

No. VII.

An Act to provide for Paving certain Streets in the City of Sydney. [27th September, 1866.]

SYDNEY PAVING.

WHEREAS it is expedient to make provisions for Paving certain Streets of 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:—

1. It shall be the duty of the Municipal Council of Sydney to cause a notice in the form or to the effect in the Schedule hereto annexed marked A signed by the Town Clerk and dated the day of its service to be left at each house in the streets of the said City described in the Schedule hereto annexed marked C along the footway adjoining which the kerbing is now permanently laid requiring such footway to be paved with such materials and in such manner as may be therein mentioned in every case where such footway shall not be so paved and to cause the like notice to be left at each house in the said streets along the footway adjoining which the kerbing shall hereafter be permanently laid in every case where such footway shall not be so paved after such kerbing shall be so laid and such notices shall in the case of every occupied house be left with some inmate thereof and in the case of every unoccupied house be nailed or posted up on some conspicuous part therof and copies of all such notices shall be kept in the Town Hall or Office of the said Municipal Council and be open to the inspection of every citizen of the said city free of charge at all times after service thereof as aforesaid.

2. If the owner of any house at which such notice as aforesaid shall have been duly and lawfully left shall not within three calendar months thereafter comply with such notice by paving the footway adjoining the said house as hereinbefore mentioned according to some uniform plan and specification to be previously prepared by the City Surveyor and kept in his office open to the inspection of any citizen of the said city free of charge it shall be the duty of the said Municipal Council forthwith to cause such paving to be done and to keep an exact account of the expense thereof in a book to be open also to the inspection of every citizen of the said city free of charge.

Sydney Paving.

**Account of expense
of paving to be kept.**

3. It shall be the duty of the said Municipal Council within thirty days after any such paving shall have been completed by them adjoining any house to cause an account of the cost thereof to be left at such house in the same manner as that in which the said notices are hereinbefore directed to be left and if the owner of such house shall not within fourteen days after such account shall have been so left pay to the City Treasurer at his office the amount of such account it shall be lawful for such Municipal Council by warrant under the hand of the Mayor and in the form or to the effect in the Schedule hereto annexed marked B to distrain upon the goods found in such house for the said amount and dispose of the same in like manner as is now prescribed by law with respect to rates distrained for by order of the said Municipal Council and if such goods shall belong to any tenant and not to the owner of any such house such tenant shall be at liberty to deduct the amount which he may pay on such distress being made from any rent due or to be paid to his immediate landlord or be at liberty to sue his immediate landlord or the owner of such house for any damage he may sustain by non-payment by such owner of the cost of making such payment as aforesaid and the like right of deduction and suit is hereby given to every intermediate tenant against his immediate landlord or the said owner Provided that no such tenant shall be entitled to commence any action against his immediate landlord or the said owner unless he shall as soon as practicable after the receipt of the same hand over to such landlord or owner respectively the notice and account hereinbefore mentioned.

**Footway not paved
according to plan to
be deemed unpaved.**

4. Every footway that shall not hereafter be paved according to the uniform plan and specification to be prepared as aforesaid by the City Surveyor shall be deemed to be unpaved for the purposes of this Act.

**Same steps to be
taken with respect
to repairing pave-
ment as to paving
in the first instance.**

5. When and so often as any pavement of any footway shall require any repairs it shall be the duty of the said Municipal Council forthwith to take the like steps and they shall exercise the same powers and use the same form of notice and warrant as are hereinbefore directed and given to them with respect to paving in the first instance and the tenants shall have the like remedy against their immediate landlord or owner aforesaid.

**Interpretation
clause.**

6. In the construction of this Act the word "owner" shall be held to mean any one having the immediate beneficial interest in any house land or hereditaments.

**Persons making
distress irregularly
not to be deemed
trespassers *ab initio*.**

7. When any distress shall be made for any sum of money to be levied under the authority of this Act the distress itself shall not be deemed unlawful nor shall the party making the same be deemed a trespasser on account of any defect or want of form in the warrant of distress or any other proceeding relating thereto nor shall the party distraining be deemed a trespasser *ab initio* on account of any subsequent irregularity which shall be afterwards done by the party distraining but the person aggrieved by such irregularity shall and may recover full satisfaction for the special damage in an action on the case.

Costs of distress.

8. The costs of levying or making any distress under this Act shall be those set forth in the Schedule hereto annexed marked D and no other.

Short title.

9. This Act shall be styled and may be cited as the "Sydney Paving Act of 1866."

**If amount thereof
be not paid distress
warrant to issue.**

Sydney Paving.

SCHEDULES REFERRED TO.

A.

Notice.

To the owner of the house at which this notice has been left being No. in street and [if occupied] now occupied by

You are hereby required within three calendar months from the date hereof to pave the footway adjoining the above-mentioned house according to the plan and specification now in the office of the City Surveyor and open to your inspection and with the material herein-mentioned that is to say—with and you are further to take notice that unless you cause the said paving to be laid down within the time above specified the same will be executed by the Municipal Council of Sydney and the cost thereof will be levied in pursuance of the provisions of the "Sydney Paving Act of 1866."

Dated this day of A.D. (Signed) A. B. Town Clerk.

B.

*Warrant to Distain.***To**

Whereas on the day of last a notice was duly left at the house No. in street in the city of Sydney [and if occupied] then in the occupation of requiring the owner thereof within three calendar months from the date of the said notice to pave the footway adjoining the said house according to the plan then in the Office of the City Surveyor. And whereas the said owner did not comply with the said notice and the Municipal Council of the said city caused the said paving to be done. And whereas the expense of the said paving amounts to And whereas an account of the said expense was duly left at the said house on the day of and the amount thereof has not yet been paid into the hands of the City Treasurer. These are therefore to require and authorize you forthwith to levy the said sum of together with the costs of these presents by distress and sale of the goods found by you in the said house and you are commanded to certify to me on the day of what you shall do by virtue of this warrant.

Given under my hand at Sydney this day of A.D. 186 .

(Signed) A. B. Mayor.

C.

All that portion of the city of Sydney known as Castlereagh and Elizabeth Streets as far as Hunter-street on the north and Liverpool-street on the south together with the respective streets crossing the same from the eastern boundary of Pitt-street to the western boundary of Elizabeth-street and also the streets following that is to say—Parramatta-street—William-street from Yurong-street to the Darlinghurst Road—South Head Road from College-street to Bourke-street—Macquarie-street from King-street to Bridge-street—the south side of Liverpool-street from Elizabeth-street to the South Head Road—Phillip-street—and O'Connell-street.

D.

	s. d.
For every warrant of distress 2 0
For every levy 1 0
For man in possession each day or part of a day 5 0
For inventory sale commission and delivery of goods—not exceeding one shilling in the pound on the net proceeds of the sale.	