

No. XXXVI.

SYDNEY
CORPORATION
RESTORATION.

An Act to re-establish a Municipal Council in the City of Sydney. [18th March, 1857.]

Preamble.

WHEREAS it is expedient that the Citizens of the City of Sydney should be again incorporated and that a Municipal Council should be re-established in the said City instead of "The Commissioners for the City of Sydney" Be it therefore enacted by the Queen's Most Excellent Majesty by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled and by the authority of the same as follows:—

Commencement of Act.

1. This Act shall commence and take effect on and from the second day of April one thousand eight hundred and fifty-seven unless where otherwise specified.

City boundaries.
Schedule A.

2. The boundaries of the City of Sydney hereinafter styled "The City" shall be those described in the Schedule hereto marked A.

Wards and their boundaries.

3. The City shall for the purposes of the Electoral Act of 1851 and of this Act be divided into Eight Wards which shall be called respectively Gipps Ward Bourke Ward Brisbane Ward Macquarie Ward Cook Ward Phillip Ward Fitzroy Ward and Denison Ward and the boundaries of the said Wards shall be those described in the Schedule hereto marked B.

Schedule B.

City Commissioners dissolved and City re-incorporated.
Style of Corporation.

4. All citizens of the City for the time being shall be constituted a body corporate and politic by the name of "The Mayor Aldermen and Citizens of the City of Sydney" and under that name shall have perpetual succession and be capable in law to sue and be sued in all Courts and to take purchase and hold land and personal estate and to grant sell alien assign demise and assure the same and to do and suffer all acts as a body corporate under and subject to the provisions of this Act and shall have a common seal and upon the election of the Aldermen and Mayor under the provisions of this Act the Corporation of "The Commissioners for the City of Sydney" shall be dissolved.

Citizens and electors.

5. All persons named in the Electoral Roll for the time being for the Electoral District of Sydney and being rate-payers as hereinafter mentioned shall be deemed citizens of the City and shall as such be entitled to vote at every election of Aldermen and Auditors of the City And every citizen shall be entitled to vote at the election of Aldermen in every ward in respect of which he is qualified but no citizen shall be entitled to vote at the election of Auditors in respect of more than one ward.

Definition of rate-payers.

6. Rate-payers for the purposes of this Act shall be persons who are in fact at the time of claiming to vote assessed for the payment of some City rate no portion whereof shall at that time be in arrear And every person named in the Electoral Roll whose qualification is not stated therein to be that of salary lodging or board and lodging shall *prima facie* be deemed a rate-payer And no ballot paper shall be prepared as hereinafter mentioned for the use of any person whose qualification is stated to be only that of salary lodging or board and lodging.

Aldermen.

7. All citizens unless disqualified as hereinafter mentioned shall be eligible to be Aldermen and the number of Aldermen of the said City shall be sixteen of whom two shall be Aldermen of each of the said eight wards to be elected by the citizens out of their own body in manner hereinafter mentioned and every citizen if otherwise qualified may be elected Alderman for any ward although not qualified in respect of that ward.

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8. Every Alderman shall be eligible to be Mayor of Sydney to Mayor.
be elected in manner hereinafter mentioned by the Aldermen from
amongst their own body.

9. The Mayor and Aldermen shall together be and be called the Municipal Council.
“Municipal Council of Sydney” and everything done in accordance
with this Act by or against or in any way affecting such Council
hereinafter styled “The Council” shall be and operate as if done by or
against or affecting the Corporation hereby established And service of
notice of all legal proceedings and process upon the Mayor or Town
Clerk shall be good service on the Council.

10. Except as herein otherwise enacted all the powers authorities privileges immunities and duties vested in and imposed upon the former Municipal Council of the City or the said Commissioners for the City of Sydney hereinafter styled “The Commissioners” by the several Acts of Council recited in the Schedule hereto marked C or any other Act of Council so far as the same are respectively now in force relating to the City and the concerns thereof and the good rule and government thereof shall be hereby transferred to and vested in and may be exercised and enjoyed and shall be performed by the Council and wherever the Commissioners their Secretary or other officers are named in any of the said Acts such Acts shall be read and construed so far as the context will admit and except as herein otherwise enacted as if the Council the Town Clerk or as near as may be the other corresponding officers of the Council had been therein named and all the provisions now in force of the said several Acts and contained in the Schedules thereto and until repealed or altered by the Council all rules regulations and by-laws duly made thereunder and now in force shall *mutatis mutandis* be as binding upon all persons affected thereby or to whom the same may in any manner apply as if such provisions were contained in and such rules regulations and by-laws were duly made under or by virtue of this Act.

Power &c. of former Council and Commissioners transferred to Council.

11. All property whatsoever vested in or held in trust for the Commissioners shall be transferred to and vested in or held in trust for the Council and all moneys due and owing by to or on account of the Commissioners shall be recoverable by or from the Council and all contracts agreements mortgages bonds covenants and securities made or entered into with and in favour of or by or for the Commissioners or any person on their behalf shall take effect and may be proceeded on and enforced by against and with reference to and in the name of the Council as fully in all respects as they might have been by against and with reference to the Commissioners if this Act had not been passed.

Property of Commissioners vested in Council.

12. Every action suit prosecution or other proceeding whatsoever commenced by or against the Commissioners may without change of parties suggestion or any other alteration of any pleading or record or otherwise be continued and shall take effect in favour of or against the Council and all decrees and orders duly made and all fines and penalties lawfully imposed and incurred and all rates duly made or so much thereof as shall not have been levied and recovered may be enforced levied recovered and proceeded for by and in the name of the Council in like manner as they could have been enforced levied recovered and proceeded for by and in the name of the Commissioners if this Act had not been passed.

Suits &c. already commenced may be continued.

13. Every person being a Judge or Chairman of any Court of Justice or holding any office or place of profit under the Crown or in the gift or disposal of the Council or being an Officer on full pay in the Naval or Military Service or being directly or indirectly by himself or his partner engaged or interested in any contract or employment with by or on behalf of the Council or being of unsound mind shall be disqualified

Disqualification for election as Alderman.

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disqualified from being an Alderman But this enactment shall not disqualify any citizen by reason of being a proprietor or shareholder of any joint stock company contracting with the Council.

Penalty on Aldermen &c. taking City contracts.

14. Every person who being Mayor or an Alderman or an Auditor under this Act shall continue to be or shall become directly or indirectly by means of partnership with any other person or otherwise howsoever wilfully or knowingly engaged or interested in any contract or agreement or employment with by or on behalf of the Council except as proprietor or shareholder of any company contracting as aforesaid shall be liable to a penalty of any sum not exceeding one hundred pounds and not less than fifty pounds and shall be for seven years thereafter disqualified from holding any office in or under the Council.

Electoral Roll.

15. Until the Electoral Roll for the Electoral District of Sydney shall be made and completed according to the new division of wards under this Act the Aldermen for Cook and Fitzroy Wards respectively shall be elected by the citizens of Cook Ward according to its present boundaries and in like manner the Aldermen for Phillip and Denison Wards respectively shall be elected by the citizens of Phillip Ward according to its present boundaries.

Election of Aldermen.

16. On the tenth day of April next the citizens shall in the respective wards subject as last aforesaid elect two fit and proper persons to be Aldermen for each of the wards described in the said Schedule B and on the first day of December following and on the like day in every succeeding year eight Aldermen being one for each ward shall go out of office and an election shall be holden in their respective wards to supply the vacancies thus occasioned and any Alderman so going out of office shall be capable of being then re-elected if not disqualified.

Eight to go out annually.

Eight to go out annually.

17. At their first quarterly meeting the Council shall determine by lot the eight Aldermen first to retire from office and in every succeeding year the eight Aldermen to go out of office shall be those who have been longest in office.

Mode of electing.

18. The first election of Aldermen shall be holden before the Sheriff of the Colony and such other officers as he may appoint and all subsequent elections shall be holden before the Mayor and such Aldermen or other persons not being candidates as he may appoint to be other Presiding Officers and the voting at every such election shall commence at nine o'clock in the forenoon and shall finally close at four o'clock in the afternoon of the same day.

Booths and Polling Clerks.

19. At every election of Aldermen the Returning Officer whether the Sheriff or Mayor may cause such booths to be erected or rooms to be hired in each ward as occasion may require for taking the poll and make such arrangements for the convenience of the voters as he may deem expedient and shall appoint a Polling Clerk or Polling Clerks for every such polling place Provided always that no election shall be holden in any church chapel or other place of public worship.

Substitutes for Presiding Officers.

20. In case the Returning Officer or any Presiding Officer shall be prevented from attending any of his duties by illness or other sufficient cause it shall be lawful for him by writing under his hand to appoint a substitute to act for him which substitute shall thereupon for the time being have all the power and authority of his principal.

Citizens may nominate others for election as Aldermen.

21. On and after the seventh and until the hour of twelve o'clock at noon of the third day next before any election of Aldermen any two citizens qualified to vote within any particular ward may by writing stating their residences respectively nominate to the Returning Officer for election in that ward any other citizen or two citizens as the case may be but no more And on the two days next before the election and on the day of election there shall be published under the hand

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hand of the Returning Officer in one or more newspapers of the City a list of the names and residences of all citizens so nominated specifying their wards and the names and residences of their proposers respectively And none but persons so nominated shall be capable of being elected at such election Provided that until the Electoral Roll shall be completed according to the new division of wards the citizens for Cook Ward according to its present boundaries may so nominate the Aldermen for Cook and Fitzroy Wards respectively and the citizens for Phillip Ward according to its present boundaries may so nominate the Aldermen for Phillip and Denison Wards respectively.

Proviso.

22. Every person so nominated or any citizen on his behalf or in his absence any citizen by whom he was nominated may appoint one person to be Scrutineer at the election and every such Scrutineer shall before acting make and subscribe in the presence of the Presiding Officer of the ward a declaration in the form of the Schedule hereto marked D.

Persons nominated may appoint Scrutineers.

23. At every polling place there shall be provided and set apart a separate ballot-room or compartment with writing materials into which no person may enter or remain except the Presiding Officer the Poll Clerk every Scrutineer so appointed and any elector while preparing his ballot paper as hereinafter provided but no longer And every person otherwise than as aforesaid wilfully entering or remaining in such room shall be guilty of a misdemeanor and may be forthwith given into custody and dealt with according to law.

Ballotting rooms.

24. Before and in time for every such election the Returning Officer shall cause to be printed for each ward ballot papers according to the form of the Schedule hereto marked E and also papers containing the declaration set forth in the Schedule hereto marked F And the Returning Officer shall on the morning of the day of election but not sooner deliver to the Presiding Officer of each ward so many of such ballot papers signed by himself on the back thereof by means of a stamp or otherwise as shall be equal to the number of enrolled electors for such ward but omitting the name of every person whose stated qualification is only that of salary lodging or board and lodging and shall sign in like manner and keep for himself a like sufficient number for the ward at which he is to preside.

Ballot papers to be prepared and furnished.

25. The Returning Officer shall provide for each polling place a ballot box with an opening sufficient to receive papers folded as hereinafter mentioned And such box being previously locked by the Returning Officer with the only key which shall be kept by himself shall be placed on a table before the Presiding Officer And every elector on applying to vote after having made and signed the declaration last aforesaid in the presence of the Presiding Officer or some person appointed by him for that purpose shall receive one of the ballot papers signed as aforesaid which he shall carry into the ballot room aforesaid and shall there strike through the names of all persons so nominated except of the persons or person for whom he intends to vote and then fold up the same so as to conceal the interior and disclose only the Returning Officer's name so signed upon the back And shall then return to the polling table and there openly in the presence of the Presiding Officer Poll Clerk and Scrutineers present deposit such ballot paper in the ballot box Provided that in the case of any elector who is blind or cannot write the declaration shall be read over to him and his verbal assent thereto being obtained the Presiding Officer or Poll Clerk shall write such elector's name in the elector's signing place and attest the same under his own name and hand And such signature and attestation shall bind such elector to such declaration and to all the consequences thereof if false And such Presiding Officer or Poll Clerk shall also if such elector cannot read strike through upon such ballot

Ballot box and mode of voting.

Proviso as to blind men and marksmen.

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Voter to be marked
off on Roll.

ballot paper the names of all persons so nominated except such as the elector shall declare his intention of voting for Provided also that before any ballot paper shall be deposited in the box the Presiding Officer or Poll Clerk shall upon a certified copy of the Electoral Roll make a mark against the name of the person then voting which shall be *prima facie* evidence of the identity of such voter with the person whose name shall be so marked on the Electoral Roll and of the fact of his having voted at such election.

Nothing required of
voters beyond
declaration.

26. No inquiry shall be permitted from any person applying to vote who shall duly make as aforesaid the declaration hereby required And every person wilfully making such declaration falsely shall be and be deemed guilty of perjury and be liable to be dealt with accordingly.

Returning Officer
shall only vote in
case of equality.

27. Except as hereinafter provided the Returning Officer shall not vote Provided that in the event of the number of votes being upon final examination found equal for any two or more candidates any of whom would if no such equality existed have been found elected the Returning Officer shall have a casting vote and declare in writing which of such candidates shall be declared to be duly elected.

Ballot boxes to be
transmitted to the
Returning Officer.

28. Each Presiding Officer shall immediately on the close of the poll transmit to the Returning Officer the ballot box still locked and shall also send carefully sealed up the Electoral Roll marked at his polling place signed by him and the Poll Clerk the remainder of the ballot papers delivered to him by the Returning Officer and not used and all ballot papers proffered but not allowed to be deposited and all declarations so signed as aforesaid And also all books kept by him during the polling with an exact statement of the numbers of electors who have voted the number of ballot papers originally delivered to him the number thereof used and the number left unused and returned And such statement shall be signed by himself and the Poll Clerk and verified by the signatures of the Scrutineers then present.

Final state of the
poll.

29. The Returning Officer shall immediately after receiving the ballot boxes and sealed up documents and papers aforesaid for each ward place the same in a chest for the purpose provided with eight different locks and the Returning Officer and other Presiding Officers shall lock the said chest with eight keys which shall be kept by themselves respectively until the day next after the election when the whole contents of the said chest shall in the presence of such of the Scrutineers as may then attend be examined at a place and time whereof public notice shall have been previously given and the result of the election ascertained therefrom by the said officers or the majority of them and the Returning Officer shall on the then next day declare by advertisement in the *Government Gazette* to be published exclusively for that purpose and in one or more daily Sydney newspaper which of the said persons so nominated are duly elected Aldermen of the several wards.

Election not to be
questioned for defect
of title.

30. No election under this Act shall be liable to be questioned by reason of any defect in the title or any want of title of any person by or before whom such election shall have been holden if such person shall have really acted at such election nor by reason of any formal error or defect in any declaration or other instrument or in any publication under this Act or intended so to be or by reason of any such publication being out of time.

Invalidity no plea in
action.

31. No advantage shall be taken of the invalidity of any election under this Act in any action or suit which may be brought by or against the Council but every such action or suit shall be tried as if no such objection existed.

Election of Mayor.

32. On the thirteenth day of April next and on the ninth day of December following and on the like day in every succeeding year the

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the Aldermen shall assemble at noon within the premises occupied as a Town Hall the doors of the same being closed against all other persons except the Town Clerk or person acting as such and shall then and there elect one of their own body to be Mayor of the City And the first Mayor shall enter on office on the day next after his election and continue in office until his successor shall enter on office and every future Mayor shall enter on office (except upon any extraordinary vacancy) on the first day of January next following his election and shall retire at the end of the year Provided that nothing herein contained shall prevent the retiring Mayor from being re-elected with his own consent if still duly qualified.

33. The Mayor shall be *ex officio* a Justice of the Peace in and for the Colony during his continuance in office and shall have precedence in all Municipal proceedings and in all Magisterial Courts within the City except Courts of Quarter Sessions and shall rank next after the Members of the Legislature on all other occasions and at all other places within the City.

Mayor to be Justice of the Peace.

Precedence of the Mayor.

34. On the seventeenth day of April next and on the fifteenth day of December following and the like day in every succeeding year the citizens shall elect two fit and proper persons qualified to be but not actually being Aldermen to be the Auditors of the City and the Auditors first elected shall enter on office on the day next following the declaration of their election and shall hold office only until their successors shall enter on office and all future Auditors shall (except upon any extraordinary vacancy) enter on office on the first day of January next following their election and shall continue in office for one year and shall then go out of office but be capable of being re-elected if still duly qualified.

Election of Auditors.

35. On and after the seventh and until the hour of twelve at noon of the third day next before any election of Auditors any two citizens may by writing stating their residences respectively nominate to the Returning Officer for election any other citizen or two citizens as the case may be but no more and on the two days next before the election and on the day of election there shall be published under the hand of the Returning Officer in at the least two newspapers of the City the names and residences of all citizens so nominated and of their proposers respectively and no person not so nominated shall be elected an Auditor.

Nomination of Auditors.

36. In every election of Auditors the citizens entitled to vote shall proceed in the same manner as for the election of Aldermen but the persons elected shall be those for whom there shall appear to be a majority of votes in the whole of the wards collectively and the Returning Officer shall declare the result of every such election within two days after the holding thereof.

Mode of proceeding at election of Auditors.

37. The amount of expenses incurred in the first election of Aldermen and Auditors under this Act shall be certified under the hand of the Sheriff and shall be paid and discharged out of the Consolidated Revenues of the Colony by warrant under the hand of the Governor directed to the Colonial Treasurer and shall be repaid to the Colonial Treasurer by the Mayor and Aldermen first elected out of the first moneys received by them by virtue of this Act.

Payment of expenses of first elections.

38. If any extraordinary vacancy shall be occasioned in the office of Alderman or Auditor the citizens entitled to vote shall upon a day to be fixed by the Mayor and of which the Mayor shall give due notice by advertisement in the *Government Gazette* and in one daily or other newspaper of the City elect another citizen to supply such vacancy who shall hold such office until the time when his predecessor would have gone out of office when he shall go out of office but shall be capable of immediate re-election if still qualified.

Extraordinary vacancies of Aldermen or Auditors.

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Extraordinary
vacancy of Mayor.

39. In case any extraordinary vacancy shall be occasioned in the office of Mayor during any year the Aldermen of the City shall within ten days from the occurrence of such vacancy after notice from the Town Clerk elect out of their own body another person to be Mayor of the City for the remainder of the then current year.

Adjourned election
in case of accident.

40. If from any cause the election shall not in any ward take place on the day appointed for the same it shall stand adjourned until the same day of the following week of which three days previous notice shall be given by the Returning Officer in the *Government Gazette* and in one or more of the Sydney newspapers and in any such case occurring after the first election the Aldermen going out of office shall continue in office until after such adjourned election.

Bribery and
corruption.

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41. For the purpose of preventing bribery and corruption all the acts enumerated as acts of bribery and corruption in the forty-seventh section of the Electoral Act of 1851 shall be deemed to be acts of bribery and corruption with reference to all elections under this Act and every person whatsoever guilty of any such act shall be deemed guilty of a misdemeanor And the acts of all authorized agents of a candidate shall be held to be acts of their principal if it be proved that such acts were committed with his consent.

Penalty for receiving
or offering reward
for voting or forbear-
ing to vote.

42. If any person who shall have or claim to have any right to vote in any election of Mayor Alderman or Auditor under this Act shall ask or take any money or other reward by way of gift loan or other device or agree or contract for any money gift office employment or other reward whatsoever to give or to forbear to give his vote in any such election or if any person by himself or by any person employed by him shall by any gift or reward or by any promise agreement or security for any gift or reward corrupt or procure or offer to corrupt or procure any person to give or to forbear to give his vote in any such election such person shall for every such offence forfeit the sum of fifty pounds to be recovered with full costs of suit by any one who shall sue for the same in any competent Court.

Prosecution must
commence within
three months.

43. No person shall be made liable to any incapacity disability forfeiture or penalty by this Act imposed in any of the cases aforesaid unless the action or prosecution be commenced within three months after such incapacity disability forfeiture or penalty shall be incurred.

Penalty for voting
twice or personating
voters.

44. Every person who shall vote or offer to vote a second time at the same election for any Auditor or who shall vote or offer to vote a second time in the same ward at the same election for any Alderman or who shall vote or offer to vote in or for any ward in respect of which he is not qualified or who shall personate or offer to personate any other person for the purpose of voting at any such election shall be guilty of a misdemeanor.

Oath of allegiance
and of office for
Mayor Aldermen and
Auditors.

45. No person elected as Mayor Alderman or Auditor under the provisions of this Act shall be capable of acting as such until he shall before a Judge of the Supreme Court have taken the oath of allegiance to Her Majesty and have made and subscribed a declaration in the form of the Schedule hereto annexed marked G.

Penalty for refusing
to accept office.

46. Every person duly qualified and duly elected to the office of Mayor Alderman or Auditor shall accept such office by taking the oath of allegiance and making and subscribing the declaration hereinbefore mentioned within five days after notice of his election or shall in lieu thereof pay to the Council a fine of one hundred pounds in the case of Mayor and a fine of fifty pounds in the case of Alderman or Auditor and such office shall thereupon be deemed vacant and shall be filled up by a fresh election.

Persons exempt from
office.

47. Provided that no Minister of any religious denomination and no person disabled by deafness blindness or other permanent infirmity

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infirmity of body nor any person above the age of sixty-five years or who shall have already served such office within five years next before the day on which he shall be so elected or shall have paid the fine for not accepting such office within the same period nor any Member or Officer of the Legislative Council or Legislative Assembly shall be liable to any fine or penalty for neglecting or refusing to serve as Mayor Alderman or Auditor.

48. Every person elected into any corporate office under this Act may at any time resign such office and the resignation shall be held to be complete from the date of its being received by the Town Clerk or person acting as such. Provision for resigning office. Provided that the person so resigning shall be liable to the same penalties as he would have been liable to pay for non-acceptance of the same office unless he shall become entitled to claim exemption from payment of any such fine or from accepting or serving such office under any provision herein contained.

49. Any person holding the office of Mayor Alderman or Auditor of the City having his estate placed under sequestration as insolvent under or taking the benefit of any Act for the relief of insolvent debtors or compounding with his creditors or being absent from the City if Mayor for more than two months or if an Alderman or Auditor for more than three months at one time (unless in case of illness certified by a duly qualified medical practitioner) shall thereby become disqualified and cease to hold such office and in the case of absence shall be liable to the same fine to be recovered in the same manner as if he had refused to accept such office and the Council shall thereupon declare such office to be vacant and the same shall be vacant accordingly but every person so becoming disqualified to hold any office on account of insolvency or compounding as aforesaid shall on obtaining his certificate or on payment of his debts in full or obtaining a release from his creditors be capable of being re-elected and any person becoming so disqualified on account of absence as aforesaid shall on his return to the City if not otherwise disqualified be also capable of being re-elected to the same office. Disqualification of Mayor Aldermen and Auditors.

50. Any person acting as Mayor Alderman or Auditor for the City without having made the declaration hereby required or not being duly qualified at the time of making such declaration or acting in or holding any such office after he shall cease to be qualified according to the provisions of this Act shall for every such offence forfeit the sum of fifty pounds to be recovered together with full costs of suit by any Citizen who shall sue for the same within three months after the commission of the offence. Penalty on disqualified persons acting as officers.

51. All proceedings of the Council or of any person acting as Mayor Alderman or Auditor shall notwithstanding it be afterwards discovered that there was some defect in their election or that they or any of them were disqualified be as valid as if every such person had been duly elected and qualified to be Mayor Alderman or Auditor respectively. Defect in elections not to invalidate proceedings.

OFFICERS.

52. The Council may and shall appoint a Town Clerk a Treasurer an Officer of Health and such Engineers or Surveyors of the City Collectors workmen and other officers and servants as in their discretion they may deem necessary and proper for the execution of the powers and duties hereby vested in the Council and assign to such officers and servants salaries wages and remuneration which shall be in lieu of all fees perquisites and other emoluments whatever. Power to appoint officers.

53. The Officer of Health so to be appointed shall be a duly qualified Medical Practitioner and be subject to approval by the Governor Duties of Health Officer.

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Governor with the advice of the Executive Council and he shall perform the following duties within the City that is to say he shall ascertain the existence and character of diseases especially those deemed epidemic or contagious and point out any nuisances or other local causes tending to produce aggravate or continue such diseases or otherwise injure the health of the inhabitants and devise and recommend to the City Council from time to time the best means of preventing the spread of such diseases and also the best means of ventilating schools lodging-houses and public buildings within the City and shall perform any other duties of a like nature required of him and once in every quarter or oftener if required by the said Council shall report to such Council on the state of health generally in the City as indicated by the presence or absence of such diseases and on the means adopted or in progress to prevent as far as may be their recurrence.

Definition of nuisances.

54. The word "nuisance" in this Act or any other Act now in force relating to the City of Sydney shall include the following matters Any premises in such a state as to be a nuisance or injurious to health any pool ditch gutter watercourse privy urinal cesspool drain or ashpit so foul as to be a nuisance or injurious to health any animal or the carcass of any animal in such a state or so kept or left as to be a nuisance or injurious to health and any accumulation or deposit which is a nuisance or injurious to health.

Declaring powers as to nuisances and certain other matters.

55. For the prevention of doubts it is hereby declared and enacted That the Council shall have power to abate and remove by themselves or their officers or to cause and compel to be abated and removed by the owners or occupiers of the premises upon or from or in respect of which the nuisance shall exist or have arisen and also to cleanse and keep cleansed or cause and compel to be cleansed and kept cleansed by such owners or occupiers every or any such nuisance as aforesaid and every or any other nuisance.

Matters already cognizable as nuisances.

56. Nothing in the last two preceding sections shall be construed to prevent or affect prosecutions by information or indictment or any other proceeding in respect of nuisances now or hereafter existing which may be abated or made the subject of presentment or prosecution at the Common Law.

Mayor may suspend officers.

57. It shall be lawful for the Mayor to suspend from office at any time any officer or servant of the Council who may in his opinion be guilty of misconduct or neglect and if necessary temporarily to appoint another officer or servant to fulfil the duties of the officer or servant so suspended and to take security where necessary for the faithful discharge of the duties of such officer or servant during his temporary appointment Provided always that at the next meeting of the Council after such suspension the Mayor shall report the matter to the Council and should the officer or servant so suspended be dismissed by the Council no salary or wages shall be due or paid to him from and after the date of his suspension and every officer or servant so temporarily appointed by the Mayor shall hold office and receive remuneration (which shall in no case exceed that paid to the officer or servant so suspended) only until the Council shall decide whether the person suspended shall be reinstated or dismissed and a successor be appointed in his stead.

If officers be prevented from acting Mayor may appoint others.

58. Whenever in consequence of death absence or otherwise it shall not be possible for any Alderman or Auditor or Town Clerk or any other officer or person to perform any duty which by this Act he is directed to perform it shall be lawful for the Mayor to appoint any other Alderman Auditor or person to perform the same and if by any similar reason the Mayor shall be prevented from performing any duty

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duty imposed on him by this Act the Aldermen shall by the majority of their voices appoint one of themselves to perform it.

59. The Mayor Aldermen and Auditors shall be entitled to receive for their services out of the City Funds such salaries or allowances as the Council shall from time to time determine.

Allowances to Mayor
Aldermen and Audi-
tors.

60. Every officer or servant who by reason of his office or employment under the Council may be intrusted with the custody or control of any moneys shall give such security for faithfully and duly accounting for all such moneys as the Council may think sufficient and shall within seven days after having received any moneys or within such shorter time as the Council may appoint pay over the same to the Treasurer and shall also as and when the Council may direct deliver a list signed by him containing the names of all persons who have neglected or refused to pay any sums due by them and shall when and as required by the Council make out and deliver a true and perfect account in writing signed by him of all moneys received by him for the purposes of this Act distinguishing how and to whom and for what purpose such moneys have been disposed of and shall together with such account deliver the vouchers or receipts for all payments made by him and pay over to or receive from the Treasurer the balance of such accounts if any and if any such officer or servant shall fail to render such account or to produce and deliver up such of the said vouchers and receipts as may be in his possession or power or to pay over any such moneys or balance of moneys as aforesaid or if for the space of five days after being thereunto required he shall fail to deliver up to the Council all books papers writings property effects matters and things in his possession or power belonging to the Council he shall be liable on proof thereof before any Justice of the Peace and on his still failing or refusing to do the act required to be committed to gaol until he shall have done such act and if it appear that he has failed to pay over any such moneys as aforesaid and he still fails or refuses so to do the Justice may cause the same to be levied by distress upon his goods and chattels and in default of any sufficient distress may commit him to gaol without bail for any time not exceeding three months unless such moneys be sooner paid. Provided that upon proof on oath to any Justice that there is probable cause for believing that any such officer or servant so charged is about to abscond such Justice may without summons cause him to be forthwith apprehended upon warrant and may upon *prima facie* proof on oath of the charge require him to give bail for his subsequent appearance to answer the charge. Provided that no such proceeding shall relieve any surety of the offender from any liability whatsoever.

Officers intrusted
with money to give
security and to
account.

61. The common seal and all charters deeds muniments and records of the Corporation or relating to the property thereof shall be kept in such place as the Council shall direct and the Town Clerk shall have the charge and custody thereof and be responsible for the same.

Seal and records to
be kept by Town
Clerk.

62. Every person who shall wilfully hinder or interrupt or cause or procure to be hindered or interrupted the 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 hereby authorized or vested in them shall for every such offence forfeit and pay any sum not exceeding ten pounds to be recovered before any two Justices of the Peace.

Penalties for inter-
rupting the Council
or their officers.

COUNCIL MEETINGS AND PROCEEDINGS.

63. All acts hereby authorized or required to be done by the Council and all questions of adjournment or others shall be done and decided by the majority of the members present at any meeting duly held

Quorum at meetings.

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held the whole number present at such meetings not being less than six Provided however that if there be not a quorum present within half an hour of the time appointed for holding any meeting or if it should appear at any time during the holding of any meeting that there is not a quorum of members present the Mayor or Chairman shall have power to adjourn such meeting or intended meeting to some other day.

Chairman.

64. The Mayor if present shall preside at all meetings of the Council and in his absence such Alderman as the members present shall choose shall be Chairman and the Chairman in case of an equality of votes shall have a casting vote but shall not have an original vote as a member of the Council.

Notice of meetings.

65. Notice of the time and place of every intended meeting of the Council shall be given twenty-four hours at least before such meeting and such notice shall be signed by the Mayor except as hereinafter mentioned.

How meetings to be called.

66. The Mayor may call a meeting of the Council as often as he shall think proper and if the Mayor shall refuse or delay to call any such meeting after receiving a requisition for that purpose signed by at least five members of the Council such five members may call a meeting of the Council by giving like notice as aforesaid signed by themselves stating therein the business proposed to be transacted.

Summonses.

67. In every case a summons to attend any meeting of the Council specifying the business proposed to be transacted shall be left at the usual or last known place of abode of every member of the Council or sent to him by post twenty-four hours at least before such meeting and no business shall be transacted at any such meeting other than is specified in such notice.

Quarterly meetings.

68. There shall be four quarterly meetings in every year at which the Council shall meet for the transaction of general business and such meetings shall be holden at noon on the ninth days of the months of March June September and December and the first business transacted at the quarterly meeting in December shall be the election of Mayor.

Minutes of meetings.

69. Minutes of the proceedings of every meeting of the Council shall be taken and being fairly transcribed into a book to be kept for that purpose shall be read at the meeting immediately succeeding and shall be signed by the Chairman of the meeting at which the Minutes are read and confirmed.

Copies and extracts from books.

70. Any citizen shall be at liberty at all seasonable times on payment of the sum of one shilling to make any copy of or take any extract from the Minute Book of the Council and also to make any copy or take any extract from any Order of the Council for the payment of any money.

Committees.

71. It shall be lawful for the Council to appoint out of their own body such and so many Committees either of a general or a special nature and consisting of such number of persons as they may think fit Provided always that the acts of every such Committee shall be submitted to the Council for their approval.

Committee meetings.

72. Every Committee so appointed may meet and adjourn as they may think proper but no business shall be transacted at any meeting of Committee unless three members be present and at all meetings of the Committee the Mayor if a member of such Committee and present shall preside and in his absence such Alderman as the members present shall appoint shall be Chairman and all questions shall be determined by a majority of the votes of the members present and in case of an equality of votes the Chairman shall have a casting vote but shall not have an original vote as a member of the Committee.

Sydney Corporation Restoration.

BORROWING MONEY.

73. It shall be lawful for the Council to borrow by mortgage or otherwise in aid of the City Fund for the purpose of making and maintaining the public streets and thoroughfares and for other public improvements within the said City (exclusive of those relating to the sewerage and water supply) any sum or sums of money in addition to those already borrowed not exceeding one hundred thousand pounds in the whole and in aid of the Sewerage Fund to carry out the sewerage of the said City in addition to the sums already borrowed for that purpose any sum or sums not exceeding two hundred thousand pounds and in aid of the Water Fund for supplying the City with water in addition to the sums already borrowed for that purpose any sum or sums not exceeding one hundred and fifty thousand pounds. Provided that the payment of all such sums already borrowed or hereafter to be borrowed for the several purposes herein mentioned and the interest thereon shall be secured on the entire revenues of the said Council from whatever source arising and that the rate of interest payable thereon shall not exceed six pounds per centum per annum.

Council may borrow for general City purposes £100,000.

For Sewerage £200,000.

For Water £150,000.

To be repaid ultimately by the City.

74. It shall be lawful for the Governor with the advice of the Executive Council to borrow upon the security of the General Revenue of the Colony any sum or sums not exceeding in the whole inclusive of the sums already borrowed the amounts sanctioned in the second section of the Sewerage Act of 1853 and the first section of the Water Act of 1853 and with the sanction of the Legislative Assembly to pay over such sums to the Council as the same may be required by them from time to time and the re-payment of all such sums and the interest thereof shall be secured on the entire revenues of the Council from whatever source arising.

Governor and Executive may borrow the balance remaining of the sums mentioned in the Sewerage and Water Acts of 1853.

To be repaid by the City.

75. Until the whole principal and interest of the moneys already borrowed and hereafter to be borrowed by the Government on the security of the General Revenue of the Colony and advanced or to be advanced to the Council on account of the sewerage and water supply be paid off it shall be incumbent on the Council and they are hereby required to transmit to the Colonial Secretary on or before the first day of February in each year a report of their proceedings and an account of their receipts and expenditure duly audited by the Auditors of the City on account of the sewerage and water supply for the preceding year and such report and financial statement shall be laid before both Houses of the Parliament of New South Wales if then in Session within thirty days from the receipt thereof and if not then sitting within thirty days after the commencement of the next ensuing Session.

Annual statement of receipts and payments on account of sewerage and water to be transmitted to Colonial Secretary for information of Parliament.

76. Every application to the Supreme Court for the purpose of calling upon any person to shew by what warrant he claims to exercise the office of Mayor Alderman or Auditor shall be made before the end of three calendar months after the election or the time when the person against whom such application shall be directed shall become disqualified and not at any subsequent time.

Limit of time for obtaining *quo warranto*.

77. If the Mayor or any Alderman or Auditor of the City or the Town Clerk or any other officer or servant of the Council shall neglect or refuse to do any matter or thing which by this Act or any Act of Council they are respectively directed to perform such Mayor Alderman or Auditor respectively shall for every such offence forfeit and pay the sum of one hundred pounds and the Town Clerk or such other officer or servant for every such offence shall forfeit and pay the sum of fifty pounds and every such penalty may be recovered with full costs of suit by any person who shall sue for the same within three months after the commission of the offence.

Penalty on Council and officers for neglect of duties.

Sydney Corporation Restoration.

Provision for City
duties under Elec-
toral Act of 1851.

78. The powers and duties vested in and imposed upon the Mayor Aldermen Town Clerk and Deputies and Collectors by the Electoral Act of 1851 shall be vested in and imposed upon and be exercised and performed by the corresponding officers and persons elected or appointed under the provisions of this Act And the twenty-fifth and twenty-sixth sections of the Sydney Corporation Abolition Act of 1853 shall be repealed.

Postponement of
things to be done
on holidays.

79. Whenever any matter or thing shall by this Act be directed to be performed on a certain day and that day happen to be Sunday Good Friday or Christmas Day the said matter or thing shall be performed on the next succeeding day.

Short title of Act.

80. This Act shall be styled and may be cited as "The Sydney Corporation Act 1857."

SCHEDULE A.

BOUNDARIES OF THE CITY OF SYDNEY.

(Referred to in Section 2.)

The space contained within the present boundaries of the Town of Sydney as defined in a Government Notice dated 6th September 1833 and published in the *Government Gazette* of the 11th of that month to wit—"Bounded on the north by the waters of Port Jackson from a landmark at the head of Blackwattle Bay to Rushcutt's Bay on the east "by a stream entering Rushcutt's Bay to a bridge on the South Head Road at the north-west corner of Sydney Common and by the western boundary of that common to a road "extending westward to the back of Cleveland House on the south by that road and its "western fence prolonged to a landmark on the road to Cook's River on the west by the "western side of the road to Cook's River and that line prolonged to the landmark at the "head of Blackwattle Bay."

SCHEDULE B.

WARD BOUNDARIES.

GIPPS WARD.

(Referred to in Section 3.)

The portion of the City of Sydney bounded by a line drawn from the landing place immediately to the west of Dawes' Battery along the road leading from the said landing place to Lower George-street thence along Lower George-street to Charlotte-place thence along Charlotte-place and Church Hill passing to the south of Saint Philip's Church to a road which passes immediately to the northward of Petty's Hotel and along this last-mentioned road to the spot where the same would be met by the prolongation of Clarence-street thence southward along Clarence-street to the spot where the same is met by Margaret-place and thence down Margaret-place and the prolongation thereof to the water in Darling Harbour thence along the water's edge to the landing place first mentioned.

BOURKE WARD.

The portion of the City of Sydney bounded by Gipps Ward from Dawes' Battery to the spot where George-street meets Charlotte-place thence southward in the continuation of George-street to the spot where the same is crossed by King-street thence eastward along King-street and the prolongation of the same to the wall forming the enclosure of Hyde Park Barracks thence southward and subsequently eastward along the said enclosure of Hyde Park Barracks and the southern boundary of the Outer Government Domain and the prolongation thereof to a small stream which falls into Woollloomooloo Bay thence along the said stream to the said bay and thence along the water's edge to the landing place situated to the westward of Dawes' Battery.

Sydney Corporation Restoration.

BRISBANE WARD.

The portion of the City of Sydney bounded on the north by Gipps Ward from Darling Harbour to George-street thence southward along George-street to the spot where it is met by Drutt-street thence along Drutt-street and the prolongation thereof to Darling Harbour thence by the water's edge to the commencement of Gipps Ward.

MACQUARIE WARD.

The portion of the City of Sydney bounded by Bourke Ward from the Woolloomooloo stream to George-street thence southward along George-street and a part of Brickfield Hill to the spot where the same is crossed by Liverpool-street thence eastward along Liverpool-street to the spot where it meets the boundary of the parish of Alexandria thence northward along the said boundary to the spot where it touches the boundary of Bourke Ward at Woolloomooloo Bay.

COOK WARD.

The portion of the City bounded by Bourke and Macquarie Wards from the north end of Crown-street to the spot where Liverpool-street is met by Elizabeth-street thence along Elizabeth-street and its prolongation southward to Cleveland-street thence eastward along Cleveland-street to its junction with Crown-street and along Crown-street northward to the starting point.

FITZROY WARD.

The portion of the City to the eastward of Crown-street within the City boundaries.

PHILLIP WARD.

That portion of the City bounded on the north by Macquarie Ward on the east by Cook Ward on the south by Cleveland-street from Elizabeth-street to the boundary of Cook's River Road thence northward along that road to Parramatta-street and along Parramatta-street and George-street to its junction with Liverpool-street.

DENISON WARD.

The remaining portion of the City bounded on the north-east and south by Brisbane Macquarie and Cook Wards and from the south-western corner by Brisbane Ward bounded by the waters of Darling Harbour and Blackwattle Bay to Parramatta-street opposite Cook's River Road.

SCHEDULE C.
Acts of Council referred to.

- 14 Victoria No. 41—The Sydney Corporation Act of 1850.
- 17 Victoria No. 33—The Sydney Corporation Abolition Act of 1853.
- „ No. 34—The Sewerage Act of 1853.
- „ No. 35—The Water Act of 1853.
- 18 Victoria No. 28—The Carters and Drivers Act of 1854.
- „ No. 30—The Sydney Corporation Amendment Act of 1854.
- 19 Victoria No. 18—Commonly known as the Sydney Paving Act of 1855.
- „ No. 23—Commonly known as the City Commissioners' Powers Extension Act of 1855.

SCHEDULE D.
Scrutiner's Declaration.

I A. B. appointed on behalf of C. D. one of the persons nominated for election this day as Alderman for Ward to be a Scrutiner at such Election do hereby solemnly declare that I will faithfully assist as such Scrutiner and will not attempt to ascertain for whom any elector shall vote nor by any word or action directly or indirectly aid in discovering the same unless in answer to any question which I am legally bound to answer or in compliance with the provisions of the Sydney Corporation Act of 1857.

Spirit Merchants Registration.

SCHEDULE E.

Ballot Paper.

Election of Aldermen or Auditors on the _____ day of _____ 185

List of Candidates for Election.

For	Ward.
Names.	Addresses.

SCHEDULE F.

Voter's Declaration.

Voter's Number []

I A. B. do hereby solemnly declare that I am the person named in the Electoral Roll for the Electoral District of Sydney now in force for Ward my name being numbered therein as in the margin hereto and that I have not already voted at this election in this [or any other] Ward¹ And I further solemnly declare that I am a rate-payer in the said Ward and that no part of any City Rate due by me is in arrear.

¹ NOTE.—In elections for Aldermen omit the bracketted words "or any other."

SCHEDULE G.

Declaration of Office.

I _____ having been elected Mayor [or Auditor] for the City of Sydney [or Alderman for _____ Ward in the City of Sydney] do hereby declare that I take the said office upon myself and will duly and faithfully fulfil the duties thereof according to the best of my judgment and ability and that I have not fraudulently or collusively obtained the office to which I have been elected.
