

No. XXXIII.

SYDNEY SEWERAGE. An Act for the better sewerage cleansing and draining of the City of Sydney and to promote the health of the Inhabitants thereof. [1st October, 1850.]

14 Vic. No. 41.

Survey of area of
City to be made for
purposes of sewerage
and drainage

and maps thereof
indicative of levels
&c.

to be kept in the
office of the Town
Clerk.

Power of the Council
to make by-laws
for the purposes
herein named.

Preamble. WHEREAS the City of Sydney in the Colony of New South Wales has greatly increased in houses and buildings and the same is become large and populous but for want of sufficient and proper common sewers and drains much inconvenience has arisen and is still likely to arise And whereas such inconvenience might be prevented and the health and comfort of the inhabitants greatly improved and much public benefit obtained if proper and suitable common sewers were made for effectually cleansing and draining the said City And whereas an Act was passed in the present year of the reign of Her present Majesty by His Excellency the Governor of New South Wales with the advice of the Legislative Council thereof intituled "An Act to provide for the regulation of the Corporation of the City of Sydney" and it is expedient that the Council of the said City as by law established should be vested with full powers and authorities which at present they do not possess for effecting the purposes aforesaid Be it therefore enacted by His Excellency the Governor of New South Wales with the advice and consent of the Legislative Council thereof That the Council of the said City shall as soon as conveniently may be proceed with or cause to be made or completed a survey of the area within the limits of the said City and of the precincts thereof which they may think necessary to include in such survey for the purposes of sewerage and drainage under this Act and a map or maps thereof on such scale or respective scales and with such indications of levels and particulars of sewers and underground works and of the surface as the said Council shall think necessary or expedient for the purposes of this Act and the said Council may cause such map or maps or any part thereof to be from time to time copied engraven and published as they may think proper and the said Council shall from time to time cause such map or maps to be revised and such additions made thereto as may shew the new sewers and drains and the new streets roads houses or other alterations and the date of revision shall be expressed therein and every such map shall be kept in the office of the Town Clerk of the said City for the time being and the same or a copy thereof shall be open at all seasonable times to the inspection of the owners or occupiers of any lands or houses within the limits of the said City.

2. And be it enacted That the said Council shall and may (subject nevertheless to the provisoes restrictions and limitations respecting by-laws contained in the said recited Act) from time to time make alter and repeal by-laws for all or any of the purposes following that is to say for regulating in regard to drainage the plans level surface inclination and the material of the pavement and roadway of new streets and roads and the plans and level of sites for building and for regulating the drainage of roads and streets into their sewers for regulating the dimensions form and mode of construction and the materials and the keeping cleansing and repairing of the pipes drains and other means of communicating with sewers and the traps and apparatus connected therewith for the emptying cleansing closing and filling up of cesspools and privies and for such other works of cleansing

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cleansing and of removing and disposing of refuse as the said Council are authorized to perform or require for regulating the form of contracts with the said Council and generally for carrying into effect the purposes of this Act.

3. And be it enacted That it shall be lawful for the said Council at any time or times and they are hereby authorized and empowered by themselves their agents workmen and servants subject to the provisions hereinafter contained to make and construct any sewers or drains of such construction and in such manner as the said Council shall think necessary or proper for carrying the purposes of this Act into execution and in a careful and workmanlike manner doing thereby as little damage as may be and subject to the restriction hereafter mentioned to break up the soils pitchings and pavements of any public or private streets highways roads ways footpaths lanes &c. and for such purpose may break up soils pavements of streets &c. passages and places within the said City and precincts thereof and to excavate and sink trenches for the purpose of laying down making and constructing common sewers or drains therein and to cause such common sewers or drains to communicate with the sea or any arm thereof or with any stream or public watercourse either within or without the limits of the said City and the precincts thereof and also from time to time to open cleanse and repair such sewers or drains or alter the position thereof and also from time to time to make any drains or sewers from any main sewer or drain laid in any public or private street highway road way lane footpath or passage made by the said Council by virtue of this Act into any dwelling-house or houses public or private buildings and premises for the purpose of cleansing and draining any such house or houses or other premises by means of such sewer or drains and to do all such other acts matters and things and may amend and repair such sewers as they shall from time to time deem necessary and proper for making amending repairing completing or improving any such sewers and drains or other works to be made done and provided for the purposes of this Act the said Council their deputies surveyors engineers agents servants and workmen doing as little damage as may be in the execution of the several powers to them hereby granted and this Act shall be sufficient to indemnify the said Council and their deputies surveyors engineers agents workmen and all other persons whomsoever for all acts matters or things they or any of them shall do by virtue hereof Provided always that the said Council shall and they are hereby required to build and construct the said sewers in a sufficient and effectual manner for accomplishing all the purposes hereby intended and subject to the restrictions hereinafter mentioned and after laying or removing or altering or repairing any such drains or sewers shall immediately fill in the trenches or excavations and make good the ground soils pitchings and pavements of any such public or private streets highways roads ways footpaths lanes and public passages as aforesaid and other damage and remove the rubbish occasioned thereby and shall in the meantime fence or guard the place or places where any ground shall be opened in such manner as to prevent danger or accidents to passengers carriages horses cattle or sheep and agreeably in all respects to the provisions in this Act contained and if there shall be any wilful or negligent delay in the said Council or any of their agents surveyors or servants or any other person or persons acting by or under their authority in filling in any such ground trenches or excavations or removing rubbish or making good any such ground or the soils pitchings or pavements of any such public or private streets highways roads ways footpaths lanes or public passages or other damage according to the provisions in this Act contained or in case the same respectively shall be imperfectly done or in case the ground so opened shall not be fenced Powers of private parties in case of neglect of Council or

Proviso as to making good all such soils and pavements and removing all rubbish &c.

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&c. as to fencing all excavations &c.

and as to maintaining sufficient lights during the night

and as to recovery of costs and penalties.

Council may lay sewers in private grounds with consent of owners &c.

and may alter existing sewers.

Proviso as to injuries done to private sewers.

or guarded in the manner required by and agreeably to the provisions of this Act then and in every such case it shall be lawful for the person or persons in whom the right of soil of such ground shall be or to whom there now does or hereafter shall belong any power or powers to maintain or repair the soil pitchings and pavements of any such public or private streets highways roads ways footpaths lanes and passages or any person acting for them or him to fill in such ground trenches or excavations and remove such rubbish and to repair and make good such ground so broken up and the soil pitchings and pavements of any such private or public streets highways roads ways footpaths lanes and passages or other damage and properly fence and guard any such trench or excavation and to place and maintain such light or lights during the night as to them or him shall seem necessary and the reasonable costs and charges thereof shall be paid by the said Council or their Treasurer or Treasurers to the persons who shall have disbursed or incurred the same and in default of payment thereof for thirty days next after demand made for the payment thereof proof of such demand being made by the oath of one or more credible witness or witnesses before one or more Justice or Justices of the Peace for the said City not being a member or members of such Council all such reasonable costs together with any sum not exceeding five pounds by way of penalty shall and may be levied and recovered by distress and sale of the goods and chattels of the City Treasurer for the time being unless such Treasurer shall pay such costs charges and penalty which he is hereby authorized and empowered to do out of any moneys received or to be received by him as such Treasurer together with the charges of such distress and sale by warrant under the hand and seal or hands and seals of any such Justice or Justices and which warrant such Justice or Justices is and are hereby required to grant and such penalties shall be paid to the person or party who shall have disbursed or incurred the costs and charges as aforesaid and the sufficiency or insufficiency of any such reinstatement or repair shall in case of dispute be determined by any such Justice.

4. And be it enacted That it shall be lawful for the said Council to excavate the ground and to make construct and lay down any sewers or drains in along or over the land or ground of any person or persons for the purpose of communicating with any main sewer or drain to be made by the said Council in pursuance of this Act with the consent of the owner and occupier of such land or ground in which such drain or sewer shall be made as aforesaid.

5. And be it enacted That it shall be lawful for the said Council to open the ground and to change the level or otherwise amend or enlarge any sewer or sewers lying under any of the public or private streets roads highways footpaths lanes and passages within the said City and the precincts thereof for better communicating with the main sewers or drains already made or to be made in pursuance of this Act Provided always that no person or persons shall by means of any such alteration amendment or enlargement be deprived of the use and enjoyment of any private sewer or drain which he or she shall be entitled to use but that the said Council shall and they are hereby expressly required at their own costs and charges so to construct and alter any such private drain or sewer as to render the same as effectual for the purposes for which it was intended as any such drain or sewer may be at the time of such alteration and in case the said Council shall refuse or neglect so to construct and alter any such private drain or sewer the use of which may be affected by the acts of the said Council for the space of twenty-eight days next after notice in writing served upon them or the Town Clerk or City Treasurer for the time being respectively the said Council shall forfeit and pay to the party aggrieved

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aggrieved any sum not exceeding forty shillings for every day during which the said Council shall refuse or neglect so to construct and alter any such private drain or sewer to be recovered in such and the like manner as any penalty by this Act imposed upon the said Council may be raised and levied.

6. And be it enacted That the said Council shall cause the sewers which shall be from time to time vested in them to be constructed covered and kept so as not to be a nuisance or injurious to health and to be properly cleared cleansed and emptied and for the purpose of clearing cleansing and emptying the same they may construct and place either above or under ground such reservoirs sluices engines and other works as may be necessary and may cause all or any of such sewers to communicate with and be emptied into such places as may be fit and necessary or may cause the sewerage and refuse therefrom to be collected for sale or for any purpose whatsoever but so as not to create a nuisance.

7. And be it enacted That it shall be lawful for the said Council and they are hereby fully authorized and empowered to contract and agree with any inhabitant of the said City or its precincts being the owner or occupier of any dwelling-house or other building and premises therein or with any other person or persons for the purpose of making any private drain or sewer from any dwelling-house building or other premises to communicate with any main sewer or drain made or to be made altered or enlarged by or vested or to become vested in the said Council in pursuance of this Act or the said recited Act or to permit and suffer any such owner or occupier or other person or persons to make any such private drain or sewer upon the payment of such gross or annual sum in the nature of a rate or rent to the said Council as may be agreed upon by the said Council and such owner or occupier or other person or persons as the case may be and in case default shall be made in the payment of such gross or annual sum for the space of ten days after the same shall respectively become due from time to time it shall be lawful for the said Council to recover the same either by action of debt in the Supreme Court of New South Wales at Sydney aforesaid or by distress and sale of the goods and chattels of the person or persons liable to pay the same or of the owner or occupier of the said premises in the same manner as rents reserved on common demises may by law be recovered and it shall and may be lawful for the said Council to cause the private drain or sewer communicating with the house or premises belonging to the person so making default to be separated from the main sewer or drain belonging to the said Council Provided always that in every case where any such owner or occupier or other person or persons shall make alter or repair any such private drain or sewer or any private drain or sewer whatsoever which shall at any time be made to communicate with any of the sewers or drains made or to be made altered or enlarged by or vested or to become vested in the said Council by virtue or in pursuance of this Act or the said recited Act all and every the provisions enactments and penalties in and by this Act contained or imposed relating to or concerning the ground soils pitching and pavements to be opened or broken up and reinstated and making good and guarding the same and repairing other damage and the payment and recovery of the costs and charges thereof shall be complied with and observed by and apply to every such owner or occupier or other person or persons in such and the like manner as is herein mentioned with respect to any drain or sewer to be made altered or repaired by the said Council or their agents surveyors servants or workmen Provided always that every occupier shall be entitled to deduct against or to be repaid by his landlord the whole of any such

Council to cause sewers vested in them to be cleansed from time to time so as not to be a nuisance or injurious to health.

Power to Council to contract with individuals for private drains.

Recovery of rate.

Proviso subjecting to the provisions of this Act all persons opening private drains or sewers.

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rate or rent as aforesaid as shall be recovered from such occupier unless he shall be liable to pay the same under or by virtue of his lease or agreement with his landlord.

When Council or any
private person or
persons have broken
up any soils or pave-
ments of streets &c.
the same shall be kept
sufficiently fenced
during the progress
of the works

8. And be it enacted That when and so often as any ground or any of the soils pitchings or pavements of any of the public or private streets highways roads ways footpaths lanes and passages within the said City and precincts thereof or of any of them or of any part thereof shall from time to time be opened or broken up by the said Council or their agents surveyors workmen or servants or by any such inhabitant or other person or persons as aforesaid proper and sufficient fences and protection shall immediately thereupon be made set up and continued by the said Council or by any such inhabitant or other person or persons as the case may be and in the case of any such inhabitant or other person or persons to the satisfaction of the City Surveyor for the time being to guard the place or places where any ground soils pitchings or pavements shall have been so opened or broken up and to prevent danger or accidents to passengers carriages or horses or sheep or cattle and that at all times during the progress of digging any trenches or excavations and making altering enlarging and repairing all or any of the drains and sewers to be made altered enlarged or repaired by virtue of this Act and of filling in such trenches or excavations or otherwise carrying on and finishing the works hereby authorized to be done in any street highway road way footpath lane or passage within the said City and precincts thereof every such street highway road way footpath lane or passage shall be kept and continued by the said Council their agents surveyors workmen or servants or by such inhabitant or other person or persons as aforesaid as the case may be as free from all obstructions and annoyances of every kind and for as short a time as practicable and that in case any such inhabitant or other person or persons shall refuse or neglect to make or set up and continue such sufficient fences and protections or to keep and continue any such public or private street highway road way footpath lane or passage as free from all obstructions and annoyances and for as short a time as possible then and in every such case it shall be lawful for the said City Surveyor or other officer to be for that purpose appointed by the said Council to make and set up or cause to be made and set up and continued such sufficient fences and protections and to remove or cause to be removed all such obstructions and annoyances which shall not have been necessarily occasioned or which shall have been continued longer than may have been actually necessary and the reasonable costs and charges thereof shall be paid by any such inhabitant or other person or persons to the said Council and in default of payment thereof for twenty days next after demand made by the said Council or their duly authorized agent for the payment thereof proof of such demand being made by the oath of one or more credible witness or witnesses before one or more Justice or Justices of the Peace for the said City all such reasonable costs and charges together with any sum not exceeding five pounds by way of penalty shall and may be levied and recovered by distress and sale of the goods and chattels of any such inhabitant or other person or persons together with the charges of such distress and sale by warrant under the hand and seal or hands and seals of any such Justice or Justices and which warrant such Justice or Justices is and are hereby required to grant and such penalties shall be paid and applied in the manner hereinafter mentioned and that in case the said Council or any of their agents surveyors workmen or servants shall refuse or neglect to make or set up and continue such sufficient fences and protections or to keep and continue any such public or private street highway road way footpath lane or passage as free from all obstructions and annoyances and for as

and if such works
have not been kept
so fenced a penalty
and costs may be
recovered.

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as short a time as possible according to the requirements hereinbefore contained then and in every such case the said Council on conviction thereof before any one or more Justice or Justices of the Peace for the said City not being a member or members of such Council shall forfeit and pay any sum not exceeding five pounds to be recovered in such and the like manner as any penalty by this Act imposed upon the said Council may be raised and levied Provided always that the sufficiency or insufficiency of any such fences or protections and the breach infringement or neglect of all or any of the provisions above contained and the reasonableness of the costs and charges before mentioned shall in case of dispute be determined by such Justice or Justices.

9. And be it enacted That when and as often as any of the Council or other persons breaking up pavements to reinstate the same in seven days under a penalty.

pavements or footways within the said City or the precincts thereof shall be taken up or removed by the said Council or their workmen surveyors or servants or any such inhabitant or other person or persons for the purpose of making altering or repairing any such drains or sewers or any cross drain or drains from any houses public or private buildings or other premises to communicate with any main sewer or drain to be made altered or enlarged by or vested or to become vested in the said Council in or under any public or private street highway road way lane footpath or passage no part of any of such pavements or footways respectively shall remain taken up or removed longer than a period of seven clear days exclusive of Sundays and that in case the making altering enlarging or repairing every such drain or sewer respectively shall not be completed and finished with all practicable expedition or in case any part of such pavements or footways respectively when taken up or removed by the said Council or by any such inhabitant or other person or persons for any of the purposes aforesaid shall remain taken up or removed longer than the said period of seven clear days exclusive of Sundays then in every such case the said Council or the City Treasurer for the time being or as the case may be any such inhabitant or other person or persons shall forfeit and pay any sum not exceeding forty shillings for each day beyond the said period of seven clear days which shall and may be levied and recovered in such and the like manner as any penalty by this Act imposed upon the said Council or such inhabitant or other person or persons as aforesaid respectively may be raised levied and recovered.

10. And be it enacted That the said Council shall and they are hereby required at all times to maintain and keep in good order and repair at the expense of the said Council all and every the drains and sewers to be made altered or enlarged by virtue of this Act by the said Council and all drains and sewers vested in or which shall become vested in or belong to the said Council by or by virtue of the same Act or the said recited Act or otherwise.

11. And be it enacted That it shall not be lawful for any person or persons without notice as hereinafter is mentioned to make or branch any private sewer or drain into any of the sewers or drains to be made or enlarged by or now vested or to be vested in the said Council in pursuance of this Act or of the said recited Act or into any drain or sewer communicating or to communicate therewith and in case any person or persons shall make or branch any private sewer or drain into any of the said sewers or drains already made or authorized to be made by the said Council by virtue of this Act or into any drain or sewer communicating or to communicate therewith without such notice every person so offending shall for every such offence forfeit and pay to the said Council a sum not exceeding five pounds and it shall be lawful for the said Council to cut off stop up or prevent the communication of such private sewer or drain with the sewers or drains

Council to repair sewers.

No private sewers to be made to communicate with the Council sewers without notice under a penalty.

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drains so made or to be made or enlarged by the said Council or any sewer communicating therewith and to recover the costs and charges occasioned thereby and also the rate or rates herein authorized to be made from the time when such private sewer or drain shall have been made from the person or persons so offending in such and the like manner as any rate may by this Act be raised and levied.

Proprietors of
private sewers &c.
to repair and cleanse
the same under the
direction of the City
Surveyor.

Penalty for non-
compliance.

Inhabitants may lay
drains to the
Council's sewers
after giving notice
and upon payment
of certain rates.

Proceedings in cases
of default of payment
of rates.

Limiting the rates to
be paid for drains.

12. And be it enacted That all such private sewers or drains as shall be permitted to be branched into any of the said sewers or drains vested in the said Council or hereby authorized to be made and enlarged by them by virtue of this Act shall from time to time be repaired and cleansed under the inspection and direction of the City Surveyor for the time being at the costs and charges of the occupiers of the houses buildings lands and premises to which the said private sewers or drains shall respectively belong and in case any person or persons shall neglect to repair and cleanse or cause any sewer or drain so permitted to be branched into any sewer or drain to be made by the said Council in pursuance of this Act to be repaired and cleansed according to the directions of the City Surveyor for the time being he she or they shall forfeit and pay for every such offence a sum not exceeding five pounds.

13. And be it enacted That such of the inhabitants of the said City as shall be desirous of having a drain to the said main sewers or any sewer communicating therewith laid into their houses buildings or other premises may and they are hereby authorized and empowered at their own expense (subject nevertheless to the provisions herein-before contained) having given six days previous notice in writing of his or her intention so to do to the said Council and with the consent of the owners of the premises through which the drain shall be conveyed and giving such notice as aforesaid to the said Council or to the City Surveyor to open the ground between the Council's main sewer or the sewer communicating therewith and the respective houses buildings or other premises of such inhabitants and to lay any drain (the same being made of cast iron brick stone or such other materials as the said Council shall approve of and in such manner and form and with such grates and of such workmanship as may be approved of by the said Council or the said City Surveyor) from such respective houses buildings or other premises to communicate with the said main sewer such respective inhabitants paying to the said Council the rates hereinafter mentioned and in case of default of payment of any such rate or rates or sum or sums of money so to be paid it shall be lawful for the said Council to cause the drain belonging to the person or persons making such default and communicating with the main sewer belonging to the said Council to be separated from the said main sewer or sewers communicating therewith so as to prevent any communication therewith and that the rate or rates sum or sums of money which shall be due and in arrear from such person or persons to the said Council shall and may be recovered by the said Council by distress and sale of the goods and chattels of the persons liable to pay the same in the same manner as rents reserved on common demises may by law be recovered.

14. Provided always and be it enacted That the said Council shall be obliged in the manner before directed to permit every inhabitant occupying a dwelling-house or part of a dwelling-house building or other premises in any square street close or lane of the said City where the sewers of the said Council hereafter shall be laid to lay any drain from such respective houses buildings or other premises the same being made of cast iron stone or brick or of such materials of such a construction and in such a manner and form and with such grates and of such workmanship as the said Council or the City Surveyor

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veyor shall approve of to communicate with the said main sewer at the following rates per annum that is to say where the value of such dwelling-house or premises or part of a dwelling-house or premises shall not exceed twenty pounds per annum at a rate per centum per annum not exceeding seven pounds ten shillings and where such value shall be above twenty pounds and not exceeding forty pounds per annum at a rate per centum per annum not exceeding six pounds and where such value shall be above forty pounds and not exceeding sixty pounds per annum at a rate per centum per annum not exceeding five pounds ten shillings and where such value shall be above sixty pounds and not exceeding one hundred pounds per annum at a rate per centum per annum not exceeding five pounds and where such value shall be above one hundred pounds and not exceeding two hundred pounds per annum at a rate per centum per annum not exceeding four pounds and where such value shall be above two hundred pounds per annum at a rate per centum per annum not exceeding three pounds and every such rate shall be payable according to the amount at which such dwelling-house shall be assessed to the City rate and such rate shall be due and payable in advance on and from the day when such communication with any sewer hereby authorized shall be made.

15. And be it enacted That if the soil filth or cesspools attached or belonging to or arising from any messuage or tenement within the said City shall upon the complaint of any one or more inhabitants of the said City be deemed a nuisance by the Council it shall be lawful for the said Council to cause a drain or sewer to be laid down from any and every such messuage or tenement or the premises adjoining to or near the same to convey such soil or filth to one of the main sewers or drains of the said Council and to recover the costs and charges and expenses of laying down such drain or drains from the owner or owners or occupier or occupiers of such messuage or tenement respectively such costs and charges not exceeding the sum of five pounds in respect of any messuage or tenement which shall be under the yearly value of fifteen pounds and not exceeding the sum of ten pounds in respect of any messuage or tenement which shall be above the yearly value of fifteen pounds and in case such owner or owners or occupier or occupiers shall on demand refuse to pay such costs and charges it shall be lawful for the said Council or the Town Clerk of the City or the said City Surveyor to make complaint before two of Her Majesty's Justices of the Peace for the said City and upon proving upon oath before such Justices the amount of the costs and charges so incurred by the said Council the said Justices are hereby authorized and required to summon such owner or owners or occupier or occupiers by causing such summons to be left at the dwelling-house or houses of such owner or owners or occupier or occupiers to appear before them or any other of Her Majesty's Justices of the Peace at a Petty Sessions to be held not sooner than twenty-one days after the service of such summons and in case such owner or owners or occupier or occupiers shall neglect to attend in obedience of such summons or shall not prove to the satisfaction of such Justices that he or they hath or have paid such costs and charges as aforesaid or that such costs and charges are unreasonable it shall be lawful for such Justices and they are hereby required to issue on the application of the said Council or the Town Clerk or City Surveyor a warrant of distress for levying on the goods and chattels of such owner or owners or occupier or occupiers all and every such costs and charges as aforesaid or such part or parts therof as to the said Justices may upon the hearing of such complaint appear to be reasonable together with all costs to be incurred or occasioned by any such proceedings as aforesaid

Council empowered to remove nuisances from tenements &c. on complaint and to recover the charges for so doing from the owners or occupiers of such tenements

before any two Justices.

Provided

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Provided always that every occupier shall be entitled to deduct against or to be repaid by his landlord the whole of such costs and charges as aforesaid as shall be recovered from such occupier unless he shall be liable to pay the same under or by virtue of his lease of agreement with his landlord.

Council may make rates to be paid by occupiers or by owners of houses under £15 per year in certain cases.

As to removal of nuisances.

Costs of removing nuisances to be received from party occasioning same.

Notice of building or rebuilding with respect to levels of cellar or lowest floor situation of privies &c. to be given to City Surveyor under a penalty.

16. And be it enacted That it shall be lawful for the said Council to make an annual rate not exceeding the rates hereinbefore mentioned upon the occupier of any such messuage or tenement from which any drain or sewer shall be made in consequence of any complaint so made to the said Council and to recover the same from time to time from such occupier or occupiers in such and the like manner as any rate or rent by this Act authorized to be made or levied may be recovered Provided nevertheless that it shall be lawful for the tenant or tenants of any messuage or tenements under the yearly rent of fifteen pounds per annum to deduct the amount of such rate or rates from time to time from his her or their rent or for the said Council to make such rate or rates upon the owner or owners of any messuage or tenement under such yearly rent as aforesaid and to recover the same from such owner or owners in such and the like manner as any rate or rent by this Act authorized to be made may be recovered.

17. And be it enacted That if upon the complaint of the City Surveyor or of any inhabitant of the said City or the precincts thereof any muck filth soil or other offensive matter or thing shall be deemed a nuisance or dangerous to the health of any of the inhabitants of the said City by the said Council it shall be lawful for the said Council or the City Surveyor or Town Clerk to make complaint against the occupier or occupiers of any messuage or premises in or from which any such nuisance or danger may arise or against any person or persons concerned in occasioning such nuisance or danger before any two of Her Majesty's Justices of the Peace for the said City and such Justices are hereby required to issue their summons for the appearance of the party or parties against whom such complaint shall be made and in case the party so summoned shall not appear or shall refuse or neglect to remove the cause of any such nuisance or danger within such time as the said Justices shall order and direct it shall be lawful for any such Justices and they are hereby required to issue their warrant directed to any person or persons commanding him or them to remove all such muck filth soil or other offensive matter or thing as aforesaid so as to effectually prevent such nuisance or danger to the health of any such inhabitant or inhabitants.

18. And be it enacted That all and every the costs and charges to be occasioned by any such removal as aforesaid and of the proceedings consequent thereupon the amount of which costs and charges shall be settled and determined by such Justices shall be levied by distress and sale of the goods and chattels of all and every such occupier or occupiers or other person or persons by warrant under the hands and seals of two such Justices as aforesaid which they are hereby authorized and directed to grant in case such occupier or occupiers or other person or persons upon being summoned before any such Justices as aforesaid shall neglect or refuse to pay such costs and charges as aforesaid.

19. And be it enacted That fourteen days at the least before beginning to dig or lay out the foundation of or for any new house or to rebuild any house within the limits of the said City or the precincts thereof the person intending so to build or rebuild shall give to the City Surveyor for the time being written notice thereof together with the level or intended levels of the cellar or lowest floor and the situation and construction of the privies and cesspools to be built constructed

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constructed or used in connection with such house and it shall not be lawful to begin to build or rebuild any such house or to build or construct any such privy or cesspool until the particulars so required to be stated have been approved by the said City Surveyor and he is hereby required to signify his approbation or disapprobation of the same within the space of fourteen days after receiving such notice without fee and in default of such notice or if any such house privy or cesspool be built rebuilt or constructed as aforesaid without such approval the offender shall be liable to a penalty not exceeding twenty pounds and the said Council may if they shall think fit cause such house privy or cesspool to be altered or otherwise dealt with as the case may require and the expenses incurred by them in so doing shall be repaid by the offender together with the penalty aforesaid and be recoverable from him by distress and sale of his goods and chattels by warrant under the hand and seal of two such Justices as aforesaid which they are hereby authorized and directed to grant in case such offender upon being summoned before any such Justices as aforesaid shall neglect or refuse to pay the same.

20. And be it enacted That the said Council shall and may if they think fit provide and maintain in proper and convenient situations water-closets privies and other similar conveniences for public accommodation within the limits of the said City or the precincts thereof and defray the necessary expenses out of the rates to be levied under this Act or under the said recited Act.

21. And be it enacted That whosoever shall suffer any waste or stagnant water to remain in any cellar or place within any dwelling-house or premises in the said City for twenty-four hours after written notice to him from the Inspector of Nuisances to remove the same and whosoever allows the contents of any water-closet privy or cesspool to overflow or soak therefrom shall for every such offence be liable to a penalty not exceeding forty shillings and to a further penalty of five shillings for every day during which the offence is continued and the said Council shall abate or cause to be abated every such nuisance and do what shall be needful for preventing a continuation or recurrence thereof and shall have power to enter any house or premises for that purpose and the expense incurred by them in so doing shall be repaid to them by the occupier of the premises upon which the same exists and be recoverable from him together with the penalties aforesaid by distress and sale of the goods and chattels of all and every such occupier or occupiers or other person or persons by warrant under the hands and seals of two such Justices as aforesaid and they are hereby authorized and directed to grant in case such occupier or occupiers or other person or persons upon being summoned before any such Justices aforesaid shall neglect or refuse to pay the same.

22. And be it enacted That if upon the certificate of any two duly qualified medical practitioners it appear to the said Council that any house or part thereof or the premises occupied in connection therewith within the limits of the said City or the precincts thereof is in such a filthy or unwholesome condition that the health of any person is or may be liable to be affected or endangered thereby so that the whitewashing cleansing or purifying of any house or part thereof or the premises occupied in connection therewith would tend to prevent or check infectious or contagious disease the said Council shall give notice in writing to the owner or occupier of such house or part thereof or the premises occupied in connection therewith to whitewash cleanse or purify the same as the case may require and if the person to whom notice is so given shall fail to comply therewith within such time as shall be specified in the said notice he shall be liable to a penalty not exceeding ten shillings for every day during which he continues to make

Power for Council to provide public water-closets privies &c.

Penalties for allowing waste water to remain in cellars &c.

Houses to be purified on certificate of two medical practitioners.

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make default and the said Council shall if they shall think fit cause such house building or part thereof or the premises occupied in connection therewith to be whitewashed cleansed or purified and for such purpose shall have power to enter the same and the expense incurred by them in so doing shall be paid by the owner or occupier in default and be recoverable from either of them by distress and sale of the goods and chattels of such owner or occupier by warrant under the hands and seals of two such Justices as aforesaid which they are hereby authorized and directed to grant in case such owner or occupier or other person or persons upon being summoned before any such Justices as aforesaid shall neglect or refuse to pay the same.

Justice may issue warrant authorizing officer of Council &c. to enter premises and view the state and condition thereof.

23. And be it enacted That whenever it shall be made to appear on oath to the satisfaction of any Justice of the Peace that there is reasonable ground for believing that any house or part thereof or the premises occupied therewith as is hereinbefore mentioned within the limits of the said City is in a filthy or unwholesome condition it shall be lawful for such Justice to grant a warrant under his hand authorizing any officer of the said Council Inspector of Slaughter-houses or Inspector of Nuisances or Inspectors of Police with such assistance as may be necessary and accompanied by such Medical Practitioners as aforesaid to enter (in the day time) into such house or part thereof or the premises occupied therewith as aforesaid and to view the same and the state and condition thereof.

Power for owners or occupiers of premises near to but beyond the limits of the City to contract with Council to drain the same.

24. And be it enacted That any owner or owners or occupier or occupiers of premises adjoining or near to but beyond the limits of the said City and the precincts thereof may cause any sewer or drain of or from such premises to communicate with any sewer of the said Council upon such terms and conditions as shall be agreed upon between such owner and occupier and the said Council or in case of dispute as shall be settled by arbitration in the usual manner.

A sufficient number of water-closets to be constructed in factories under a penalty.

25. And be it enacted That if at any time it appear to the Council upon the report of their architect or surveyor for the time being that any house within the limits of the said City and the precincts thereof is used or intended to be used as a factory or building in which persons of both sexes and above twenty in number are employed or intended to be employed at one time in any manufactory trade or business the said Council may if they shall think fit by notice in writing to the owner or occupier of such house require them or either of them within a time to be specified in such notice to construct a sufficient number of water-closets or privies for the separate use of each sex and whoever neglects or refuses to comply with such notice shall be liable for each default to a penalty not exceeding twenty pounds and a further penalty not exceeding twenty shillings for every day during which the default is continued and such penalties shall be recoverable from such owner or occupier or other person or persons by distress and sale of the goods and chattels by warrant under the hands of two such Justices as aforesaid (which they are hereby authorized and directed to grant) in case such owner or occupier or other person or persons upon being summoned before any such Justice as aforesaid shall neglect or refuse to pay the same.

Nothing in this Act to exempt any person from prosecution &c. for a nuisance.

26. And be it enacted That nothing in this Act shall be construed to render lawful any act matter or thing whatsoever which but for this Act would be deemed to be a nuisance within the limits of the said City or the precincts thereof nor to exempt any person from any liability prosecution or punishment to which he would have been otherwise subject in respect thereof.

Owner of house untenanted or let to more than one tenant liable for rates &c.

27. And be it enacted That if any house or premises shall become untenanted or where such house or premises shall be let out in apartments or to more than one tenant the owner or owners of such house

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house and premises shall be deemed the occupier or occupiers thereof for all the purposes of and be liable to the rates costs and charges by this Act authorized to be made and imposed the same to be recovered in any manner herein directed for the recovery of such rates and charges.

28. And be it enacted That if any person shall wilfully or maliciously hinder or interrupt or cause or procure to be hindered or interrupted the said Council or their managers surveyors agents servants or workmen or any of them in doing or performing any of the works or in the exercise of any of the powers and authorities in this Act authorized or contained or shall wilfully or maliciously break throw down injure damage or destroy any sewer or drain works matter or thing belonging to the said Council made or to be made and provided in pursuance of this Act or for the purpose of the execution of the powers herein contained every person so offending shall for every such offence forfeit and pay any sum not exceeding ten pounds.

29. And be it enacted That if any person or persons supplied with a drain by virtue of this Act or having any drain or sewer which may communicate with the sewers of the said Council shall wilfully permit any other person or persons not having the authority or consent of the said Council to use any such drain or any branch into the same then and in every such case every person so offending as aforesaid shall forfeit and pay to the said Council for every such offence any sum not exceeding five pounds according to the discretion and decision of the Justices of the Peace before whom the same shall be recovered over and above the full amount of the damage sustained by the said Council by the acts or means in respect of which such penalty shall be incurred and the said Council shall be at liberty to cut off the drain from every person so offending from the main sewer of the said Council.

30. And be it enacted That it shall be lawful to and for the Engineer Surveyor or any other person or persons acting by or under the authority of the said Council at all seasonable times in the day time upon giving twenty-four hours previous notice of their intention to enter into any house building or other premises having a drain or sewer communicating with the sewers already made or to be made by virtue of this Act in order to inspect and examine if there be any communication with any other drain or sewer into any other building or premises and if such Engineer Surveyor or other person acting by or under the authority of the said Council shall at such time or times be refused admittance or entrance into any such dwelling-house building or other premises for the purpose of making such inspection and examination as aforesaid or on being admitted shall be obstructed or prevented from making such inspection and examination as aforesaid then and in every such case it shall and may be lawful to and for the said Council to cut off the drain or sewer supplied by the said Council from such house building or other premises.

31. Provided always and be it enacted That in case the said Council shall be desirous of raising any sum on mortgage of the said rates or rent or other revenue to be derived by them under or by virtue of this Act not exceeding the sum of twenty thousand pounds it shall be lawful for the said Council to borrow and take up at interest all or any part of the said sum in one or more sum or sums on the credit of the said rates rent or other revenue to be derived as aforesaid and to assign the same or any part thereof as a security for any sum or sums of money so to be borrowed with interest to such person or persons as shall advance the same all which said assignments shall be made at the costs of the said Council under their common seal and be registered by the Town Clerk for the time being in a book to be kept for that purpose and the same shall be in the form or to the effect following (that is to say)--

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Form of mortgage.

“ By virtue of an Act passed in the fourteenth year of the
 “ reign of Her Majesty Queen Victoria intituled ‘*An Act
 “ for the better sewerage cleansing and draining of the City
 “ of Sydney and to promote the health of the Inhabitants
 “ thereof*’ we Mayor Aldermen Councillors and Citizens of
 “ the City of Sydney in consideration of the sum of
 “ to us in hand paid by of do hereby bargain
 “ sell and assign unto the said his her or their (as
 “ the case may be) executors administrators and assigns
 “ all and singular the rates rents and sums of money arising
 “ or to arise and be payable to us for drains and sewers
 “ or otherwise by virtue of the said Act and all our estate
 “ right title and interest of in and to the same to hold unto
 “ the said executors administrators and assigns
 “ until the said sum of with interest for the
 “ same after the rate of per centum per annum shall
 “ be fully paid and satisfied Given under our common
 “ seal this day of A.D. ”

And all persons to whom such assignments shall be made shall be equally entitled one with the other to the said rates rents sum and sums of money and premises so to be assigned as aforesaid in proportion and according to the respective sums in such assignments mentioned to be advanced without any preference by reason of the priority of any such assignments or on any other account and the person or persons to whom any such assignment shall be made as aforesaid or who shall be entitled to the money due thereon may from time to time transfer his her or their right or interest therein to any person or persons by writing under his her or their hand and seal or hands and seals in the form or to the effect following (that is to say)--

Form of transfer.

“ I of in consideration of the sum of
 “ paid by do hereby transfer a certain
 “ mortgage by the Mayor Aldermen Councillors and
 “ Citizens of the City of Sydney to bearing date the
 “ day of for securing the sum of
 “ and all interest now due and to become due thereon and
 “ all my right and property therein to the said
 “ his her or their (as the case may be) executors adminis-
 “ trators and assigns Dated this day of
 “ A.D. ”

And every such transfer shall within thirty days after the date thereof be produced to the said Town Clerk for the time being who shall cause a memorial to be made thereof in like manner as the original mortgages or assignments are hereinbefore directed to be registered for which the said Town Clerk shall be paid such sum as the said Council shall appoint not exceeding five shillings and every such entry made of such transfer shall from thenceforth entitle such assignee or assignees his her or their executors administrators and assigns to the full benefit of the original mortgage and it shall not from thenceforth be in the power of any person or persons who shall have made such assignment to make void release or discharge the original mortgage or any money thereby secured or any part thereof.

Power to Council to purchase or lease lands for the purposes of sewerage and drainage

32. And be it enacted That it shall be lawful for the said Council to purchase by agreement or to take on lease for such term as they may think fit any land which may be necessary for the formation or protection of any works which they are authorized to execute under this Act also any offices and other buildings yards stations or places for deposit of refuse materials and things or any land for the erection and formation of such offices and other buildings yards stations or places for deposit and also to contract for the purchase removal or abatement

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abatement of any mill dam pound weir bank wall lock or other obstruction to the flow of water whereby sewerage or drainage is obstructed or impeded and for the purchase of any land or any right or easement in or over any land which it may be necessary or expedient to purchase to prevent the obstruction of sewerage or drainage within the said City and also to purchase by agreement or take on lease as aforesaid the whole or any part of any streams or springs of water or any rights therein which it shall appear to the said Council necessary to acquire and use for the purposes of cleansing sewers and drains and the other purposes of this Act or any land which it shall be deemed advisable for the said Council to purchase or take on lease for the purpose of drawing or obtaining water from springs or by sinking of wells and for making and providing reservoirs tanks aqueducts watercourses and other works or for any other purpose connected with the works for obtaining such supply of water as aforesaid.

33. And be it enacted That it shall be lawful for the said Council to sell and dispose of any lands or other property vested in them by virtue of this Act or acquired by them under the powers herein contained or any part thereof which it shall appear to the said Council may be properly sold and disposed of as aforesaid and for completing and carrying any such sale of lands into effect the said Council may well and effectually convey the lands sold and disposed of as aforesaid unto the purchaser or as he shall direct and such conveyance shall be under the common seal of the said Council and a receipt under the hand of the City Treasurer for the time being of the said Council shall be a sufficient discharge to the purchaser of any such lands for the purchase money in such receipt expressed to be received and shall exonerate such purchaser from all liability to see to the application thereof and the money to arise from such sale shall be applied to such of the purposes of this Act as the said Council shall direct.

34. And be it enacted That in all cases in which by this Act any penalty costs expenses or other money are made recoverable by information before any Justice of the Peace it shall be lawful for the Justice of the Peace to whom complaint shall be made of any offence against this Act to summon the party complained against before him and on such summons to hear and determine the matter of such complaint and on proof of the offence to commit the offender and to adjudge him to pay the penalty or forfeiture costs or expenses or other money incurred and payable and to proceed to recover the same although no information in writing shall have been exhibited or taken by or before such Justice and all such proceedings by summons without information in writing shall be as good valid and effectual to all intents and purposes as if an information in writing were exhibited.

35. And be it enacted That when and so often as any sum or sums of money shall be directed or ordered to be paid by any Justice or Justices of the Peace by virtue of this Act as or by way of penalty compensation or satisfaction for any materials or costs or for any damage spoil or injury of any nature or kind whatsoever done or committed by the said Council or any other person or persons acting by or under their authority and such sum or sums of money shall not be paid by the said Council to the party or parties entitled to receive the same within ten days after demand in writing shall have been made from the said Council or the Town Clerk thereof for the time being in pursuance of the direction or order made by such Justice or Justices and in which demand the order of such Justice or Justices shall be stated then and in such case the amount of such penalty compensation or satisfaction shall and may be levied and recovered by distress and sale of the goods and chattels of the City Treasurer for the time being under a warrant to be issued for that purpose by such Justice or Justices

and to purchase streams or springs of water &c. or any land for the purpose of obtaining water by sinking wells making reservoirs &c.

Power to Council to sell lands &c. not wanted.

Justices may proceed by summons without information in writing in the recovery of penalties.

Proceedings in case of non-payment of penalties compensation for damages &c.

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Justices which warrant any such Justice or Justices is and are hereby authorized and required to grant under his hand and seal or their hands and seals on application made to him or them for that purpose by the party or parties entitled to receive such sum or sums of money as or by way of compensation and satisfaction for such materials costs damages spoil or injury as aforesaid and in case any surplus shall remain after payment of such sum or sums of money and the costs and expenses of hearing and determining the matter in dispute and also the costs and expenses of such distress and sale then and in such case such overplus shall be returned on demand to the said Council or to the said City Treasurer for the time being as the case may be Provided always that it shall be lawful for such Treasurer to retain out of any moneys which he shall have received or shall receive in pursuance of this Act or the said recited Act all such damages costs charges and expenses as he shall have sustained or be put unto by virtue of any such warrant as aforesaid.

Recovery of
penalties.

36. And be it enacted That all fines costs and charges imposed under this Act or inflicted or imposed by any rule order or by-law to be made under the authority of this Act shall in case of non-payment thereof be adjudged by and be recovered before any Justice of the Peace for the said City in a summary way and any such Justice of the Peace is hereby authorized and empowered to convict the offender or offenders upon information by the oath of any person or persons or on the confession of the party offending (which oath such Justice is hereby authorized to administer) and in default of payment of such fines costs and charges and also any penalties or forfeitures the same shall be levied by distress and sale of the offender's goods and chattels or of the goods and chattels of the said City Treasurer for the time being of the said Council if the said Council or any agent surveyor officer servant or workman thereof shall offend and be convicted as aforesaid of any offence in this Act mentioned by warrant under the hand of such Justice and in case any such fines costs and charges penalties or forfeitures shall not be forthwith paid upon conviction by any person or persons offending and convicted then it shall be lawful for such Justice to order the offender or offenders so convicted to be detained in safe custody until return can be conveniently made to such warrant or warrants of distress as hereinbefore mentioned unless the said offender or offenders shall give sufficient security to the satisfaction of such Justice for his or their appearance before him on such day or days as shall be appointed for the return of such warrant or warrants of distress such day or days not being more than five days from the time of taking any such security and which security the said Justice is hereby empowered to take by way of recognizance or otherwise but if upon the return of such warrant or warrants it shall appear that no sufficient distress can be had thereupon or in case it shall appear to the satisfaction of any such Justice either by the confession of the offender or offenders or otherwise that such offender or offenders hath or have not sufficient goods and chattels whereon such penalties forfeitures fines costs and charges may be levied were a warrant of distress issued it shall be lawful for any such Justice of the Peace and he is hereby authorized and required by warrant under his hand to commit such offender or offenders to any gaol in the said Colony for any time not exceeding three calendar months.

Appropriation of
penalties.

37. And be it enacted That one moiety of all penalties and forfeitures which shall be recovered under or by virtue of this Act (after rendering the overplus if any on demand to the party or parties whose goods and chattels shall be distrained the reasonable charges for such distress and sale being first deducted) shall be paid if not otherwise directed by this Act to the informer and the other moiety thereof shall

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shall be paid and applied in manner following namely if the said Council or any of their agents surveyors officers servants or workmen shall be convicted of any offence under this Act then the remaining moiety of any penalties or forfeitures which may be imposed upon them respectively shall be paid to the Colonial Treasurer and applied to the use of Her Majesty Her Heirs and Successors for the public uses of the said Colony and in support of the Government thereof as by any Act of the Governor and Legislative Council may be appointed but if any other person or persons than the said Council or their agents surveyors officers servants or workmen shall be convicted of any offence under this Act the remaining moiety of any such penalties or forfeitures which shall be imposed upon any such person or persons shall be paid in aid of the rates or rent directed to be levied and raised by this Act and be applied for the purposes thereof Provided always that nothing herein contained shall be deemed or construed to affect in any way or to interfere with the right of Her Majesty Her Heirs and Successors to pardon the offender and to remit the whole or any part of any such fine penalty or forfeiture as to Her Majesty shall seem meet.

38. And be it further enacted That every Justice of the Peace ^{Conviction to be drawn up.} before whom any person shall be convicted of any offence against this Act shall and may cause the conviction to be drawn up according to the form following that is to say—

“ New South Wales }
“ Sydney to wit. }

Form of conviction.

“ Be it remembered That on the day of

“ A.D. is convicted before me one of Her
“ Majesty’s Justices of the Peace for the said City by
“ virtue of an Act passed in the fourteenth year of the
“ reign of Her Majesty Queen Victoria intituled ‘ *An Act*
“ *for the better sewerage cleansing and draining of the*
“ *City of Sydney and to promote the health of the Inhabi-*
“ *tants thereof*’ of having (here specify the offence or
“ omission and the time and place when and where com-
“ mitted as the case may be) contrary to the said Act for
“ which offence I do adjudge the said
“ to have forfeited the sum of
“ Given under my hand the day and year first above
“ written.”

39. And be it enacted That where any distress shall be made for want of form for any sum or sums of money to be levied by this Act the distress itself shall not be unlawful nor the party or parties making the same be deemed a trespasser or trespassers on account of any defect or want of form in the information summons conviction warrant of distress or other proceedings relating thereto nor shall the party or parties distraining be deemed a trespasser or trespassers on account of any irregularity that shall be afterwards done by the party or parties distraining but the person or persons aggrieved by such irregularities may recover satisfaction for the special damage in an action on the case.

40. Provided always and be it enacted That any body or bodies corporate or collegiate trustees person or persons whomsoever thinking himself herself or themselves aggrieved by any order or judgment made or given in pursuance of any rule by-law or order of the said Council or by the order or determination of any Justice or Justices of the Peace in pursuance of this Act may within three calendar months after the cause of complaint shall have arisen appeal to the Justices of the Peace at their next General or Quarter Sessions of the Peace to be holden in the said City the person or persons appealing having first given at least ten days' notice of such appeal and of the nature and Appeal may be made to the Quarter Sessions.

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and matter thereof to the person or persons appealed against or to the Town Clerk of the said City as the case may be and forthwith after such notice entering into a recognizance before some Justice of the Peace of the said City with two sufficient sureties conditioned to try such appeal and to abide the order and award of the said Court thereon and the said Justices upon due proof of such notice and recognizance having been given and entered into shall in a summary way hear and determine such complaint at such General or Quarter Sessions of the Peace or if they shall think proper may adjourn the hearing thereof to the next General Quarter Sessions of the Peace to be held in the said City and if they see cause may mitigate any forfeiture or fine and may order any money to be returned which shall have been levied in pursuance of such rule by-law order or determination and shall and may also award such further satisfaction to be made to the party injured or such costs to either of the parties as they shall judge reasonable and proper and all such determinations of the said Justices shall be final binding and conclusive upon all parties to all intents and purposes whatsoever.

Plaintiff not to recover after tender of amends.

41. And be it enacted That no plaintiff or plaintiffs shall recover in any action to be commenced against any person or persons for anything done in pursuance of this Act unless notice in writing shall have been given to the defendant or defendants twenty-eight days before such action shall be commenced of such intended action signed by the attorney of the plaintiff or plaintiffs specifying the cause of such action nor shall the plaintiff or plaintiffs recover in any such action if tender of sufficient amends shall have been made to him her or them or to his her or their attorney by or on behalf of the defendant or defendants before such action brought and in case no such tender shall be made it shall be lawful for the defendant or defendants in any such action by leave of the Court any time before issued joined to pay into Court such sum of money as he she or they shall think proper whereupon such proceedings order and judgment shall be made and given by such Court as in other actions where the defendant is allowed to pay money into Court.

Limitation of actions.

42. And be it enacted That no action or suit shall be brought against any person or persons for anything done in pursuance of this Act or in relation to the matters herein contained after three calendar months from the act committed and every such action or suit shall be brought and tried in the said City and not elsewhere and the defendant or defendants in every such action or suit shall or may at his or their election plead specially or the general issue and give this Act and the special matter in evidence at any trial and prove that the same was done in pursuance and under the authority of this Act and if the same shall appear to have been so done or if such action or suit shall have been brought before the expiration of twenty-eight days next after such notice shall have been given as aforesaid or after sufficient satisfaction made or tendered as aforesaid or after the time limited for bringing the same or shall be brought in any other place than as aforesaid then and in every of the said cases the jury shall find a verdict for the defendant or defendants and upon such verdict or if the plaintiff or plaintiffs shall be nonsuited or discontinue his her or their action or suit after the defendant or defendants shall have appeared or upon any demurrer judgment shall be given against the plaintiff or plaintiffs then and in every such case the defendant or defendants shall recover full costs of suit and have such remedy for recovering the same as any other defendant or defendants hath or have in other cases by law.

No proceedings to be quashed for want of form or be removable by *certiorari*.

43. And be it enacted That no order rate or assessment judgment or other proceeding made touching or concerning the conviction of any offender or offenders against this Act shall be quashed or vacated

Colonial Produce Auctions Duty Free.

vacated for want of form only or be removed or removable by writ or process whatsoever into the Supreme Court of the said Colony any law statute or usage to the contrary thereof in anywise notwithstanding.

44. And whereas persons guilty of offences against this Act may be transient persons and unknown to the officers acting under the said Council Be it enacted That it shall be lawful for any officer acting under the said Council with such aid as shall be necessary to seize and detain any such unknown person or persons guilty of any offence against this Act and forthwith to convey him her or them before any Justice of the Peace of the said Council without any other warrant or authority than this Act for so doing.

45. And be it enacted That in all cases wherein it may be requisite or necessary for any person or persons or party or parties to serve any notice or notices writ or writs or other legal proceedings upon the said Council the service thereof upon the Town Clerk for the time being of the said Council or left at the Town Hall or building used as such shall be deemed good and sufficient service of the same respectively on the said Council.

46. And be it enacted That where under this Act the said Council are authorized to do or direct to be done any work or to remove or repair or direct to be removed or repaired any nuisance or default it shall be lawful for the said Council to exercise and put in force all the powers of this Act in relation to the premises upon the information or presentment of the City Surveyor without any other presentment in relation thereto.

47. And be it enacted That in the construction of this Act the following words and expressions shall have the meanings hereby assigned to them unless such meanings be repugnant to or inconsistent with the context that is to say words importing the singular number shall include the plural number and words importing the plural number shall include the singular number words importing the masculine gender shall include females the word "person" or words applying to any person or individual shall apply to and include corporations whether aggregate or sole the word "owner" shall mean the person for the time being receiving the rack rent of the messuages land or premises in connection with which the word is used whether on his account or as agent attorney or trustee for any other person or who would so receive the same if such messuages land or premises were let at a rack rent.

Transient offender
may be apprehended.

How notices shall be
served upon the
Council.

Council may act
through the City
Surveyor.

Interpretation of
terms.