Colonial Secretary of the said Colony to administer to all the said surveyors and supervisors an oath for the true and impartial execution of their office in that behalf which oath shall be registered in the office of the said Colonial Secretary and shall be in the form or to the effect following that is to say—

“ I A. B. being one of the surveyors or supervisors appointed
“ in pursuance of an Act of the Legislative Council of
“ New South Wales passed in the eighth year of the reign
“ of King William the Fourth intituled ‘ *An Act for*
“ ‘ *regulating Buildings and Party-walls and for prevent-*
“ ‘ *ing mischiefs by Fire in the Town of Sydney*’ do swear
“ that upon receiving notice of any building or wall to be
“ built or other builder’s work to be done within the
“ district under my inspection not being by illness or
“ otherwise lawfully prevented I will diligently and faith-
“ fully survey the same and to the utmost of my abilities
“ endeavour to cause the rules and regulations in the said
“ Act of Council prescribed to be strictly observed and
“ that without favour or affection prejudice or malice.

“ So help me God.”

And such surveyor or supervisor is hereby required to take the said oath before he shall perform any of the duties of his said office and shall from time to time leave notice in writing with the Colonial Secretary of the place of his usual abode or residence.

56. And be it enacted That before any building or any wall on new or old foundations or on foundations partly new and partly old within the limits of this Act shall after the said first day of January be begun to be built the master workman or other person causing such building or wall to be built shall give twenty-four hours’ notice thereof to the surveyor or supervisor appointed as aforesaid within whose district the same shall be and such surveyor or supervisor shall view the said building or wall and see that all the rules and regulations in this Act contained are well and truly observed and such surveyor or supervisor for his trouble therein shall be paid by such master workman or other person causing such building or wall to be built after the following rates that is to say the sum of three pounds and ten shillings for every new building of the first-rate or class of building or one pound and fifteen shillings for every first-rate building to which any alteration or addition shall be made and three pounds and three shillings for every new building of the second-rate or class of building or one pound and ten shillings for every second-rate building to which any alteration or addition shall be made and two pounds ten shillings for every new building of the third-rate or class of building or one pound and five shillings for every third-rate building to which any alteration or addition shall be made and two pounds and two shillings for every new building of the fourth-rate or class of building or one pound and one shilling for every fourth rate building to which any alteration or addition shall be made and one pound and ten shillings for every new building

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building of the fifth-rate or class of building or fifteen shillings for every fifth-rate building to which any alteration or addition shall be made and one pound and one shilling for every new building of the sixth-rate or class of building or ten shillings and sixpence for every sixth-rate building to which any alteration or addition shall be made and in default of payment of any of the said several sums of money the same shall by warrant of one or more of such Justice or Justices for the district of Sydney be levied by distress and sale of the goods and chattels of such master workman or other person as aforesaid together with the reasonable costs and charges of such distress and sale.

57. And be it enacted That if any person shall after the said ^{On default of notice} first day of January begin any such building or any such wall or if ^{treble satisfaction to} any person or persons shall thereafter cut into any party-wall without ^{surveyor and £20} penalty. first giving such notice as aforesaid to the surveyor or supervisor within whose district the same is situated or shall refuse such surveyor or supervisor admittance from time to time at reasonable hours for the purpose of viewing the same then every person so neglecting to give such notice or so refusing such admittance shall for every default therein forfeit and pay to the said surveyor or supervisor treble the satisfaction which such surveyor or supervisor would have been entitled to receive for his trouble in viewing such building or wall and seeing the rules and regulations of this Act well and truly observed therein in case such notice had been given and shall also for every such default forfeit the sum of twenty pounds to be recovered by any action in the Supreme Court of the said Colony by any person or persons who shall sue for the same and also every such house building or wall so begun to be built without giving such notice or without giving such admittance to such surveyor or supervisor in case the same be not built in every respect agreeably to the regulations of this Act shall be demolished or amended by order of the said Court of Quarter Sessions or of any two Justices of the Peace for the said district of Sydney in the manner hereinbefore directed.

58. And be it enacted That in case the workmen employed in ^{Surveyor to give} building any such building or wall or in the cutting into any such ^{information of} party-wall shall not well and truly observe the several rules and regulations in this Act contained and from time to time conform themselves thereto the surveyor or supervisor within whose district the same is situated shall from time to time give information thereof as soon as conveniently may be to any two or more Justices of the Peace for the said district of Sydney and the said Justices shall proceed thereupon to hear the matter and if any breach of the rules and regulations in this Act contained is found to have been committed the said Justices shall proceed to cause such irregular building or wall to be demolished or amended in manner hereinbefore directed.

59. And be it enacted That if any workmen or servants to any ^{£2 10s. penalty on} master workman or other person or persons causing any such building ^{workmen offending,} or wall to be erected within the limits of this Act shall without the direction privity or consent of such master workman or person causing such building or wall to be erected do any thing in or about such building or wall contrary to the directions of this Act every such workman or servant so offending upon conviction thereof before one or more Justice or Justices of the Peace for the said district upon the oath of one or more credible witness or witnesses (which oath any Justice of the Peace for said district is hereby empowered and required to administer) or upon his own confession shall for every such offence forfeit the sum of fifty shillings one moiety thereof to be paid to the Colonial Treasurer of said Colony for the public uses thereof the other moiety thereof to the informer and if any such forfeiture of fifty shillings be not paid upon and immediately after

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after such conviction then the offender shall by warrant under the hand and seal of any of the said Justices of the Peace be committed to the house of correction there to remain without bail or mainprize for any time not exceeding three months nor less than one month unless the said penalty be sooner paid.

Houses or walls hereafter built to be surveyed within 14 days after covered in and oath made of their conformity to this Act.

60. Provided also and be it enacted That every master workman or other person who shall after the said first day of January build or cause to be built any house or other building or any addition to any house or other building or any party-wall or other wall or who shall be employed to cut into any party-wall within the limits of this Act shall within fourteen days after such house or other building is covered in or such party-wall or other wall is finished or the cutting into any party-wall is made good cause the same to be surveyed by the surveyor or supervisor within whose district the same is situated and in case the said surveyor shall refuse neglect or shall by illness or otherwise be prevented surveying such building wall or other work then the same shall be surveyed by any other surveyor or supervisor appointed and sworn within the said town of Sydney and if such surveyor or supervisor shall upon such survey find that the same is to the best of his judgment and belief built or made good agreeably to the several directions in this Act contained then such surveyor or supervisor shall within fourteen days after surveying the same make oath thereof by affidavit in writing before some Justice of the Peace for the said district of Sydney which oath such Justice is hereby empowered and required to administer and the said affidavit shall be filed with the Clerk of the Peace for the district of Sydney aforesaid within ten days after the making thereof and the said Clerk of the Peace shall for his trouble therein be entitled to and receive the sum of one shilling and no more and if any master workman or other person causing such building or wall to be erected or such party-wall to be cut into as aforesaid make default in the premises by neglecting to cause such survey to be made or such affidavit to be made and filed he shall for every such neglect forfeit the sum of ten pounds and if such affidavit be not made and filed within the space of one month next after the recovery of such penalty such master workman or other person as aforesaid shall forfeit the further sum of ten pounds and so *toties quoties* for every month until such affidavit shall be made and filed and each of the said penalties shall be recovered and applied in manner hereinafter mentioned.

Oath to be filed.

Builder neglecting to cause such oath to be made shall forfeit £10.

Oath to be made within one month after conviction on pain of further penalty of £10.

Public buildings excepted.

Surveyor on misbehaving to be discharged.

When any building is presented as ruinous a board to be put up for safety of passengers.

61. Provided also and be it enacted That nothing in this Act contained shall extend to any house or building being in the possession of His Majesty His Heirs and Successors or employed for His Majesty's use or service.

62. Provided also and be it enacted That if any surveyor or supervisor appointed and sworn in manner hereinbefore directed shall at any time wilfully neglect his duty or behave himself negligently or unfaithfully in the discharge thereof and the same being upon complaint thereof made to appear to the Governor of the said Colony for the time-being such surveyor or supervisor shall by the said Governor be forthwith discharged from his said office.

63. And whereas houses and buildings within the limits aforesaid are often either from litigated titles thereto or the obstinacy neglect or poverty of the owners thereof or of the parties interested therein in so ruinous or dangerous a condition that passengers thereby are in danger of their lives or limbs from the falling thereof or of the bricks or timber therefrom Be it therefore enacted That if any presentment shall hereafter be made by an inquest or jury in Sydney that any house or building within the limits thereof is in a ruinous

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ruinous or dangerous condition it shall be lawful for the Police Magistrates of Sydney or any of them in respect of any such house or building within the said town and they and he are and is hereby required on notice of any such presentment being made and a copy thereof being laid before them or him respectively to cause with all convenient speed a proper and sufficient hoard to be put up for the safety of all passengers passing thereby and to cause notice in writing to be given to the owner or owners or such other person or persons interested therein if he she or they can be found and if not to cause such notice in writing to be affixed to or upon the door or other conspicuous part of such house or building so presented to be in such ruinous or dangerous condition to repair the same or to pull down such building as the case may require within fourteen days then next ensuing and if such owner or owners or other person or persons interested in any such house or building do not begin to repair or take down the same within the said fourteen days after such notice so given or affixed as aforesaid and complete such repairs or take down the same as soon as the nature of the case will admit then oath being made before any such Magistrate as aforesaid (which oath every such Magistrate is hereby empowered and required to administer) of such notice having been so given or affixed as aforesaid the said Magistrate or Magistrates is and are hereby authorized and required with all convenient speed to order and cause such house or building so presented to be in a ruinous or dangerous condition or so much thereof as the said Magistrates or Magistrate shall find necessary for the safety of passengers to be taken down and secured in such manner as shall from time to time be requisite and to sell and dispose of such of the materials as the said Magistrates or Magistrate shall judge necessary and expedient and out of the monies arising by the sale thereof to reimburse repay and satisfy to themselves and every person by them respectively employed for the purposes aforesaid all the charges of putting up every such hoard and of taking down and securing all or any part of every such house or building so taken down or secured as aforesaid and of selling the said materials as aforesaid or so much thereof as the monies arising by such sale will extend to pay and shall account for and pay the surplus of the monies arising by such sale (if any be) to the owner of every such house or building upon personal demand thereof made by such owner and if no such demand be made of any such Magistrates or Magistrate aforesaid then such overplus shall be within two months paid over to the Colonial Treasurer of the said Colony for the public uses thereof.

64. Provided nevertheless and be it enacted That any such owner his or her executors or administrators shall and may at any time or times within the term of six years then afterwards be entitled to have and receive such surplus from the said Colonial Treasurer after such payment to him within ten days after demand thereof personally made by such owner his or her executors or administrators and the said Colonial Treasurer is hereby required to pay the same accordingly out of the public funds of the said Colony upon receiving a warrant for the amount thereof under the hand of the Governor of the said Colony for the time-being and such Treasurer shall be allowed the payment thereof in any account to be by him made with the Government of said Colony and if it happens that the monies arising by such sale shall fall short and are deficient to repay and satisfy all such charges then such deficiency shall from time to time be paid by the owner or owners of every such house or building if known and to be met with and if such owner or owners on demand thereof neglect or refuse to pay the same then such deficiency may be levied by warrant under the hand and seal of any Police Magistrate for the district of Sydney for the time-

If owners neglect to take down ruinous houses after notice the Bench of Magistrates or Justices may order the same to be taken down or secured.

And may sell the materials and satisfy themselves out of the monies arising by such sale.

Within two months.

Overplus arising by the sale to be paid to the owners any time within six years on demand.

But if sale of old materials be insufficient owners or occupiers to make good the deficiency.

Landlord to allow deficiencies paid by the tenants.

time-being by distress and sale of the goods and chattels of such owner or owners if any such can be found and if no such owner or owners can be met with or being met with shall not on demand pay the said deficiency and no sufficient distress of his her or or their goods and chattels can be met with wherefrom such deficiency of such costs and charges may be levied and recovered then the person or persons who shall at any time thereafter occupy any such house or building or the ground where the same stood is and are hereby required and authorized to pay and deduct the same out of the rent thereof and if he she or they neglect or refuse to pay such deficiency of charges then the same shall by warrant under the hand and seal of any Police Magistrate for the district of Sydney be levied by distress and sale of the goods and chattels of any occupier or occupiers of the premises, together with the costs of every such distress and sale and the owner or owners of the premises is and are hereby required to allow to every such occupier or occupiers all such deficiencies and charges which he she or they shall so pay or which shall be recovered or levied by distress and sale from him her or them as aforesaid out of any rent which shall become due for the said premises or any part thereof and every occupier paying any such deficiency and charges shall be acquitted and discharged for so much money as he she or they so pay in the same manner as if the same had been actually paid to such person or persons to whom his her or their rents were due and should have been paid and all money received or recovered on the account aforesaid for or in respect of any such house or building within the said town of Sydney shall be paid to the said Colonial Treasurer for the public uses of the said Colony.

Not more than ten gallons of turpentine may be distilled at once in houses contiguous to others.

Penalty.

Shipwrights &c. excepted.

Firecocks to be fixed on the mains.

65. And be it enacted That from and after the said first day of January it shall not be lawful for any person or persons to distil or boil any turpentine or to draw any oil of turpentine and rosin by distilling turpentine or to boil any oil and turpentine together above the quantity of ten gallons at one time of all or any of the said commodities within the limits aforesaid in any workhouse or place contiguous to any other building or in any place nearer to any other building than the distance of fifty feet at the least upon pain that every person offending therein shall for every such offence forfeit and pay the sum of one hundred pounds every of which forfeitures shall and may be recovered with treble costs of suit by any action in the said Supreme Court one moiety whereof shall be paid to the Colonial Treasurer of the said Colony for the public uses thereof and the other moiety thereof to such person or persons as shall inform or sue for the same.

66. Provided always and be it enacted That nothing in this Act contained shall extend to prevent shipwrights barge-builders boat-builders or mast-makers or other persons employed in building or repairing ships barges boats or other vessels near to the waters of Port Jackson Harbour from boiling or mixing oil and other materials for the purpose of paying ships barges boats or masts.

67. And be it enacted That from and after the said first day of January it shall and may be lawful for any Police Magistrate of the town of Sydney and he is hereby required from time to time for ever to make place and fix or cause to be made placed and fixed at the public charge upon the mains and pipes belonging to any water-works whatever within the limits aforesaid such and so many stopblocks and firecocks to be placed at such distances in each and every street or place as the said Police Magistrate shall deem expedient and that the top of every such stopblock or firecock shall be even with the pavement of each street or place to the intent such stopblocks or firecocks may upon occasion of any fire be opened to let out the water without loss

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loss of time in digging down to the pipes and that such Police Magistrate shall have power and he is hereby required from time to time to fix any mark or writing on the front of any house or houses over against or nearest to the place where such stopblocks or firecocks respectively lie or are placed for the better making known where all and every such stopblocks or firecocks lie and shall also keep an instrument or key in every such house where such mark shall be to open the stop-block or firecock and shall keep in such house a pipe for the water to come thereout to be made use of as occasion may require and all such stopblocks and firecocks shall be kept in repair at the public charge.

68. And be it enacted That the turncock belonging to the waterwork whose water shall be found on and shall first come into the main or pipe where any plug shall be opened at any fire within the limits aforesaid shall be paid any sum not exceeding ten shillings and that the engine-keeper who first brings a parish engine or other large engine to help to extinguish any fire happening within the limits aforesaid if in good order and complete with a socket hose leather pipe stand-cock and suction-pipe shall be paid any sum not exceeding thirty shillings the keeper of the *second* engine which shall be next brought in such order and so complete to help to extinguish any such fire shall be paid any sum not exceeding twenty shillings and the keeper of any other engine which shall be the *third* of such engines brought in such order and so complete to any such fire shall be paid any sum not exceeding ten shillings and such several payments shall be made by and at the discretion of the Police Magistrates of the town of Sydney or any one of them.

69. And be it enacted That in every case in which it shall be made to appear to the satisfaction of any Police Magistrate for the town of Sydney that the chimney of any house or building within the limits thereof has taken fire from the occupier of any such house or building having omitted to cause such chimney to be regularly and sufficiently swept and cleaned or from any other neglect of such occupier or of his or her servant or servants such occupier shall on conviction before any such Police Magistrate forfeit and pay for every such offence any sum not exceeding forty shillings to be recovered by distress and sale of the offender's goods and chattels one moiety whereof to be paid to the person informing and the remainder to the Colonial Treasurer for the public uses of the said Colony and in every such case the proof that any such chimney did not take fire through the neglect of such occupier in not having the same regularly and sufficiently swept or cleaned shall lie upon such occupier.

70. And whereas offices for insuring houses against loss by fire retain in their service and give coats and badges and other rewards unto watermen for their service and assistance in and toward extinguishing of fire and who are to be always ready when wanted and are provided with various sorts of poles hooks hatchets and several other instruments and things at the charge of the said respective insurance offices for the extinguishing of fire which watermen so retained are by experience found to venture much farther and to have skill to give and do give at fires happening within the limits aforesaid greater help than other persons not used to come into danger Be it enacted That the watermen for the time-being so retained by and belonging to every such insurance office within the limits of the said town of Sydney not exceeding thirty for each office shall be free from being impressed or liable to be compelled to go to sea to serve as mariners or as soldiers on land their names and places of abode being registered with the Bench of Magistrates or Police Office for said district.

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Money insured on
houses burnt how to
be applied.

71. And in order to deter and hinder ill-minded persons from wilfully setting their house or houses or other buildings on fire with a view of gaining to themselves the insurance money whereby the lives and fortunes of many families may be lost or endangered Be it enacted That it shall and may be lawful to and for the respective Governors or Directors of the several insurance houses or other buildings against loss by fire and they are hereby authorized and required upon the request of any person or persons interested in or entitled unto any house or houses or other buildings which may hereafter be burnt down demolished or damaged by fire or upon any grounds of suspicion that the owner or owners occupier or occupiers or other person or persons who shall have insured such house or houses or other buildings have been guilty of fraud or of wilfully setting their house or houses or other buildings on fire to cause the insurance money to be laid out and expended as far as the same will go towards rebuilding re-instating or repairing such house or houses or other buildings so burnt down demolished or damaged by fire unless the party or parties claiming such insurance money shall within sixty days next after his her or their claim is adjusted give a sufficient security to the Governors or Directors of the insurance office where such house or houses or other buildings are insured that the same insurance money shall be laid out and expended as aforesaid or unless the said insurance money shall be in that time settled and disposed of to and amongst all the contending parties to the satisfaction and approbation of such Governors or Directors of such insurance office respectively.

Servants by carelessness
firing a house
to forfeit £100 or be
imprisoned eighteen
months.

72. And whereas fires often happen by the negligence and carelessness of servants Be it therefore enacted That if any menial or other servant or servants through negligence or carelessness shall fire or cause to be fired any dwelling-house or out-house or houses or other buildings situate within the town of Sydney aforesaid such servant or servants he she or they being free persons and being thereof lawfully convicted by the oath of one or more credible witness or witnesses made before two or more of His Majesty's Justices of the Peace for the said district in Petty Sessions assembled shall forfeit and pay a sum not exceeding one hundred pounds to be paid unto the said Bench of Magistrates to be distributed amongst the sufferers by such fire in such proportions as to the said Bench of Magistrates shall seem just and in case of default or refusal to pay the same immediately after such conviction that then and in such case such servant or servants shall by warrant under the hands and seals of two or more of His Majesty's Justices of the Peace be committed to the common gaol or house of correction as the said Justices think fit for a space not exceeding eighteen months there to be kept at hard labor and such servants being convicts and being convicted as aforesaid if a male shall be liable to be worked in irons on the roads or any other public works for any period not exceeding eighteen months and if a female to be confined in the third class in the female factory or house of correction for any period not exceeding eighteen calendar months.

Constables and
beadles on notice to
repair to buildings
on fire.

73. And be it enacted That upon the breaking out of any fire within the limits aforesaid all constables not upon patrol escort or other express duty and beadles upon notice thereof shall immediately repair to the place where the said fire shall happen with their staves and other badges of their authority and shall be aiding and assisting as well in extinguishing the said fires and causing people to work at the engines as also in preventing goods being stolen and shall seize and apprehend all ill-disposed persons that they shall find stealing or pilfering

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pilfering from the inhabitants as also that the said constables and beadles shall give their utmost assistance to help the inhabitants to remove their goods.

74. And be it enacted That no action suit or process whatever shall be had maintained or prosecuted against any person in whose house chamber stable barn or other building or on whose estate any fire shall after the said first day of January accidentally begin nor shall any recompense be made by such person for any damage suffered thereby any law usage or custom to the contrary notwithstanding and in such case if any action be brought the defendant may plead the general issue and give this Act and the special matter in evidence at any trial thereupon to be had and in case the plaintiff become nonsuited or discontinue his action or suit or if a verdict pass against him the defendant shall recover treble costs provided that no contract or agreement made between landlord and tenant shall be hereby defeated or made void.

75. And be it enacted That where any distress shall be made for any sum or sums of money to be recovered by virtue of this Act the distress itself shall not be deemed unlawful nor the party or parties making the same be deemed a trespasser or trespassers on account of any defect of form in any proceedings relating thereto nor shall the party or parties be deemed a trespasser or trespassers *ab initio* on account of any irregularity afterwards done by the party or parties making such distress but the person or persons aggrieved by such irregularity may recover full satisfaction for the special damage only by action on the case and not by any other action whatever.

76. Provided always and be it enacted That no plaintiff or plaintiffs shall recover in any action for any such irregularity or other proceedings if tender of sufficient amends be made by or on the behalf of the party or parties who committed or caused to be committed any such irregularity or wrongful proceeding before such action be brought and in case no such tender shall have been made it shall and may be lawful for the defendant or defendants in any such action by the leave of the Court where such action shall depend at any time before issue joined to pay into the Court such sum of money as he or they shall see fit whereupon such proceedings or order and judgment shall be had made or given in and by such Court as in other actions where the defendant is allowed to pay money into Court.

77. And be it enacted That no order which shall be made by the Court of Quarter Sessions aforesaid or by any Justice or Justices of the Peace by virtue of or under this Act or any other proceeding to be had touching the conviction of any offender or offenders against this Act shall be removed or removable by *certiorari* or any other writ or process whatsoever into any of His Majesty's Courts of Record for the said Colony.

78. And be it enacted That if any person or persons think him aggrieved by any conviction commitment distress order or judgment of any Justice or Justices of the Peace made out of Sessions by virtue of this Act such person or persons may appeal to the Justices of the Peace at their General Quarter Sessions of the Peace to be holden in and for the said district of Sydney which shall be holden next after such conviction commitment distress order or judgment who shall proceed to hear and examine on oath into the causes and matters of such appeal (which oath or oaths they are hereby empowered to administer) and shall determine the same and award such costs to the parties appealing or appealed against as they shall

Appeal may be made to the Justices at the Quarter Sessions.

No action to lie against a person where the fire accidentally begins.

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shall think proper and the order judgment and determination of the said Justices in Sessions shall be binding and conclusive upon all parties.

Proviso.

79. Provided always and be it enacted That the person or persons so intending to appeal shall immediately after such conviction commitment distress order or judgment or within two days afterwards enter into a recognizance to the party or parties appealed against before such Justice or Justices of the Peace with two sufficient securities conditioned to try such appeal and to abide the order of and pay to the party or parties appealed against such costs (if any) as shall be awarded against him her or them by the said Court of General Quarter Sessions.

Limitation of actions for penalties.

80. And be it enacted That no action or prosecution shall be brought or commenced against any person or persons for any penalty or forfeiture inflicted or incurred by this Act unless the same shall be commenced within six calendar months next after such forfeiture shall have been incurred.

Limitation of actions against persons acting under this Act.**General issue.**

81. And be it enacted That no action or suit shall be commenced against any person or persons for any thing done in pursuance of this Act until twenty-one days after notice in writing of an intention to bring such action or suit has been given to the person or persons against whom such action or suit shall be brought nor after the expiration of three calendar months next after the fact committed and the defendant or defendants in every such action or suit may plead the general issue and give this Act and the special matter in evidence at any trial or trials to be had thereupon and that the matter or thing for which such action or suit is brought was done in pursuance and by the authority of this Act and if the said matter or thing appear to have been so done or if it appear that such action or suit was brought before the expiration of twenty-one days after such notice given as aforesaid or that sufficient satisfaction was made or tendered before such action was brought or if any such action or suit be not commenced within the time herein for that purpose limited or be laid in any other country or place than as aforesaid then the jury in every such action or suit shall find for the defendant or defendants therein and if a verdict be found for the defendant or defendants or if the plaintiff or plaintiffs in any such action or suit become nonsuited or discontinue or suffer a discontinuance of any such action or suit or if in any such action or suit judgment be given for the defendant or defendants therein on demurrer or by default or otherwise then and in any of the cases aforesaid the defendant or defendants shall have judgment to recover treble costs of suit and shall have such remedy for recovering the same as any defendant or defendants may have for costs in other cases by law.