

## No. XXV.

### An Act to make better provision for the construction of Buildings and for the safety and health of the Inhabitants within the City of Sydney. [3rd June, 1879.]

CITY OF SYDNEY  
IMPROVEMENT.

**W**HIEREAS the law relating to the construction of buildings with Preamble.  
a due regard to the safety and health of the inhabitants within the City of Sydney is in many respects imperfect and it is advisable to amend the same 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. This Act shall come into force on the sixtieth day after the Commencement and short title.  
passing thereof and shall apply to all parts of the City of Sydney and may be cited as the "City of Sydney Improvement Act."

2. From and after the commencement of this Act the Acts Acts repealed.  
eighth William the Fourth number six the second Victoria number twenty-five and ninth Victoria number five shall be and the same are hereby repealed but such repeal shall not affect any buildings party-walls land or premises built or begun to be built before the said commencement or any proceedings in reference thereto except as in this Act specially provided for.

3. The words "This Act" shall be taken to include the several Interpretation clauses.  
Schedules thereof and the following terms in inverted commas shall unless inconsistent with the context or subject matter have the meanings assigned to them respectively:—

"Addition"—Shall include any enlargement or alteration or other change whatever made to or in any building.

"Alley"—Shall include any court passage or other public place which can be used as a footway only.

"Already built"—In reference to buildings shall include all buildings built prior to this Act coming into force or commenced before such time and covered in and rendered fit for use within

*City of Sydney Improvement.*

- fifteen months thereafter and used And in reference to streets and alleys shall apply to all such made or laid out before such date and which shall be formed and rendered fit for use.
- “Building”—Any dwelling-house shop store warehouse church chapel concert-room hospital theatre manufactory workshop stable cow-shed privy or other building or erection whatsoever.
- “Building-line”—The building-line referred to in the proclamation of any street such building-line being measured from the exterior edge of the curbing as now or hereafter laid down without reference to the width of the carriage-way Also the boundary-line of any street which has not been proclaimed.
- “City Council”—The Municipal Council of Sydney composed of the Mayor and Aldermen in office at the passing of this Act or thereafter from time to time duly elected.
- “City of Sydney”—The area comprised within the present boundaries of the city or any proclaimed extension thereof.
- “Closet”—Any closet used for the reception of fæcal matter or urine and discharged by water or any receptacle for fæcal matter or urine deodorized by earth or ashes.
- “Cesspit”—Any cesspit tank or other receptacle for fæcal matter or urine not discharged by water nor deodorized with earth or ashes.
- “External wall”—Shall apply to every outer wall or vertical enclosure of any building not being a party-wall.
- “Floor”—The horizontal platform or platforms forming the base of any story and the timber or bricks or any other substance constituting such platform.
- “Health Officer”—The Health Officer appointed by the City Council.
- “Hereafter to be built”—Used in reference to buildings shall apply to all buildings commenced after this Act coming into operation or which if commenced before this Act coming into operation shall not be covered in within fifteen months thereafter.
- “Inspector of Nuisances”—The Inspector of Nuisances appointed by the City Council.
- “Justice”—Any Justice of the Peace.
- “Mayor”—The Mayor of the City of Sydney for the time being.
- “Owner”—Shall apply to every person in the receipt or entitled to the receipt either of the whole or any part of the rents and profits of any building or premises or in the occupation of any building or premises other than a tenant from year to year or for any less term or a tenant at will.
- “Privy”—A building having a cesspit.
- “Party-wall”—Shall apply to every wall used or built in order to be used as a separation of any building from any other building with a view to the same being occupied by different persons.
- “Premises”—Any land whether any building be erected thereon or not.
- “Public way”—Any road highway street square lane court alley or other public thoroughfare or place.
- “Sydney”—The City of Sydney.
- “Story”—To include the full thickness of any floor as well as the space between the upper surface of such floor and the under surface of the floor next above it or if there be no floor above it then to the top of the side-walls and if there be no floor below then the space between the surface of the ground and the under surface of the floor next above it or the top of of the side-walls as the case may be.

“Street”—

*City of Sydney Improvement.*

“Street”—To include every square circus crescent street road place row public mews lane or place along which carriages can pass or are intended to pass and that whether there can be or not in addition to the carriage-way a footway paved or otherwise.

“Square”—The word square as applied to the superficial extent or area of any building to contain one hundred superficial feet.

“Surveyor”—The City Building Surveyor appointed in pursuance of this Act.

“Tenant”—Any person occupying any building or premises for the time being not being a *bonâ fide* servant of the owner.

4. The Governor with the advice of the Executive Council may by notice in the *Gazette* at any time extend the provisions of this Act to any Municipality in this Colony upon the receipt of a petition from any such Municipality praying for such extension and thereupon all the powers rights and duties vested by this Act in or to be performed by the Mayor and City Council of the City of Sydney and the officers to be appointed by them shall vest in the Mayor and Council of such Municipalities and the officers to be appointed by them respectively.

Provisions of this Act may *mutatis mutandis* be extended to any Municipality.

5. The City Council may with the approval of the Governor with the advice of the Executive Council make and publish in the *Gazette* by-laws and may from time to time repeal or alter any such by-law by a new by-law so made and published for giving effect to the provisions and for carrying out the objects of this Act and the production of a *Gazette* purporting to contain any such by-law shall be evidence for all purposes of such by-law having been duly made published and approved. Provided that no such by-law shall be made until the expiration of two months after a copy of the same as proposed to be so made has been published once at least in two or more newspapers circulating in Sydney and been delivered at the office of the City of Sydney Improvement Board to be appointed under this Act and any person affected by any such by-law may forward notice of his objection to such Board and to the City Council which shall take the same into consideration. Provided also that copies of all such by-laws shall forthwith be laid before both Houses of Parliament if then in Session or otherwise within one month after the commencement of the next ensuing Session.

By-laws.

6. Within one month after the commencement of this Act the Governor with the advice of the Executive Council shall appoint a Board to be called the City of Sydney Improvement Board which Board shall consist of five members of whom one at least shall be a professional architect one a practical builder and one a medical practitioner which Board shall have power to determine any questions concerning the execution of this Act which may be brought before them by complaint report or otherwise and such Board may in any particular case in which they think it expedient dispense with the observance of any by-law subject to such conditions if any as they may think proper which conditions may be enforced in like manner as if the same had been enacted by a by-law duly made and published as aforesaid.

Appointment of Improvement Board.

7. Any person dissatisfied with the conduct proceedings or decision of any officer empowered by this Act to carry out its provisions may prefer a complaint to the Board having first given twenty-four hours written notice of such complaint to the person or persons complained of and the Board shall fix a time for the hearing of such complaint shall examine such witnesses as may be called and shall have full power to adjudicate upon the question or questions submitted for settlement.

Complaints to Board.

8. If any doubt difference or dissatisfaction in respect of any matter within the provisions of this Act shall arise between any parties concerned or between any party and any surveyor or between any two surveyors as to any act done or to be done in pursuance of this Act or as to the effect of the provisions thereof in any case or as to the mode

Provision for appeals.

*City of Sydney Improvement.*

in which the provisions of this Act ought to be carried into effect then any such person may require the said Board on appeal to determine such matter.

**Mode of appealing.**

9. Any such requisition must be made in writing and must set forth generally the matters in respect of which the determination of the Board is required and the decision of such Board as to all or any of the points in difference in which such Board shall decide and as to all costs charges and expenses shall be binding on all parties to such appeal.

**Quorum of Board.**

10. In every case where any act is required directed or permitted to be done by such Board the same may be done by any three members thereof at any meeting to which all the members have been duly summoned and when so done shall be as valid and effectual as if done by all and any one of them may be appointed by the others to make any inquiry or any survey which shall appear expedient in order to enable them to determine any matter referred to them.

**As to members interested.**

11. It shall not be lawful for any member of the Board to act thereon with respect to any building of which he is the owner architect or builder or in which he is in any manner personally interested.

**Fees to Board.**

12. The members of such Board shall receive for their own use a fee of one guinea each on every reference or appeal made to them under the provisions of this Act (and if occupied more than one hour on the same shall receive a fee of two guineas each) and such first-mentioned fee shall be deposited in the first instance by the party making such reference or appeal before the same is entered upon.

**Licensed persons to perform work.**

13. The City Council shall from time to time license persons to perform all work in connection with drainage and sewerage and no person shall be permitted to do or commence any work in connection with the construction enlargement or repair of any drain leading from any building water-closet office or stable to any common sewer or other outlet unless so licensed or under the immediate control of a person so licensed and any unlicensed person not under such control who shall perform or commence such work and any person knowingly employing such unlicensed person to perform such work except under such control shall be liable to a penalty of not less than forty shillings nor more than five pounds for every day during which such unlicensed person is employed and the City Council may direct all work done by such unlicensed person to be removed.

**No land to be laid out or sold for building purposes without approval of Council.**

14. It shall not be lawful for any person to lay out or dispose of or cause to be laid out or disposed of any land for building purposes on which it is proposed to open any road street lane or alley without first submitting a plan showing the proposed disposition of such land and setting forth the width and direction of such road street lane or alley and a sketch showing the proposed drainage of such land to and obtaining the approval thereto of the City Council subject to appeal from their decision under the provisions of the eighth section of this Act And any person who shall act in contravention of the provisions herein contained shall be liable to a penalty not exceeding fifty pounds Provided that if no disapproval be expressed in writing by the City Council within seven days after such plan shall have been submitted the intended disposition of the land may be proceeded with.

**Penalty.**

**No dwelling-house to be built fronting a lane of less width than 20 feet.**

15. No dwelling-house shall be permitted to be built fronting a lane court or way unless such lane court or way shall be of the width of twenty feet at the least and any person acting in contravention of the provisions of this section shall be liable to a fine of not less than forty shillings nor more than ten pounds for each day of the continuance of such offence after notice from the Surveyor.

**Buildings to be divided into rates of classes. Schedules A and B.**

16. After the commencement of this Act all buildings thereafter to be built shall be distinguished by and divided into the several rates of classes of buildings in Schedules A and B of this Act set forth And

*City of Sydney Improvement.*

no such building shall be built nor shall any building or wall (whether built before the commencement of this Act or thereafter to be built) be rebuilt enlarged or altered (whether on old or new foundations or partly on old and partly on new foundations) so as to extend beyond the building line or in any manner whatsoever except in conformity in all respects with this Act and the several particular rules and directions which are specified and set forth in the several Schedules of this Act according to the several classes of buildings and the rates of such classes to which such buildings are by the Schedules A and B declared to belong subject nevertheless to any other rules and directions in this Act contained.

Future buildings and alterations &c. of present buildings to be subject to the provisions &c. hereof.

Schedules A and B.

17. Whenever any person is desirous of erecting any building or addition to which the rules of this Act are inapplicable or as to which it is reasonable that the rules should be modified he shall make an application to the City Council stating such desire and setting out a plan of the proposed building and shall give such particulars of the proposed construction thereof as may be required by the said Council and the said Council if satisfied with such plan and particulars shall signify in writing under the hand of the Surveyor to be appointed under this Act their approval of the same and such Surveyor shall ascertain that such building is being built in accordance with such plan and particulars and all expenses incurred in obtaining the approval of the City Council as aforesaid and the fee of the said Surveyor shall be paid by the person so applying (the amount of such expenses and fees to be determined by the said Council) and in default of payment may be recovered in a summary manner.

Exception in certain cases.

Application to be made to the City Council.

18. For the purposes of this Act the City Council shall appoint a competent surveyor to be called the City Building Surveyor and shall within one month after the death or removal of any such Surveyor appoint a competent person to be his successor and shall also appoint such assistants as they may deem necessary.

Appointment of City Building Surveyor.

19. The City Council shall provide an office for the Surveyor which shall be open on such days and during such hours as the Council shall direct and all notices required by this Act to be given to the said Surveyor shall be deemed to have been duly given or served if they shall have been delivered at the said office during the ordinary business hours so directed as aforesaid.

Office of Surveyor. Service of notice on Surveyor.

20. If the Surveyor shall die or be suspended or removed or shall be prevented by illness absence or any other circumstance from attending to the duties of his office then the Mayor shall forthwith appoint some other competent surveyor as Deputy until a new Surveyor shall have been duly appointed or for so long a time as such Surveyor shall be so suspended or prevented from attending to his duties as the case may be and thereupon such Deputy shall perform all the duties of the Surveyor in all respects as if he were the Surveyor appointed by the City Council.

Deputy Surveyor to be appointed by the Mayor.

21. The Surveyor shall see that all the rules and regulations of this Act are well and truly observed and for that purpose shall proceed from time to time in due course upon receipt of any notice (or if from ignorance or neglect or from any other circumstance notice of any work to be done has not been given then upon such work being observed by or being made known to him) to inspect the works intended to be done or which shall have been commenced and shall cause all the rules and directions of this Act in respect thereof to be strictly observed and also shall attend and perform everything required of him by this Act and also shall inspect ruinous and dangerous buildings and projections in danger at all times when needful and take all necessary measures thereupon and cause books for registering all notices licenses informations and complaints to be at all times kept at his office and shall enter in such books every such notice license

Duties of City Building Surveyor

*City of Sydney Improvement.*

license information or complaint which shall be delivered or made to him and any proceeding by him taken and shall take all necessary measures to prevent encroachments on the public thoroughfares beyond the building-line of all streets.

Amount of building fees to be paid to Surveyor.

22. Upon the expiration of fourteen days after the roof of any building erected and surveyed under this Act shall have been covered in and all the walls thereof shall have been built to their full height and the principal timbers and floors shall have been fixed in their places and upon the expiration of seven days after the completion of any addition alteration and repair and upon delivery to the owner or occupier or builder or other person causing such building to be erected or such addition or alteration to be made an account of the fees incurred and upon tendering a receipt therefor duly signed the Surveyor shall be entitled to receive on behalf of the City Council from the owner or builder or occupier of the building the several fees as specified and set forth in Schedule G of this Act and if on tender of such beforementioned receipt any owner builder or occupier who shall be liable to pay any such fees shall refuse to pay the same then the same may be recovered in a summary way.

Schedule G.

Fees on out offices.

23. No separate fee shall be payable in respect of any alteration or addition to any building which shall not increase or decrease the external dimensions or materials as expressly regulated by this Act or in respect of any office belonging to any building provided such office shall be built at the same time as the building to which it may belong or be finished within six months after such building is covered in but the same shall be deemed to be included in the fee which may be due or payable for any such building Provided however that no stable cowshed warehouse store or workshop shall be deemed to be an office within the meaning of this section.

Notice of building to be given to Surveyor.

24. Before any building on old or new foundations or on foundations partly new and partly old or any wall or fence fronting the building-line of any street shall be begun to be built and also before any addition or alteration shall be made to any building and also before any other matter or thing shall be commenced which by this Act is placed under the supervision of the Surveyor the person causing such building or wall or fence to be built or such work to be executed shall give to the said Surveyor three clear days notice in writing in the form or to the effect set forth in Schedule H No. 1 and shall forward with such notice a general plan of such building or work for the approval of the said Surveyor who shall return the said plan within seven days with his decision endorsed thereon and if such person as aforesaid shall neglect to give such notice or shall begin or allow any person to begin to build or to do any of the works matters or things aforesaid without giving such notice or furnishing such plan or before the expiration of the said period of three days he shall for every such default be liable to a penalty not less than five pounds and not exceeding twenty pounds and if any such person having duly begun any such building or other work matter or thing as aforesaid shall for any period exceeding one month suspend the progress thereof and again go on with the same then two clear days before any such recommencement or resumption of work he shall give notice in writing to the said Surveyor in the form or to the effect set forth in Schedule H No. 2 of this Act And if any such person shall neglect to give such notice he shall for every such offence be liable to a penalty of not less than two pounds and not more than twenty pounds And any such building or other work matter or thing so begun to be built pulled down rebuilt cut into or altered as aforesaid or proceeded with after suspension thereof as aforesaid without such notices and plan being given respectively as aforesaid shall be liable to be declared and abated as a

Schedule H No. 1.

Schedule H No. 2.

Building begun without notice may be declared a common nuisance.

common

*City of Sydney Improvement.*

common nuisance under the provisions hereinafter in that behalf contained Provided always that if by reason of any emergency any act matter or thing hereby placed under the supervision of the said Surveyor be required to be done immediately or before such notice as aforesaid respectively can be given then any such person as aforesaid may do such act matter or thing so requisite but such person shall within twenty-four hours of commencing such work give to the said Surveyor notice thereof in writing or in default be liable in all respects as if no such emergency had arisen.

Proviso in case of emergency.

25. Before any person shall commence to erect or make any addition to a building of the second or third class he shall submit to the Surveyor a general plan of the proposed building or addition (describing especially the proposed arrangements for lighting ventilation and drainage and in the case of the third class for the ready egress of the public) and thereupon the Surveyor and the Health Officer may either approve of such plan or otherwise and shall certify the same under their hands and return the same within seven days And any person who shall commence any such building or addition without having first obtained the said certificate shall be liable to a penalty of a sum not exceeding twenty pounds and every such building or addition erected without such approval as aforesaid or not in accordance with such certificate may be treated as a common nuisance.

Plans and particulars of buildings of second or third class to be approved by Surveyor and Health Officer before building is commenced.

Penalty.

26. Within seven days after any building of the third class shall be completed and ready for use the architect or other person in charge of such building shall give notice thereof to the Surveyor and the Surveyor and Health Officer shall forthwith after examination certify under their hands whether or not such building is safe and fit to be used as a public building And any such architect or person failing to give such notice as aforesaid shall be liable to a penalty of a sum not exceeding twenty pounds and any person allowing such building to be used as a public building before such certificate shall have been obtained shall be liable to a penalty of ten pounds for every occasion upon which it shall have been so used.

No building of third class to be used by public until approved by Surveyor and Health Officer.

Penalty.

27. If the Surveyor shall have reason to believe or suspect that anything has been done contrary to or not in conformity with this Act in or about any building work or other thing within the operation of this Act he shall give a notice in writing in the form or to the effect set forth in Schedule H No. 3 of this Act to the architect or if there be no known architect then to the builder foreman or principal workman on the premises or to the owner or occupier thereof And after the expiration of forty-eight hours from the delivery of such notice as aforesaid or as soon thereafter as circumstances will permit the said Surveyor shall proceed to inspect the works and if the work be so far advanced that he cannot ascertain whether the irregularity has been committed or not then he may order any work to be cut into laid open or pulled down which shall in his opinion prevent his ascertaining whether such irregularity exist or not And if within forty-eight hours as aforesaid the architect builder or other person to whom any such notice shall have been given refuse or fail to amend any irregular work or if any such architect builder or other person when ordered by the Surveyor refuse to cut into lay open or pull down any work as aforesaid then as soon as conveniently shall be the said Surveyor shall give information thereof to the City of Sydney Improvement Board which shall proceed to hear the matter and if any breach of the rules regulations and directions of this Act appear to have been committed then the said Board shall direct and cause such building work or other thing or such part thereof as they shall deem necessary to be amended removed cut into laid open or pulled down or otherwise dealt with so as to make such building work or thing in accordance with this

Surveyor to examine work which he may suspect to be done contrary to this Act.

Schedule H No. 3.

Act

*City of Sydney Improvement.*

Act and all the costs charges and expenses of such last-mentioned work and all the costs and charges that may be incurred shall be paid by the offending parties and in default of payment the same shall be levied by distress and sale of the goods and chattels of such architect builder or other persons as aforesaid and if it shall be found that such building or work has been done in conformity with this Act the said Board may award compensation together with any costs charges and expenses as aforesaid to be paid by the Corporation for such injury as may have been done in laying open pulling down or otherwise dealing with such work.

Surveyor may enter on premises for the purpose of his duties.

28. At any hour of the day from nine in the morning to five in the afternoon during the progress of any operations in respect of any buildings or works within the operation of this Act the Surveyor or any person authorized by him may enter upon the premises where such works or operations have been commenced And if at any such time whilst any building is in course of construction demolition alteration or re-construction any person refuse to admit the said Surveyor or any person authorized by him during the customary working hours to inspect such building or if any person make use of abusive language and refuse or neglect to afford such Surveyor or person every assistance or information which may be reasonably required in and about such inspection then the party offending shall for every such offence be liable to a penalty of not less than two pounds nor exceeding twenty pounds And if at any time during such customary working hours the said surveyor or other person be refused admittance to make inspection of any work then it shall be lawful for such Surveyor or other person accompanied by a member of the Police Force to enter upon the ground building and premises where the same shall be and if necessary to remove all hindrances or obstructions.

Penalty.

The Board may order Surveyor to repair &c. any building in a ruinous state and dangerous.

29. If upon the report or information of the Surveyor the Board shall after personal inspection be of opinion that any building or wall or any thing respectively affixed thereon or appurtenant thereto is in a ruinous state and dangerous to the public or to the occupiers of the neighbouring buildings such Board may order the said Surveyor to forthwith repair take down or secure such building wall or other thing or such part thereof as they may deem so dangerous as aforesaid and all expenses in connection therewith together with all fees payable under the provisions of this Act shall be paid by the owner or occupier of the said premises and may be recovered in a summary way and if there be no occupier or known owner then it shall be lawful for such Board to direct that the reasonable expenses be paid by the Treasurer of the said City of Sydney out of the City Fund and if thereafter the owner of such building become known or if the building become occupied the said Treasurer or Surveyor shall be entitled to recover the amount of such expenses from such owner or occupier.

Expense to be paid by owner.

Buildings &c. to be drained.

30. All buildings or premises shall be drained and ventilated in accordance with the rules contained in the several Schedules of this Act and any building not so drained may be treated as a common nuisance.

Penalty in letting any room &c. deemed unfit for human habitation.

31. If the Mayor Surveyor Health Officer and Inspector of Nuisances shall be of opinion that any room or building is unfit for human habitation or for the accommodation of the occupants thereof either wholly or in part they shall cause a notice under their hands to such effect to be served on the owner of such premises and if in their opinion such premises can be rendered fit for human habitation or accommodation as aforesaid they shall in such notice state the alterations and improvements required by them for that purpose and if any such owner shall after the expiration of seven days from the service of such notice or until the required alterations and improvements have been made to the satisfaction of the Surveyor let for hire or occupy or suffer



*City of Sydney Improvement.*

suffer to be occupied as a dwelling or otherwise either wholly or in part any such room or building he shall for every day or night during which such room or building shall remain so occupied as aforesaid be liable to a penalty of a sum not exceeding twenty pounds and not less than two pounds. Provided always that if the expenses and fees aforesaid be paid by the occupier being a tenant he shall be entitled to recover the same from the landlord or owner as money paid at his request.

32. Every building already built or hereafter to be built shall be provided with sufficient privy or closet accommodation for the sole use of the occupants of such building and no closet or privy shall be built except in such place as shall be approved in each case by the Health Officer the Inspector of Nuisances and the Surveyor and every privy and cesspit shall be built in accordance with the provisions contained in Schedule F of this Act.

Privies or closets to be provided for every building.

Schedule F.

33. If the Surveyor Health Officer and the Inspector of Nuisances shall be of opinion that there is not sufficient privy or closet accommodation to meet the requirements of the occupants of any building or premises or of the persons employed therein they shall cause a notice to such effect to be served upon the owner or occupier of such building or premises together with full particulars of the extra accommodation in their opinion necessary. And if any such owner or occupier shall not within thirty days from the service of such notice cause the accommodation therein specified to be provided he shall for every day after the said time during which such building or premises shall remain occupied or such person be employed therein be liable to a penalty of a sum not exceeding twenty pounds and not less than two pounds. And in all cases the onus of proving that such building or premises are not occupied or that such persons are not employed therein shall be upon the said owner or occupier.

Insufficient privy accommodation.

34. If any stable cow-shed or other out-house or any closet privy and cesspit shall not be built in accordance with this Act and to the satisfaction of the Health Officer Inspector of Nuisances and the Surveyor or is in their opinion a nuisance from its too close proximity to any adjoining premises or from any other cause or is not kept in repair and clean the said officers may by notice under their hands given to the owner order the same to be taken down altered repaired or cleaned as the case may be and if any such order be not obeyed within fourteen days from the service of such notice they may without any further notice cause the same to be pulled down destroyed altered repaired or cleaned and shall be entitled to recover all expenses that may be incurred from the owner in a summary way at the suit of either of them.

Closets stables &c. not built in conformity with this Act or being a nuisance to be altered or removed.

35. No stable cow-shed or other out-house shall be erected except upon a site approved of by the Health Officer the Inspector of Nuisances and the Surveyor and every stable cow-shed or other out-house already built or hereafter to be built shall be drained paved ventilated and provided with a properly constructed pit for the receipt of manure and drainage therefrom to the satisfaction of the Surveyor.

Stables to be erected only on site chosen by officers.

36. The Mayor Surveyor Health Officer Inspector of Nuisances or any person authorized by them or either of them shall be entitled at any time between the hours of nine a.m. and five p.m. to enter upon any premises for the purpose of inspecting any portion of the said premises by this Act placed under their supervision or for the better carrying into effect this Act or any by-law made thereunder.

Power of entry for inspection &c.

37. Any person desirous of erecting any awning portico or other matter or thing over any footway shall forward a plan and particulars of the same to the Surveyor and the Surveyor shall within three days after the receipt of such plan and particulars signify in writing under his hand his approval or disapproval thereof and any awning portico

Particulars &c. of proposed awning or portico to be sent to Surveyor.

*City of Sydney Improvement.*

portico or other matter or thing hereafter erected or commenced to be erected without the approval of the said Surveyor first had and obtained shall be liable to be deemed a common nuisance. And every awning awning-post portico matter or thing now built or constructed or hereafter to be built or constructed on or over any footway shall be kept in such repair as shall be satisfactory to the Surveyor.

All buildings &c. not in conformity with Act to be deemed a common nuisance.

38. All buildings chimneys flues party-walls external walls and projections and every other part of every building of every class or rate and every privy closet stable cow-shed or out-house built rebuilt enlarged or altered otherwise than in the manner and of the materials and in every other respect according to and in conformity with this Act shall be deemed a common nuisance. And if any person build or begin to build or cause the building of or alter or cause to be altered or use or allow to be used any part of any building projection or other thing contrary to this Act then the said building projection or other thing or such part thereof so irregularly built or begun to be built or so irregularly altered or begun to be altered or so used shall be deemed a common nuisance.

Buildings dangerous to neighbourhood to be deemed a nuisance.

39. Any building or part of any building now or hereafter built wholly or in part of inflammable materials of such a character and being in such a position as to be dangerous in respect of fire to the neighbourhood thereof shall be deemed a common nuisance.

Proceedings in case of common nuisance.

40. Any Justice shall on the complaint of the Surveyor issue a summons (and in case of such summons not being complied with then a warrant) calling upon the owner or if the owner cannot be found the agent of such owner of any building or premises to appear before a Stipendiary Magistrate or two Justices to show cause why such building or premises should not be declared a common nuisance and the said Magistrate or Justices shall thereupon hear and determine the matter. And if the said building or premises shall be declared a common nuisance then such owner or agent of such owner shall if required enter into a recognizance in such sum and within such time as the said Magistrate or Justices shall appoint for abating and taking down the said nuisance or otherwise amending the same in accordance with the provisions of this Act and also for paying the costs charges and expenses of the Surveyor in the said matter as allowed by the said Magistrate or Justices and if the person so required shall fail to enter into such recognizance then the said Magistrate or any Justice may commit such person to gaol until he shall have entered into such recognizance or until such nuisance shall have been abated demolished or amended as aforesaid and the costs charges and expenses thereof and of all operations and proceedings in relation thereto shall have been defrayed. And if neither the owner nor the agent of the owner can be found the Surveyor shall apply to a stipendiary Magistrate or any two Justices and the said Magistrate or Justices may on the application of the Surveyor order him to abate or demolish such nuisance and to sell the material thereof and out of the proceeds of such sale to defray his reasonable expenses incurred in carrying out such order and also the costs charges and expenses first hereinbefore mentioned and to pay the surplus moneys (if any) to such person as the said Magistrate or Justices may direct. And if such proceeds as aforesaid be not sufficient for such purposes as aforesaid and if on demand such owner refuse to pay any deficiency the said Magistrate or any two Magistrates may order the amount thereof to be levied by distress and sale of the goods and chattels of such owner.

Manufacture of substances liable to sudden explosion.

41. It shall not be lawful for any person to establish or to carry on either in any building or vault or in the open air any business for the manufacture of gunpowder or detonating substances or of matches ignitable by friction or otherwise or other substances liable to sudden explosion.

*City of Sydney Improvement.*

42. It shall not be lawful for any person to establish or to carry on either in any building or vault or in the open air at a less distance than forty feet from any public way or than fifty feet from any other building or any vacant land belonging to any other person than the landlord any business for the manufacture of vitriol or turpentine or naphtha or varnish or fireworks or oil or oil-cloth or other things dangerous on account of the liability of materials or substances employed therein to cause sudden fire or explosion and if any person shall establish or carry on any such business contrary to this Act he shall be liable for every day during which such business shall be so carried on to a penalty of a sum not exceeding twenty pounds nor less than ten pounds and the prosecutor shall be entitled also to such costs as shall be deemed reasonable.

Manufacture  
of inflammable  
substances.

Penalty.

43. The owner of any premises (hereinafter called the building owner) may cut break away or remove any eaves gutters cornices chimney-breast fence or other matter or thing whatsoever which projects or extends over his premises beyond the lawful boundary-line of the adjoining owner. Provided that such building owner shall seven clear days before entering upon any such work give to such adjoining owner notice in writing in the form set forth in Schedule H No. 6 or to the like effect. And all expenses necessarily incurred in and about such work shall be recoverable at the suit of such building owner from the owner or occupier of such adjoining building land or premises.

Owner of adjoining  
building &c. may  
remove portions &c.  
of adjoining building  
&c. extending beyond  
boundary-line.

Schedule H No. 6.

44. Whenever any guttering or pipe or other work is necessary for the protection of two adjoining buildings the owner of either of the buildings may call upon the adjoining owner to pay one-half of the expense of carrying out the necessary work and upon refusal or neglect so to do within fourteen days such owner may provided that the necessity for such work be certified to by the Surveyor cause the necessary work to be done and recover half the expense incurred therein from the owner so refusing as aforesaid.

Owner of adjoining  
buildings to share the  
expense of work  
necessary for the  
protection of both  
buildings.

45. If the owner of any land (hereinafter called the building owner) is desirous of erecting any building or party-wall thereupon and adjoining land vacant or not built upon he shall one month before entering upon any such work give the owner or occupier of such adjoining land (hereinafter called the adjoining owner or occupier) notice in writing setting forth such desire and the proposed thickness and dimensions of such party-wall in the form set forth in Schedule H No. 4 or to the like effect. And if within the period of one month next after the delivery of such notice such adjoining owner or occupier shall not (by notice in writing) agree to have any such party-wall then the building owner shall not erect his wall so as to extend upon the land of the adjoining owner except so much of the footings as are below the surface of the adjoining owners land. Provided always that if within one month notice in writing by such adjoining owner agreeing to the proposed thickness and dimensions or requiring by notice in writing in the form set forth in Schedule H No. 5 or to the like effect increased thickness or dimensions shall be given the building owner (if he shall build a party-wall at all) shall adopt such thickness or dimensions and in such case shall be entitled to recover from the adjoining owner or occupier a fair proportion of the expense of building such party-wall or all the expense caused by such increased thickness or dimensions as the case may be.

Building of party-  
walls next vacant  
ground.

Schedule H No. 4.

Schedule H No. 5.

46. Any owner or other person (herein called the building owner) desirous of building taking down or rebuilding any party-wall chimney jambs breasts or flues of chimneys upon the line of junction between his own and any adjoining land shall one month before entering upon any such operations give to the owner or occupier of such adjoining land (herein called the adjoining owner) notice in writing

Chimney jambs and  
breasts to be placed  
in party-wall when  
desired by owner of  
adjoining ground.

*City of Sydney Improvement.*

Schedule H No. 7.

writing in the form set forth in Schedule H No. 7 of this Act or to the like effect And if such adjoining owner shall be desirous of having the dimensions of such party-wall or other work increased so as to render the same suitable for a higher rate of building or of having chimney breasts jambs flues or recesses built in his part thereof in accordance with this Act and shall within one month after the delivery of the said notice give to the building owner notice in writing of his said desire together with instructions in writing or by a plan and elevation or other sufficient drawing then the building owner shall (if he proceed with the said work at all) construct in a substantial and workmanlike manner such party-wall and so many jambs breasts and flues of chimneys in all such parts of every such party-wall as may be by such instructions required and shall also leave such recesses in every such party-wall not being in any respect contrary to this Act and upon such work being performed as so required such building owner shall be entitled to recover from such adjoining owner the whole expense of such work and of the increased dimensions of such party-wall and in case of no notice being given as aforesaid a proportionate share of the expense of erecting such wall according to the rate of the building adjoining thereto when such wall shall be built against or used by the adjoining owner otherwise than as a fence-wall.

Thickness and raising of party-walls &c.

47. Every party-wall hereafter to be built and every addition which shall be made thereto or to any party-wall which is already built or begun shall be built and made in accordance with the directions in this Act contained and the several Schedules thereof concerning the party-wall of the highest rate or class of building to which such party-wall shall adjoin and the party-walls and external walls and chimneys of any raised building shall be of the materials and several heights and thicknesses described in the Schedules hereto for party and external walls and chimneys of the rate such building shall be of when so raised And the walls of any such building already built although not of the thickness prescribed by this Act may if the Surveyor shall think such wall sufficiently secure to allow thereof be raised to an additional height not exceeding twelve feet and the owner of any building so raised shall at his own expense build up the party-wall between his own and any adjoining building and all flues and chimney stacks belonging thereto and if at any time the owner of any adjoining building shall make use of any portion of the part raised of such party-wall by building against it or otherwise the owner of the premises so first raised shall be entitled to recover the costs of a proportionate part of the portion which shall be so used together with the costs of such parts of the chimney stack as belong thereto from the owner of such adjoining building.

Party-walls already built though not of thickness hereby required may be raised by the consent of Surveyor.

Duties of adjoining owners.

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

Schedule H No. 8.

48. Party-fence walls (by which term is to be understood any boundary-wall or fence parting the ground belonging to different owners or occupied by different persons) now built or hereafter to be built may be raised built repaired re-built or pulled down and re-built by the owner or occupier of the land on either side adjoining thereto (herein called the building owner) on his giving notice in writing to the owner or occupier of the adjoining land (herein called the adjoining owner) one month before entering upon any such work in the form set forth in Schedule H No. 8 of this Act or to the like effect And if such adjoining owner shall desire the dimensions of such party-fence wall to be increased beyond the height or thickness required by the building owner and within one month from the delivery of the said notice signify the same in writing then the building owner shall (if he still desire to proceed with the work) construct or build such party-fence wall as by such instructions required provided the same can be done with safety to such wall and to any buildings adjacent thereto

*City of Sydney Improvement.*

thereto but such party-fence wall shall not be built upon or against or used as a wall to a building unless the same be of the materials height and thickness herein directed for party or external walls for the rate or class of building so to be erected against or upon the same and in case of the insufficiency of such fence wall or of any party-fence for the purposes aforesaid any adjoining owner may at his own expense take down such wall or fence and erect a new party or external fence wall in lieu thereof making good every damage that may accrue to the adjoining premises by such rebuilding provided that such new party-fence wall shall not extend on the surface of such ground adjoining thereto more than four inches and a half if such party-fence wall be nine inches in thickness nor more than seven inches beyond the centre line of such party-fence or fence wall for any greater thickness whatever but no such adjoining owner shall make use of such party-wall otherwise than as a party-fence wall unless he shall pay a proportionate share of the whole expense of erecting such parts of such wall according to the use he shall make of the same And provided that any person may with the sanction of the Surveyor raise such wall so as to screen from view any offensive object or neighbourhood but not so as in the opinion of the Surveyor to obstruct the free circulation of the air or to injure the property adjoining or in the neighbourhood of such wall Provided further that nothing contained in this Act shall be construed to give the owner of any adjoining land or property the power of repairing pulling down rebuilding or otherwise interfering with any party-fence wall or boundary-wall standing upon land wholly belonging to any other person.

Wall may be raised to shut out offensive object with sanction of Surveyor.

49. If the owner of one of two adjoining buildings (herein called the building owner) desire to rebuild a sound party-wall of such adjoining buildings he shall three months before entering upon such work give notice in writing to the owner of such adjoining building in the form set forth in Schedule II No. 7 of this Act or to the like effect and upon the expiration of such time such building owner may pull down and rebuild such sound party-wall but upon condition that he shall reinstate and make good all the internal finishings and decorations of the adjoining premises and pay all the costs and charges thereof and also all the expenses incidental to and actually incurred in the execution of the work including therein the Surveyor's fees and also such reasonable compensation as may seem proper for any loss which the adjoining owner shall have incurred by reason of such work such compensation to be recoverable as liquidated damages and together with all costs charges and expenses as aforesaid.

Rebuilding sound party-walls.

50. Every sound party-wall erected or begun to be erected before the commencement of this Act (although not in accordance with this Act) may remain as a party-wall until both the houses or buildings to which the same belongs (or the remaining house or building where one has already been rebuilt) shall be rebuilt if such wall so long continue sound and no longer Provided that if such old party-wall shall have any timber or timbers of any adjoining building lying through the same and if when either of the houses or buildings to which the same belongs shall be rebuilt the owner of such adjoining house or building will not permit so much timber to be cut off as shall leave full four inches and a half of clear brick or stone work beyond the end of every such timber then and in all such cases as aforesaid every such wall or party-wall shall be considered as if the same had been condemned or adjudged ruinous and shall be immediately taken down and rebuilt according to the several directions and regulations in this Act contained.

Sound party-walls now erected may remain though not in accordance with this Act.

51. Whenever any one of adjoining buildings belonging to different owners shall be rebuilt or one of the fronts of any such building be taken down to the height of one story or for a space equal to one-

Owner rebuilding to pull down timber partitions and build proper party-walls.

fourth

*City of Sydney Improvement.*

and to receive proportionate part of cost from adjoining owners

Schedule H No. 9.

Timber partitions to be taken down when one house or one front is rebuilt.

Party-walls and party arches between intermixed property.

fourth of such front from the level of the second or ground floor upwards then without the consent of any of the owners of the adjoining buildings the owner of the building so to be rebuilt or taken down shall pull down all party timbers party lath and plaster or party bricknogged partitions and any wall under or over the same and in lieu thereof shall build up a proper party-wall and shall be entitled to recover from the several owners of the adjoining buildings or premises parted thereby a proportionate part of the expense of building the said party-wall Provided always that no such owner shall enter upon any such work until the expiration of three months after he shall have given to all the owners of the adjoining premises to be affected thereby notice in writing in the form set forth in Schedule H No. 9 or to the like effect And provided that if the owner giving the said notice do not proceed in the said work with due diligence the adjoining owners shall severally be entitled to receive compensation from him for any damage caused by the unnecessary delay.

52. Every good and sound timber partition between houses or buildings erected or begun to be erected before the commencement of this Act may remain until one of the adjoining houses or buildings to which the same belongs shall be rebuilt or shall have one of the fronts which shall abut on such timber partition taken down to the bressummer or one pair of stair floor or for a space equal to one-fourth of the external surface of such front and rebuilt or until such timber partition shall be condemned pursuant to the directions herein contained concerning ruinous or defective party-walls and party partitions and no longer and the owner of the house or building so to be rebuilt shall immediately take down such timber partition and in lieu thereof build a party-wall and thereupon such owner shall be entitled to recover from the owners of the adjoining houses or premises affected thereby a proportionate part of the expense of such party-wall.

53. Whenever any house or other building or premises built over a public way or having any rooms the property of different persons and lying intermixed without being separated by any party-wall and without being arched over and under each other with brick or stone or brick and stone throughout shall be re-built then the person rebuilding shall build a party-wall in accordance with the provisions of this Act for the highest rate or class of building adjoining thereto And every part thereof which stands over such public way or thoroughfare shall be separated therefrom by a floor or arch formed of brick or stone or of some other incombustible materials subject to the approval of the Surveyor or by a floor formed of iron girders and brick arches or stone landings or by an arch formed of brick or of stone and such arch if the span thereof do not exceed twelve feet shall be of the thickness of nine inches at the least and if the span exceed twelve feet of the thickness of thirteen inches at the least and the soffett of the arch shall be not less than thirteen feet at the least from the pavement of such public way or thoroughfare and such floor or arch with its abutment shall be built in such manner as shall be directed or approved of by the said Surveyor And there shall not be formed over any public way or thoroughfare a ceiling of lath and plaster or of lath and cement or any timber or combustible material whatever Provided however that any gateway or passage on the ground leading through an external wall to the rear or offices of the building through which such gateway or passage shall be made (but not to any other building or dwelling-house in a separate or different occupation) may be secured or arched over with hardwood entirely covered with cemented plaster ceiling and that all bressummers placed over such gateway or passage for the support of external or internal walls shall be arched over with brick or stone and that such arch shall not spring

*City of Sydney Improvement.*

spring off any part of such bressummer but be built on the walls clear of both ends And the person so re-building shall be entitled to recover from any persons interested in the said house building or premises a proportionate part of the expenses incurred by him in carrying out the provisions of this section.

54. If any party-wall party-arch or external wall used wholly or in part as a party-wall be so defective or so far out of repair as to render it necessary to pull down and rebuild the same or any part thereof then the owner of any of the buildings adjoining such wall or arch may give to the owner of the building adjoining thereto a notice in writing in the form set forth in Schedule H No. 10 or to the like effect and also a notice to the Surveyor in the form set forth in Schedule H No. 11 or to the like effect and may upon the expiration of one month from the service of such notices respectively and upon the receipt of a survey certificate and award (which the said Surveyor is hereby authorized to give) proceed to carry out the said works in accordance with such certificate and award and in such case shall be entitled to recover from the said owner of the building adjoining a proportionate share of the expense of carrying out the said work in accordance with this Act.

Repairs of party-walls &c.

Schedule H No. 10.

Schedule H No. 11.

55. If while any party-wall against which an external wall shall have been built continues sound the adjoining building be pulled down then the owner of such adjoining building shall not be entitled to more than his just proportion of the materials and ground on which the said party-wall was built nor shall he build on more than his just proportion of the said ground unless he shall have agreed with and satisfied the owner of the buildings so previously rebuilt for his part thereof and if the said owners cannot agree concerning the division of such materials or of such ground or of the building thereon concerning the reimbursement to the party first rebuilding as aforesaid then the price and all matters in difference including the sale and purchase of the ground in question shall be settled by arbitration in the manner hereinafter provided.

Rebuilding of party-walls against which an external wall shall have been built.

56. If the owner of one of the buildings parted by any party-wall rebuild such building of a higher rate and do not pull down such party-wall and build a proper wall in lieu thereof then he shall build up an external wall against such party-wall.

External wall against party-wall in certain cases.

57. If any opening be hereafter made in any external wall without the consent in writing of the owner of the adjoining land and the owner causing such opening to be made shall not within one month after receipt of a notice in the form set forth in Schedule H No. 12 or to the like effect cause such opening to be stopped up with brick or stone work or other material then the said owner of the adjoining land may cause such openings to be effectually stopped and do all things necessary for such purpose and shall be entitled to recover all the costs thereof and in connection therewith from the said owner causing such openings to be made.

Stopping of opening in external walls abutting on other premises.

Schedule H No. 12.

58. It shall be lawful for the surveyor or persons appointed by him to enter upon any adjoining land or premises for the purpose of carrying out any works necessary for the protection security or repair of any building wall or fence or for pulling down any such building wall or fence as may be deemed dangerous or for the purpose of performing any work authorized by this Act Provided that such person shall seven days before so entering give notice in writing to the owner and occupier thereof in the form set forth in Schedule H No. 13 or to the like effect And such person shall cause such works to be carried out with all due dispatch and shall take every reasonable precaution to prevent any damage being done to any building matter or thing in or on such adjoining land or premises and shall if requested immediately make good

Power to enter adjoining lands &c. to execute necessary works.

Schedule H No. 13.

*City of Sydney Improvement.*

good any damage (if any) done in carrying out such works and if such person neglect or refuse to immediately make good such damage then the owner or occupier of such adjoining premises may cause the same to be executed at the risk and expense of such person and such expenses and such costs as may be incurred shall be recoverable in the manner directed for the recovery of the costs and expenses of executing works in pursuance of this Act.

Damage to party or external wall by erection of an external wall then against.

59. The owner of any premises or land (hereinafter called the building owner) may if necessary excavate or dig out the ground against the wall of any building adjoining such land for the purpose of erecting a wall thereon or for any other purpose. Provided that the said building owner do at his own cost shore up and undermine and underpin such wall or such parts thereof to its full thickness and to the full depth of such excavation with good sound bricks or stone and tiles irons or slates bedded in cement or with other proper and sufficient material and in a workmanlike substantial manner to the satisfaction of the Surveyor. And if for the purpose of erecting such external wall it shall be necessary to cut away part of the footings of such wall on the side next to the wall so to be built or any part of the chimney breasts and chimney shafts or other projections belonging to the building as shall project beyond the vertical face of such wall then on giving notice of such intention in writing to the owner of the adjoining building at least one week before commencing operations in the form set forth in Schedule H No. 14 (or to the like effect) the said building owner may on the expiration of such notice cut away such portion of the footings breasts and chimney shafts or other projections aforesaid but so that the same be done and the brick or stone work where cut broken away or damaged be again made good in cement or other approved materials the said building owner using reasonable care but at the cost and risk of the adjoining owner.

Schedule H No. 14.

Notice of cutting away footings &c.

60. If the adjoining owner shall before the expiration of such notice as last aforesaid give notice in writing to the building owner that he desires to cut away such footings chimney breasts or other projections he shall be entitled to do so at his own costs. Provided that if such work shall not be completed by him within one month after such expiration as aforesaid the building owner may proceed to do or complete the same as in the last section enacted.

Damage caused by the fall of any portion of a building to be made good.

61. If at any time any damage or injury be caused to any part of an adjoining building or to the internal decorations or furniture goods wares or merchandize of or in such building by the falling down from any other building of any portion thereof or any thing annexed or appurtenant thereto (except any such part of a party-wall as shall belong to and be used as such by the owner of the building so damaged) then the owner of the building from which such portion or thing shall fall shall reimburse the owner or occupier of the building so damaged all the expenses which he may incur in making good such injury or damage the amount of such expense to be settled by arbitration as hereinafter provided.

Recovery of expenses of work costs charges &c.

62. Wherever by virtue of this Act any person is entitled to recover from an adjoining owner or other person any compensation or the costs charges or expenses of any work or a proportionate part of such costs charges or expenses such person so entitled shall within fourteen days after the completion of such work deliver to such adjoining owner or other person an account in writing of the costs charges or expenses of incidental to or in connection with such work including all preliminary and incidental operations and every such account shall contain a true account first of the number of rods and parts of rods of brickwork and all digging and excavations and concrete (if any) stonework and other requisite materials and of the labour required in executing



*City of Sydney Improvement.*

so much of the work as such adjoining owner or other person shall be liable to pay and of the respective prices thereof and secondly of any deductions which such adjoining owner shall be entitled to make therefrom on account of the old materials of so much of the wall or other structure pulled down which shall have belonged to him and also a true account of the expenses of all other preliminary and incidental operations and all such works shall be estimated and valued in every such account at such rates and prices as shall be current for such work at the time of their erection And if within ten days from the delivery of such account such adjoining owner or other person be dissatisfied with the proportion of the amount thereof charged to him then the matter in dispute shall be heard and determined by arbitration in manner hereinafter provided.

63. Whenever by this Act any matter is required to be referred to or to be determined by arbitration each person interested in the matter in dispute shall within two months appoint one building surveyor or architect as arbitrator and such arbitrators shall before entering upon the said arbitration appoint some third building surveyor or architect to act as umpire in case they shall disagree and the decision of the said arbitrator or umpire as the case may be shall be final and conclusive between the parties Provided that in case the said arbitrators shall refuse or for two weeks after their appointment neglect to appoint an umpire then on the application of either party to the said arbitration the Surveyor shall appoint some duly qualified person to act as umpire in the premises And provided further that if only one arbitrator shall be appointed within the appointed time his sole decision shall be as final as though he were a duly appointed umpire and had given his decision as such.

64. The arbitrators or umpire as the case may be shall make their award within one month from the time of the reference to arbitration unless they or he shall see fit by writing under their or his hands to extend the time for any period not exceeding two months and in such award it shall be directed how when and by whom the amount thereby declared payable and the cost and expenses of the said arbitration shall be paid and such award may be made a rule of the Supreme Court.

65. In the absence of any covenant or agreement to the contrary between the parties it shall be lawful for any occupier to deduct from the rents due or to become due from him to his lessor or landlord the amount of any building fees and other fees costs charges and expenses paid by him as occupier by virtue of this Act and the costs charges and expenses of any distress or sale made on him through the default of his lessor or landlord and the receipt for such payment shall be a sufficient discharge to any occupier for so much money as he shall have so paid or which shall have been so levied on his goods and chattels in pursuance of the Act and shall be allowed by such lessor or landlord in part or in full payment (as the case may be) of the rent due or to be due to him by such occupier Provided always that any such occupier may recover the amount so paid or the amount remaining due after deduction of rent as aforesaid or otherwise in a summary way from such owner.

66. If the chimney of any building or premises shall take fire by reason of the occupant of such building or premises having neglected to cause such chimney to be sufficiently swept or cleaned or from any other neglect of such occupant then and in every such case such occupant shall be liable to a penalty of a sum not exceeding five pounds and not less than one pound And in every case the proof that such chimney did not take fire through the neglect of such occupant shall rest upon such occupant.

67. If any person employed in any building or in the alteration fitting up or decoration of any building shall wilfully and without the direction privity or consent of the person causing such work to be done do anything in or about such building contrary to the rules and directions

*City of Sydney Improvement.*

Penalty.

directions of this Act and if such person shall not immediately when required by the Surveyor desist from doing such irregular work or thing he shall for every such offence be liable to a penalty of a sum not exceeding forty shillings or to imprisonment for any period not exceeding one month if the said penalty be not paid immediately upon conviction.

Rewards in case of fire.

68. In the case of any fire within the limit of the City of Sydney the City Treasurer shall on the order of the Mayor make the following payments: To the turncock belonging to the waterworks whose water shall be found on and shall first come into the main or pipe where any plug shall be opened at such fire any sum not exceeding twenty shillings To the enginekeeper who first brings a fire-engine to help to extinguish any fire if in good order and complete with a good socket hose leather-pipe standcock and suction-pipe any sum not exceeding forty shillings To the keeper of the next engine which shall be next brought in such order and so complete to help to extinguish any such fire any sum not exceeding thirty shillings and to the keeper of any other engine which shall be third of such engines brought in such order and so complete to any such fire any sum not exceeding fifteen shillings.

Protection of person acting in pursuance of this Act.

69. If any action be brought against any person in respect of anything done or intended and believed by him to have been done in pursuance of this Act such person may plead the general issue (with or without any other plea or pleas) and give the special matter in evidence under that plea And no such action shall lie against any such person unless commenced within six months after the alleged cause of action or complaint shall have arisen nor unless notice in writing of an intention to bring such action and of the grounds of such action shall have been given to the person sought to be charged twenty-one clear days before the commencement of such action.

Recovery of penalties.

70. All penalties and fines imposed by this Act and all sums of money fees or other things recoverable under this Act shall be recovered and all offences under this Act shall be heard and determined in a summary way at the suit of the City Treasurer or the Surveyor before any stipendiary Magistrate or two Justices of the Peace in manner provided by the Act or Acts for the time being in force regulating summary proceedings before Justices and on such hearing full costs of suit may be allowed And where such penalty fine or other sum of money be not paid either immediately after conviction or within the time appointed by the conviction the same may be levied by distress and sale of the offenders goods and chattels and on failure of distress in manner provided by the Act eleventh and twelfth Victoria chapter forty-three as adopted by the fourteenth Victoria number forty-three and any Acts amending the same.

Appeal.

71. All persons aggrieved by any summary conviction or order under this Act may appeal therefrom in the manner provided by the Act or Acts for the time-being in force regulating appeals from Justices.

Penalties to be sued for within six months.

72. No person shall be liable to the payment of any penalty or fine imposed by virtue of this Act and made summarily recoverable thereunder unless the proceedings to enforce the same shall be commenced within six months after the commission of the offence in respect of which the liability has been incurred.

Appropriation of penalties.

73. Any stipendiary Magistrate or Justice imposing any penalty under this Act (of which no specific application is herein provided) may direct that a part not exceeding one moiety thereof shall be applied to compensate any person for any wrong or damage which he may have sustained by reason of the default in respect of which the penalty is imposed and subject to such directions or specific application as aforesaid all such penalties shall be paid to the City Treasurer and be by him placed to the credit of the City Fund or disposed of in such other way as the City Council may direct.

*City of Sydney Improvement.*

74. Wherever by this Act anything is directed to be done and no penalty is mentioned for non-performance or neglect thereof the person so offending shall in every case be liable to a penalty of a sum not exceeding twenty pounds and any person obstructing any person in the discharge of any duty imposed or in the exercise of any privilege conferred by this Act or by any by-law thereunder shall be liable to a penalty of a sum not exceeding ten pounds.

Penalties for non-performance where no special penalty mentioned.

75. Any notice or summons required by this Act to be given or served to or on any person (other than the Surveyor) shall be deemed to have been duly given or served in each case respectively on proof of such notice or summons having been personally delivered to the person to whom it is addressed or of its having been left at his usual or last known place of abode with some inmate above the age of twelve years or of its having been sent through the post by registered letter so addressed and if the buildings land or premises with reference to which the said notice or summons was to be given or served are unoccupied and the owner thereof is not known and cannot be found then in every such case it shall be sufficient to affix such notice or summons to some conspicuous part of such building land or premises at a height of not more than nine and not less than five feet from the ground.

Service of notices.

76. Where by this Act any notice or summons is required to be served upon or any consent is required or necessary to be given by any person and such person be a married woman other than a *cestuique* trust then such notice may be served upon and such consent be given by the husband of such woman And if such person be an infant idiot lunatic or *cestuique* trust then upon and by the guardian committee or trustee of or for such person as the case may be And if such husband guardian committee or trustee be not known or cannot be found then the Surveyor may with the sanction of the City Council give such consent in writing as may be requisite upon such terms and subject to such conditions as may seem fit to him having regard alike to the nature and purpose of the subject matter in respect of which and to the fair claims of the parties on whose behalf such consent is to be given.

Service of notices &c. and consent in the case of incapacitated persons.

## SCHEDULES REFERRED TO.

### SCHEDULE A.

RULES for determining the classes and rates to which buildings are to be deemed to belong for the purposes of this Act and the thickness of the walls of buildings of such rates.

#### PART I.

##### *Classes of buildings.*

FOR the purposes of this Act all buildings of whatever kind subject to the provisions thereof are to be deemed to belong to one or other of the following three classes that is to say:—

##### *First class.*

If such building be built originally as a dwelling-house or be occupied or intended to be occupied as such then it is to be deemed to belong to the first or dwelling-house class.

##### *Second class.*

If a building be built originally as a warehouse storehouse granary brewery distillery manufactory or workshop or be occupied or intended to be occupied as such or for a similar purpose then it is to be deemed to belong to the second or warehouse class.

##### *Third class.*

If a building be built originally as a church chapel or other place of public worship college hall hospital theatre public concert-room public ball-room public lecture-room public exhibition room or occupied or intended to be occupied as such or for a similar purpose or otherwise used or intended to be used either temporarily or permanently for the assemblage of persons in large numbers whether for public worship business instruction debate diversion or resort then it is to be deemed to belong to the third or public building class.

*Alteration*

*City of Sydney Improvement.*

*Alteration of class.*

If a building originally built or subsequently altered so as to bring it within any one class be subsequently converted into or used as a building of another class then it is to be deemed to belong to such other class and as to it all the conditions prescribed with regard to buildings of the same rate as such other class must be fulfilled as if it had been originally built of such class subject nevertheless to such modifications as shall be sanctioned by the Surveyor on supervision thereof or if a building be used partly as a dwelling-house and partly for any purpose which would bring it within the second or warehouse class and as to it all the conditions prescribed with regard to buildings of the same rate of such class must be fulfilled as if it had been originally built of such class subject nevertheless to such modifications as shall be sanctioned by the Surveyor on supervision thereof.

PART II.

*Rates of buildings.*

All the buildings included in the said classes are to be deemed to belong to the rates of those classes according to the conditions of height and number of stories set forth in the following table which conditions are to be determined according to the following rules:—

*Rule for ascertaining height.*

The height of every building is to be ascertained by measuring from the top of the footings thereof to the top of the wall.

*Rule for ascertaining number of stories.*

The stories of every building are to be counted from the foundation upwards and if the space in height between the top of the footings and the level of the lowest floor do not exceed six feet then the story nearest the foundation is to be considered the lowest or first story but if such space exceed six feet then such space is to be considered to contain the lowest or first story and in that case the top of the footings is to be considered the level of the lowest floor.

SCHEDULE B.

PART I.

CONDITIONS for determining the rates to which buildings of the first or dwelling house class are to be deemed to belong and the thickness of the external walls and of the party-walls thereof.

*Thickness of walls of dwelling-houses.*

The external and party walls of dwelling-houses shall be made throughout the different stories of the thickness shown in the following table arranged according to the heights and lengths of the walls and calculated for walls up to one hundred feet in height and supposed to be built solid of bricks not less than eight and a half inches and not more than nine and a half inches in length the heights of the stories being subject to the condition hereinafter given.

Table (referred to under Part I.)

*Explanation of tables.*

In using the above table the height of the wall is to be reckoned on the first vertical column on the left hand of the table and the length of the wall on the corresponding horizontal column. The thickness of the wall in each story is given in inches and begins with the wall from the base upwards.

*Qualification in case of certain walls.*

If any external or party wall measured from centre to centre is not more than twenty-five feet distant from any other external or party wall to which it is tied by the beams of any floor or floors other than the ground floor or the floor of any story formed in the roof the length of such wall is not to be taken into consideration and the thickness of the wall will be found in the second vertical column in the above table.

*Condition in respect of stories exceeding a certain height.*

If any story exceeds in height sixteen times the thickness prescribed for the walls of such story in the above table the thickness of each external and party wall throughout such story shall be increased to one-sixteenth part of the height of the story but any such additional thickness may be confined to piers properly distributed of which the collective widths amount to one-fourth part of the length of the wall.

*Restriction in case of certain stories.*

No story enclosed with walls less than thirteen inches in thickness shall be more than ten feet in height.

*Thickness of walls built of materials other than such bricks as aforesaid.*

The thickness of any wall of a dwelling-house if built of materials other than such bricks as aforesaid shall be deemed to be sufficient if made of the thickness required by the above tables or of such less thickness as may be approved by the City of

*City of Sydney Improvement.*

of Sydney Improvement Board with this exception that in the case of walls built of stone in which the beds of the masonry are not laid horizontally no diminution shall be allowed in the thickness required by the foregoing rules for such last-mentioned walls.

*Rule as to buildings not being of the public buildings or buildings of the warehouse class.*

All buildings excepting public buildings and such buildings as are hereinafter defined to be buildings of the warehouse class shall as respects the thickness of their walls be subject to the rules given for dwelling-houses.

*Table referred to under Part I.*

Height up to 100 feet.	Length up to 45 feet.	Length exceeding 45 feet.
	One story ... 26 in. Two stories ... 22 " Three stories ... 18 " Remainder ... 13½ "	Wall to be increased in thickness in each of the stories below the uppermost two stories by 4½ in. (subject to provisions respecting distribution in piers.)
Height up to 90 feet.	Length up to 45 feet.	Length exceeding 45 feet.
	One story ... 26 in. One story ... 22 " Three stories ... 18 " Remainder ... 13½ "	Same as above.
Height up to 80 feet.	Length up to 45 feet.	Length exceeding 45 feet.
	One story ... 22 in. Three stories ... 18 " Remainder ... 13½ "	Same as above.
Height up to 70 feet.	Length up to 45 feet.	Length exceeding 45 feet.
	One story ... 22 in. Two stories ... 18 " Remainder ... 13½ "	Same as above.
Height up to 60 feet.	Length up to 45 feet.	Length exceeding 45 feet.
	Two stories ... 18 in. Remainder ... 13½ "	One story ... .. 22 in. Two stories ... .. 18 " Remainder ... .. 13½ "
Height up to 50 feet.	Length up to 30 feet.	Length exceeding 45 feet.
	One story ... 18 in. To below topmost story ... 13½ " Remainder ... 9 "	
Height up to 40 feet.	Length up to 45 feet.	Length exceeding 45 feet.
	Two stories ... 18 in. Remainder ... 13½ "	
Height up to 30 feet.	Length up to 35 feet.	Length exceeding 35 feet.
	To below topmost story ... 13½ in. Remainder ... 9 "	
Height up to 25 feet.	To below topmost story ... 13½ in. Remainder ... 9 "	Length exceeding 30 feet.
	Length up to 30 feet.	
Height up to 25 feet.	Length up to 30 feet.	Length exceeding 30 feet.
	If two stories ... 9 in. If more than two stories to below topmost story 13½ " Remainder ... 9 "	

*City of Sydney Improvement.*

SCHEDULE B.

PART II.

RULES for the walls of the public building and warehouse class.

*Definition of warehouse class.\**

\* This class includes all buildings which are not dwelling-houses.

The warehouse class shall comprise all warehouses manufactories breweries and distilleries.

*Thickness at base.*

The external and party walls of buildings of the warehouse class shall at the base be made of the thickness shown in the adjoining table (Part II.) calculated for walls up to one hundred feet in height and supposed to be built solid of bricks not less than eight and a half inches and not more than nine and a half inches in length.

Table (referred to under Part II).

*Explanation of table.*

The above table is to be used in the same manner as the table previously given for the walls of dwelling-houses and is subject to the same qualifications and conditions respecting walls not more than twenty-five feet distant from each other.

*Thickness at top of walls and through intermediate space.*

The thickness of the walls of buildings of the warehouse class at the top and for sixteen feet below the top shall be thirteen inches and the intermediate parts of the wall between the base and such sixteen feet below the top shall be built solid throughout the space between straight lines drawn on each side of the wall and joining the thickness at the base to the thickness at sixteen feet below the top as above determined nevertheless in walls not exceeding thirty feet in height the walls of the topmost story may be eight inches and a half thick.

*Condition in respect of stories exceeding a certain height.*

If in any story of a building of the warehouse class the thickness of the wall as determined by the rules hereinbefore given is less than one-fourteenth part of the height of such story the thickness of the wall shall be increased to one-fourteenth part of the height of the story but any such additional thickness may be confined to piers properly distributed of which the collective widths amount to one-fourth part of the length of the wall.

*Thickness of walls built of materials other than such bricks as aforesaid.*

The thickness of any wall of a building of the warehouse class if built of materials other than such bricks as aforesaid shall be deemed to be sufficient if made of the thickness required by the above tables or of such less thickness as may be approved by the City of Sydney Improvement Board with this exception that in the case of walls built of stone in which the beds of the masonry are not laid horizontally no diminution shall be allowed in the thickness required by the foregoing rules for such last-mentioned walls.

MISCELLANEOUS.

*Cross walls.*

The thickness of a cross wall shall be two-thirds of the thickness hereinbefore required for an external or party wall of the same dimensions and belonging to the same class of buildings but never less than eight and a half inches and no wall subdividing any building shall be deemed to be a cross wall unless it is carried up two-thirds of the height of the external or party walls and unless the recesses and openings therein do not exceed one-half of the vertical surface of the wall in each story.

*Extra thickness of certain stone walls.*

The thickness of every stone wall in which the beds of the masonry are not laid horizontally shall be one-third greater than the thickness prescribed in the rules aforesaid.

*Table*

*City of Sydney Improvement.**Table referred to under Part II.*

Height up to 100 feet.	Length up to 45 feet. Base ... .. 26½ in.	Length exceeding 45 feet. Wall to be increased in thickness from base to within 16 feet of the top by 4½ in. subject to provision respecting piers.
Height up to 90 feet.	Length up to 45 feet. Base ... .. 26 in.	Length exceeding 45 feet. Same as above.
Height up to 80 feet.	Length up to 45 feet. Base ... .. 22 in.	Length exceeding 45 feet. Same as above.
Height up to 70 feet.	Length up to 45 feet. Base ... .. 22 in.	Length exceeding 45 feet. Same as above.
Height up to 60 feet.	Length up to 45 feet. Base ... .. 22 in.	Length exceeding 45 feet. Base ... .. 26 in.
Height up to 50 feet.	Length up to 30 feet. Base ... .. 18 in.	Length exceeding 45 feet. Base ... .. 26 in.
	Length up to 45 feet. Base ... .. 22 in.	
Height up to 40 feet.	Length up to 35 feet. Base ... .. 13½ in.	Length exceeding 45 feet. Base... .. 22 in.
	Length up to 45 feet. Base ... .. 18 in.	
Height up to 30 feet.	Length up to 45 feet. Base ... .. 13½ in.	Length exceeding 45 feet. Base ... .. 18 in.
Height up to 25 feet.		Length unlimited. Base ... .. 13½ in.

## PART III.

*Rules concerning buildings of the second or warehouse class.*

No stack of warehouses or stores shall contain more than one hundred squares of building on any floor including respectively all the external and internal walls and so much of the party-walls (if any) as shall belong thereto and no building for stables shall contain more than twenty-five squares of building on any floor including respectively all the external and internal walls and so much of the party-walls (if any) as shall belong thereto and no enlargement shall be at any time hereafter made to any such stack of warehouses stores or stables so as to increase the size of such buildings above the respective dimensions aforesaid unless such building shall be separated and divided by one or more party-walls (built in every respect according to the directions contained in this Act) into divisions not exceeding such dimensions as aforesaid and no stack of warehouses stores or stables shall communicate with any other warehouse store or stable or any other building whatever through a party-wall unless the door-case and sill of every such communication be of brick and unless there be to every such communication a door of wrought iron on each side of the wall of the thickness of a quarter of an inch at least in the panels thereof and no timber bond or lintel shall be laid into any wall in any such stack of warehouses stores or stables nearer than eighteen inches to the opening of such communication and no opening shall be broken through the external or party wall of any adjoining building for the purpose of connecting two or more buildings without the sanction of the Surveyor and any such opening shall have a door of wrought iron on each side of the wall and shall be completed in every respect to the satisfaction of the Surveyor.

*City of Sydney Improvement.*

PART IV.

*Rule concerning drainage.*

If there be within fifty feet of any building or the enclosures or fences about the building a common sewer into which it is lawful and practicable to drain then such building shall be drained into such common sewer and if there be not within such distance a common sewer then to some other outlet approved of by the City Council but in either case the drains shall be so laid or constructed so as to drain (if practicable) the lowest floors of such building and also of its areas water-closets offices stables or cow-sheds etc And all such drains shall be constructed of such internal dimensions and of such materials and in such a manner as shall be satisfactory to the Surveyor All drains hereafter to be laid or constructed under any building shall not be covered up or hidden until they have been examined and approved of by the Surveyor And any opening upon any premises leading to any drain or sewer now laid or constructed or hereafter to be laid or constructed which ought in the opinion of the Health Officer Inspector of Nuisances and the Surveyor to have a gully with stench-trap and grating to such opening shall have a gully built and completed with stench trap and grating to such opening in such manner as shall be satisfactory to the Surveyor Any drain or sewer now laid or constructed or hereafter laid or constructed which shall be deemed a nuisance by the Health Officer Inspector of Nuisances and the Surveyor shall be removed abolished re-constructed repaired or amended in such manner as such officers may direct.

SCHEDULE C.

*Rule concerning walls of whatever kind.—Foundations.*

Every wall must be built upon a constructed footing based upon solid ground or upon other sufficient foundations unless such wall be built upon a rock foundation Anti damp courses formed of slate cement or other approved materials (shall when required by the Surveyor) be built in the foundations of any building hereafter to be built.

(1.) *Materials of footings.*

Every footing must be built of bricks or stone or of bricks and stone together and laid in mortar or cement so as to produce solid work or of concrete of such quality as shall be approved by the Surveyor.

(2.) *Width of footings.*

The bottom of the footing of every external wall and party-wall of the first and second rate must be at the least eight inches wider than the wall standing thereon and the bottom of every external wall and party-wall of the third fourth and fifth rate and of every party-fence wall must be at the least four inches wider than the wall standing thereon.

(3.) *Height and depth of footing.*

The footing of every external and party wall must be wholly below the upper surface of the pavement and flooring of the cellar or ground story.

*Soil to be removed below joists &c.*

All soil shall be removed to a depth of at least nine inches below the under edge of all joists forming the basement or ground floor of any building hereafter to be built or rebuilt and all such floors shall be ventilated to the satisfaction of the Surveyor except in the case of the space between the floor and the ground being solidly filled in with concrete on which tiles boards or cement may be laid to form a floor.

*Construction of materials of external walls.*

Every external wall or external enclosure to buildings of every rate or class and of every addition or enlargement hereafter to be made to any building now erected or hereafter to be erected shall be erected with reference to height and thickness subject to the provisions of this Act and of Schedules A B and C and every external wall or external enclosure and every chimney breast jamb shaft and flue whatsoever shall be built of brick stone artificial stone or partly of brick and partly of stone or of brick and stone together which material shall be laid with mortar or cement in the beds and joints thereof so as to produce solid work except such work in iron or other metal as may be necessary in such walls and except such piling bridging and planking as shall be necessary for the foundation of the same and also except the necessary templets chains bond-timbers and also except the doors sashes window-shutters and blinds and door and window frames to such buildings and the tiers and stories of door cases and doors to all such warehouses as are or shall be now erecting or shall hereafter be erected all which window and door frames shall be set in reveals and recessed at least four inches from the external surface of any external wall belonging to the building in which such window-frames and door-frames shall be fixed and also except the bresssummers or story-posts and plates which may be made on the ground story only and no bresssummers or story-posts whatever shall be fixed



*City of Sydney Improvement.*

fixed in the external wall of any building above the ground story thereof except the ends of girders and story-posts for the internal support of floors and also except all stall boards entablatures and other trimmings or dressings necessary for shop fronts and no part of the wood-work of any shop front shall be fixed nearer than four and a-half inches to the wood-work of any adjoining premises unless a pier or corbel of stone brick or other fire-proof material four and a half inches wide at the least is built or fixed next to such adjoining premises as high as such wood-work is fixed and projects one inch at the least in front of the face thereof and all bressummers story-posts and the tiers or stories of door-cases and doors to all warehouses as before mentioned are not hereby required to be fixed in reveals but may be fixed two inches within the external surface of such external wall and no timber-work whatever other than and except such bressummers story-posts and such tiers or stories of door-cases doors and the timber necessary for verandahs and balconies shall be laid in any such external wall nearer than four inches to the external surface thereof and every such story-post which shall be fixed as a support to two fronts being the corner of any street square place court or way shall be of brick or stone or iron or hardwood.

Nevertheless in such external walls besides all requisite openings for doors and windows recesses may be formed so that the back thereof be of the thickness of eight inches at the least and does not exceed eight feet in width.

*(2.) Materials deemed dangerous to health not to be used in erection of buildings.*

No materials that have been used in the construction of any cesspit drain or sewer or that may be considered by the Health Officer dangerous to health shall be permitted to be used in the erection or repair of any building.

*(3.) Bressummers—With regard to any bressummers to be fixed to carry any front wall of any building.*

If such bressummers have a bearing at one end upon a party-wall or external wall then it must be laid upon a templet or corbel of stone or wood or iron and the end of such bressummer must not have its bearing solely upon such party-wall or external wall but must bear upon a constructed return (or pier) in the direction of the length of the bressummer of four and a-half inches at the least and of the full width of such bressummer coursed and bounded with the substance of such party-wall or external wall or by an iron column or iron or timber story-posts standing in and clear of such party-walls or external walls and fixed upon a solid foundation.

And if any such bressummer have its bearing at each end upon a party-wall or external wall then it must be laid upon a templet or corbel of stone or wood or iron and the end of such bressummer must not have its bearing solely upon such party-walls or external walls but must bear upon two constructed returns (or piers) in the direction of the length of the bressummer of four and a-half inches at the least and if the full width of such bressummer coursed and bounded with the substance of such party-walls or external walls or by iron columns or iron or timber story-posts standing in and clear of such party-walls or external walls and fixed upon solid foundations and there shall be a thickness of four and a-half inches at the least of solid brick or stone work between the end or ends of every such bressummer and the end of any bressummer or other timber of any adjoining building unless such bressummer be constructed of iron or other equally fire-proof material.

*(4.) Materials to be used in repairs and in re-building walls or external enclosures.*

Every wall or other external enclosure begun or built before the passing of this Act though not built of the materials required by this Act may be at all times thereafter repaired with materials of the same sort as those of which such wall or external enclosure have been already built provided such wall or external enclosure do not encroach upon a public thoroughfare beyond the building-line of any street and if any such wall or external enclosure be at any time thereafter taken down or otherwise demolished for a space equal to one-fourth of the whole surface of such wall or external enclosure then every part thereof not built in the manner and of the several materials by this Act directed for walls or external enclosures must be taken down and the same must be rebuilt in such manner and of such materials and in all respects as by this Act directed for walls or external enclosures hereafter to be built or rebuilt but not so as to extend beyond the building-line.

*(5.) External walls shall not become party-walls except under certain conditions.*

If the external wall of any building be not of such height and thickness or be not built in such manner and of such materials as are herein directed for party-walls of buildings of the highest rate to which such wall shall adjoin then such external wall must not be used as a party-wall for any such building but there must be a distinct external wall built as herein described for external walls of the rate to which it shall belong. But if such external wall to any building already built be at the least thirteen inches in thickness in every part and be of sound and proper materials and in good condition then such wall may be used as a party-wall subject to the approval of the Surveyor.

*City of Sydney Improvement.*

## PART I.

*Division of building by party-walls.*

Any wall used to divide single buildings into two or more distinct parts must be built as a party-wall in the manner and of the materials and of the several heights and thickness for party-walls of the highest rate of building to which such party-wall shall belong or adjoin as prescribed in reference to the thickness of party-walls in this Act and in Schedules A B and C.

And if any building already built or which shall be hereafter built be converted used or occupied as two or more separate buildings each having a separate entrance or staircase such conversion use or occupation not having been made or have taken place prior to this Act coming into operation then every such building shall be deemed to be two or more separate buildings and such separate buildings must be divided from each other by a party-wall or party arch or arches built in the manner and of the materials required for party-walls or for party arches for the class and rate to which the largest of the buildings divided shall belong.

*(2.) Sites of party-walls—walls.*

If the buildings be of equal rate then such party-wall must be built on the line of the junction of such building one-half on the ground of the owner of one of such buildings and one-half on the ground of the other of such buildings.

If such buildings be of different rates then each wall must be built on the line of junction thereof as follows—that is to say one-half of the thickness of the wall required for the building of the lower rate on the ground of each of the adjoining owners and the whole of the additional thickness of the wall required for the building of the higher rate on the ground of the owner of such building of the higher rate.

And if such building of the lower rate be hereafter enlarged or altered so as to become a building of a higher rate then the owner of such first-mentioned building of the higher rate for the time being shall be entitled to receive from the owner of such building of the lower rate such sum of money as shall be a sufficient compensation for the ground occupied by that portion of the party-wall which according to the rate of building enlarged ought to have been built by its owner on his ground as well as the value of so much of the wall itself as may be more than the owner of such building of the lower rate has paid for.

*(3.) Construction and materials of party-walls.*

All party-walls to buildings of every rate or class and of every addition and enlargement thereafter to be made to any building already erected or hereafter to be erected shall be erected with reference to height and thickness subject to the provisions of this Act and of Schedules A B and C and every party-wall chimney breast jamb shaft and flue whatever shall be built of brick stone artificial stone or partly of brick and partly of stone or brick and stone together which materials shall be laid with mortar or cement in the beds and joints thereof so as to produce solid work except such work in iron or other metal as may be necessary in such walls and no timber shall be laid into any party-arch except for bond to the same nor into any party-wall other than such templets chains and bond timbers as shall be necessary for the same and other than the ends of girders beams purlines bresssummers trimming joists the ends of partition heads or sills and the bearing ends of the main timbers of a roof and wood bricks may be laid into the substance of a party-wall but no such templets chains bond timbers girders beams purlines bresssummers trimming joists partition heads or sills or other principal timbers shall be laid in such party-wall without having at least four and a half inches of solid brick or stone work between the ends and sides of every such piece of timber and any timber of any adjoining building And if the ends of timbers be carried on iron shoes or stone corbels then such iron shoes or stone corbels must be built into the wall at the least one half the thickness of such wall.

*(4.) Height and thickness of parapets to external walls.*

If an external wall of any building or addition adjoin a gutter or the external wall or roof of an adjoining building then such external wall must be carried up and remain one foot three inches at the least above the highest part of such gutter or the roof of such adjoining building and the thickness of such parapet to a first rate building shall be twelve inches at the least and the thickness of the parapets to all other rates shall be eight and a half inches at the least.

*(5.) Height and thickness of parapets to party-walls.*

Every party-wall and every addition or enlargement thereto shall be carried up and remain one foot three inches at the least above the roof of the highest building which shall adjoin thereto measuring at a right angle with the back of the rafters of such roof and shall be corbelled out to the extent of two inches at the least beyond the external face of any projecting eave if such projecting eave is constructed of wood or other inflammable material and every such party-wall shall be carried up and remain two feet above the highest part of any gutter in the flat of any roof of any rate or class of building adjoining thereto and shall be covered or coped on the top with stone or brick or other sufficient waterproof and fireproof covering.

If there be fixed within four feet of a party-wall upon the flat or roof of any building any turret dormer lantern light or other erection of combustible materials then every

*City of Sydney Improvement.*

every such party-wall must be carried up and remain next to every such turret dormer lantern light or other erection and must extend one foot six inches higher and one foot six inches wider than any such erection or each side thereof.

Openings hereafter to be made in external or party-walls of dwelling-houses of any rate whereby two or more buildings shall be united may be united by doors or openings made through the party-walls thereof provided the consent of the surveyor shall first be obtained. Providing such openings continue only so long as such premises shall be in one and the same occupation and no longer and when not so occupied shall be built up with brick or stone of the full thickness of such party-wall and properly bonded into same.

*(6.) Recesses and chases in party-wall.*

In every story recesses may be formed so that such recesses be arched over in every story and that the backs of such recesses are not of less thickness than eight and a half inches.

No chase shall be made in any party-wall wider than fourteen inches nor more than four and a half inches deep from the face of the wall nor so as to leave less than eight and a half inches in the back or opposite side thereof and no chase may be within a distance of seven feet from any other chase on the same side of the wall.

## PART VII.

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

No person shall cut into or maim any party-arch or any party-wall nor the shaft of any chimney now built or hereafter to be built other than for the purposes and in the manner hereafter mentioned that is to say when the front or back wall of any house or building being in a line with the front or back wall of the house or building adjoining thereto shall at any time hereafter be built it shall be lawful to cut or break not more than nine inches deep from the external face of such front or back wall and to the centre of such party-wall for the purpose of inserting piers therein and the end of such new front or back wall and it shall be lawful to cut into any party-wall for the purpose of tailing in stone steps or stone landings or for placing in such party-wall timber for bearers to wood stairs so as no such timber bearer be laid into any party-wall nearer than eight inches and a half to any chimney or flue whatever or nearer than four inches to any timber of the adjoining house or building or to the internal finishing of such adjoining house or building for the purpose of laying therein stone corbels for the support of chimney jambs girders beams purlins binding or trimming joists or of other principal timbers but every person who shall cut into any party-wall for any of the purposes aforesaid shall immediately and without delay make good and well and effectually pin up with brick stone slate tile or iron bedded in mortar every defect which shall be occasioned by the cutting of any such party-wall and no party-wall shall be cut for any of the purposes aforesaid if the cutting thereof will injure displace or endanger the timbers chimneys flues or internal finishing of the adjoining buildings.

## SCHEDULE D.

*Rule concerning projections beyond building-line of street.*

No bow window or other projection shall be built or added to any building fronting any public street square court or way so as to project beyond the building-line of such street except such projections as may be necessary for copings cornices facias door and window dressings pilastres strings or other architectural decoration water-pipes and balconies and no cornice or covering thereof to any shop-window shall in any street or way thirty feet wide or more project more than eighteen inches nor in any street or way less than thirty feet wide more than thirteen inches from the upright line of the building to which such shop-window belongs and no cornice or covering to any shop-window shall be built lower than nine (9) feet in the clear measuring from the level of the foot-path of such street over which it projects and no pilastre architraves window-sills down-pipes or architectural decorations shall below the said height of nine feet project more than three inches beyond the building-line of any such street court or way and no steps shall be placed so as to project beyond the building-line of any street and no other projection whatever except as above specified shall project beyond the upright line of the building and no coping cornice or other projection shall overhang the ground belonging to any other owner or obstruct the light and air or be otherwise injurious to the owners or occupiers of the buildings adjoining thereto or any side thereof.

*(2.) Rule concerning gates doors &c.*

No gate or door shall be permitted to be constructed to open beyond the building-line of any premises fronting any street unless the lowest part of such gate or door is ten feet at the least above the level of the road or footway of such street.

*(3.) Rule concerning verandahs and porticos.*

Open verandahs and porticos may be constructed to buildings provided no part thereof project beyond the building-line of any street court or way and shall not be built nearer than one foot to the angle of the building to which they belong or than nine inches to the centre line of a party-wall unless wholly separated from any adjoining premises verandah portico or balcony by a party-wall of brick or stone not less than nine inches in thickness and twelve inches above the roof and every part thereof.

*City of Sydney Improvement.*

## SCHEDULE E.

(1.) *Rule concerning chimneys hereafter built or re-built.*

All chimneys and chimney stacks shall be built of brick or stone or other incombustible materials and chimneys built on corbels of brick or stone may be introduced above the level of the ceiling of the ground story if the work so corbelled out does not project from the wall more than the thickness of the wall but all other chimneys shall be built on solid foundations and with regard to angle chimneys such chimneys may be built in the internal angles of any building provided that it be properly supported on iron girders with brick arches or on strong stone landings or on other strong and sufficient foundation to the satisfaction of the Surveyor And every chimney shaft or flue hereafter built raised or repaired must be carried up in brick or stone work all round at least four inches thick to a height of not less than three feet above the highest part of such portion of the roof flat or gutter adjoining thereto measured at the front of junction and as to any chimney shaft (except that of a steam-engine brewery distillery or manufactory) the brick or stone work of such shaft or flue must not be built higher than eight feet above the slope flat or gutter of the roof which it adjoins measured from the highest point of junction unless such chimney shaft be built of increased thickness or be built with and bonded to another chimney shaft or be otherwise rendered secure and as to the chimney shaft for the boiler furnace of any engine or for any brewery distillery or manufactory such shaft may be erected of any height so that it be built in such manner and of such strength and dimensions as shall be satisfactory to the Surveyor upon special application in each case And every chimney chimney-stack pipe or funnel which shall be deemed by the Surveyor dangerous by fire or otherwise to any premises or building or a nuisance to the occupants thereof shall be rebuilt repaired altered removed or amended as may be directed by the Surveyor.

(2.) *Dimensions and materials.*

The jambs of every chimney must not be less than eight inches and a half on each side of such opening and the breast of every chimney and the front back or partition of every flue must be at the least four inches in thickness of bricks and the joints of the work must be filled in with good mortar or cement and all the inside thereof and also the outside or face thereof next the interior of any building must be rendered or pargetted and no flue may be used for a smoke flue which is of less internal diameter in any section than eight inches and a-half.

(3.) *Timber or woodwork.*

No timber shall be placed over any opening for supporting the breast of any chimney but there must be an arch of brick or stone over the opening of every such chimney to support the breasts thereof.

No timber or wood-work shall be placed or laid in any wall under any chimney-opening within eighteen inches at the least of the surface of the hearth of the fire-place of such chimney opening and if timber or woodwork be affixed to the front of any jamb or mantle or to the front or back of any chimney or flue then it must be fixed by iron nails or holdfasts or other iron fastenings which must not be or be driven nearer than two inches to the inside of any flue or to the opening of any chimney and such timber or wood-work must not be nearer than two inches to the opening of any chimney and no timber must be laid or placed within three inches of the face or breast back side or jamb of any flue or of any chimney opening where the substance of brick-work or stonework shall be less than eight inches and a-half thick nor must any flooring-board batten ground-skirting or other fitting of wood nor any wood staircase nor anything else of wood be fixed or placed against or near to the face or breast back side or jamb of any flue fire-place or chimney-opening unless and until the brick or stone work constituting the same shall have been thoroughly and efficiently rendered or pargetted with proper mortar or stucco and such rendering must be in every case in addition to four inches at least of solid fire-proof structure.

(4.) *Slabs and hearths.*

A slab or slabs of brick tile stone slate marble or other proper and sufficient substance at the least twelve inches longer than the opening of every chimney where finished and at the least eighteen inches in width must be laid before the opening of every chimney or upon brick trimmers or upon iron bars of size and strength to the satisfaction of the builder surveyor but in the lowest floor they may be on brick stone or other sufficient foundations.

The inside hearth of every chimney must be laid and bedded wholly on brick or stone or other incombustible substance of a thickness of nine inches at the least beneath the surface of any such hearth.

(5.) *Backs.*

The back of every chimney-opening from the hearth up to the height of twelve inches above the mantle must at the least be eight inches and a-half thick.

(6.) *Chimney-openings back to back.*

If two chimneys be built back to back then the thickness between the same must be at the least of the thickness hereinbefore described for the back of one chimney-opening.

(7.)

*City of Sydney Improvement.*(7.) *Angles of Flues.*

Chimneys and flues having proper doors of not less than six inches square may be constructed at any angle but in every other chimney or flue the angle shall be constructed of an obtuseness of not less than one hundred and thirty degrees and shall be properly rounded.

(8.) *Close Fires.*

Every oven furnace cockle or closed fire used for the purpose of trade or manufacture must not be upon nor within a distance of eighteen inches of any timber or woodwork and the floor on or above which such oven furnace cockle or close fire shall be built or fixed must be formed and paved under and for a distance of two feet all round the same with stone brick tile or slate at the least two inches thick or other proper incombustible and non-conducting materials.

(9.) *Chimney-pots tubes &c.—And as to earthen or metal chimney-pots tubes funnels or cowls of any description whatever.*

Any pot tube funnel or cowl which shall be fixed to any chimney or flue shall be fixed or secured to the satisfaction of the surveyor.

(10.) *Smoke-pipes.*

The following rule shall be observed for conveying smoke heated-air steam or hot water :—

- No pipe for conveying smoke heated-air steam or hot water shall be fixed against any building on the face next to any street alley or public way.
- No pipe for conveying heated-air or steam shall be fixed nearer than six inches to any combustible materials.
- No pipe for carrying hot water shall be placed nearer than three inches to any combustible material.
- No pipe for conveying smoke or other products of combustion shall be fixed nearer than nine inches to any combustible material.

(11.) *Cutting into chimney.*

No chimney shaft jamb or breast or flue shall be cut into except for the purpose of repair or doing some one or more of the following things :—

- Of letting in or removing or altering flues pipes or funnels for the conveyance of smoke hot-air or steam or of letting in removing or altering smoke-jacks.
- Of forming openings for soot-doors such openings to be fitted with a close iron-door and frame.
- Of making openings for the insertion of regulating valves subject to the following restrictions—that no opening shall be made nearer than twelve inches to any timber or combustible substance.

## SCHEDULE F.

(1.) *Rule concerning roof-covering.*

Every flat gutter and roof of every building and of any projection therefrom and of every covered verandah balcony or passage and every turret dormer lantern-light or other erection which shall be in the flat or roof of any such building and every external part of any flat gutter roof dormer and lantern in any building now built or hereafter to be built or rebuilt stripped ripped or uncovered shall in every such part except the door-frames and doors windows frames and sashes of such turrets dormers lantern-lights or other erection shall be covered with glass iron copper lead tin zinc or other metal slate tile or artificial stone or cement.

(2.) *Rain-water pipes.*

The roof flat or gutter of every building and every balcony shop-front or other projection must be so arranged and constructed and so supplied with gutters and pipes made of metal or other incombustible material as to prevent the water therefrom from dropping upon or running over any public way but the water therefrom must be conducted under-ground through an earthenware or cast-iron pipe to the gutter or place where the same is intended to be placed or to the nearest sewer or drain.

(3.) *Basement or cellar rooms.*

All lowermost rooms of buildings being rooms of which the surface of the floor is more than three feet below the surface of the footway of the nearest street shall (if such rooms cannot otherwise be lighted to the satisfaction of the Surveyor) be lighted by means of apertures or areas extending under the footways and shall be enclosed by solid masonry and be covered with iron grating level with the surface of such footway Provided that no such aperture area or grating do extend from the building-line under the footway more than one foot eight inches nor more than four feet in width and no other opening shall be permitted to be made in or under any footway without the sanction of the City Council.

(4.)

---

*City of Sydney Improvement.*


---

(4.) *Ventilation and lighting &c. of dwelling-houses.*

Every room not being a store-room or bath-room in any dwelling-house hereafter to be built or rebuilt or in any addition shall be ventilated by means of an opening communicating with the external air or in any other manner that may be approved of by the Surveyor and Health Officer and all window-sashes casements shall either be double-hung made to slide horizontally or hung with hinges to the satisfaction of the Surveyor.

(5.) *Height of rooms.*

There shall not be more than one floor of rooms in the roof of any building hereafter to be built or rebuilt and such rooms shall not be of less height than seven feet six inches except the sloping part of such roof and such sloping part shall not begin at a less height than three feet six inches above the floor and with regard to rooms in other parts of the building such rooms shall not be of less height than eight feet from the floor to the ceiling.

(6.) *Rule concerning construction of Privies.*

There shall be a cesspit to every privy and such cesspit shall be constructed of good sound bricks bedded jointed flushed and grouted in cement and the walls of such cesspit shall not be less than nine inches in thickness and there shall be a bottom thereto not less than nine inches in thickness built of good sound bricks (on edge) in two courses of four and a-half inches each course bedded jointed flushed and grouted in cement (constructed of such shape as the surveyor may direct) and the interior dimensions of such cesspit when completed shall not be less than four feet by three feet six inches wide by four feet deep measuring from the bottom of the cesspit to the under edge of the joist forming the floor and the walls thereof shall be built to a height of at least six inches above the highest part of the surface of the ground surrounding the same. And the whole of the interior face of the walls and the bottom of such cesspit shall be rendered and floated in cement to a thickness of at least five-eighths of an inch. And every cesspit shall be made perfectly watertight. The cement to be used shall be the best English Portland cement (or any other cement approved of by the Surveyor) well mixed with clean sand in the proportion of one of cement to one of sand. And no pipe or drain of any description whatsoever shall be connected with any cesspit. And every privy and closet shall be enclosed with approved materials and shall have a rain-proof roof a door properly hung with latch and bolt a floor a riser and a seat and shall be lighted ventilated and screened from public view and shall be built in every respect to the satisfaction of the Surveyor.

---

**SCHEDULE G.**
**SCHEDULES OF FEES PAYABLE TO SURVEYOR.****I.—Fees for new Buildings.**

For every building not exceeding four hundred square feet in area and if one story only in height the fee shall be two pounds.

For every additional story—five shillings.

For every additional square of one hundred feet or fraction of such square—five shillings.

But no fee shall exceed ten pounds.

**II.—Fees for additions or alterations.**

For every addition or alteration made to any building after the roof thereof has been covered in the fee shall be half of the fee charged in the case of a new building.

For inspecting the formation of openings in party-wall—one pound.

For the inspection and removal of projections and dangerous buildings—two pounds.

N.B.—In this Schedule “area” shall not include the area of any attached building.

---

**SCHEDULE H.**
**No. 1.**

To the City Building Surveyor

TAKE notice that I intend to erect a building [or make an addition or alteration to or pull down a building situate [here sufficiently describe the situation] [or that I intend to build or rebuild or pull down or cut into or alter] a party-wall [or external wall or chimney stack or flue or as the case may be] situate [here sufficiently describe the situation] And that A.B. of [sufficiently identify] is to be the architect [or builder or superintendent] of the works to be executed and that the said works will be commenced on the

day of  
Dated this                      day of

(Signature and address)

*City of Sydney Improvement.*

No. 2.

To the City Building Surveyor

TAKE notice that I intend to recommence the works referred to in my notice to you dated the            day of            and that such works will be so commenced on the            day of            Dated this            day of

*(Signature and address)*

No. 3.

To            Owner [or agent for or

I HEREBY give you notice that the works now in progress under your superintendence [or of which you are the owner] situated in [*here sufficiently describe the situation*] are not in conformity with the provisions of the "City of Sydney Improvement Act of 1879" in the particulars undermentioned and I require you within forty-eight hours from the receipt hereof to amend the same.

Irregularities referred to.

Dated this            day of

*(Signed)*

City Building Surveyor.

No. 4.

To            of

TAKE notice that I intend on the expiration of one month from the date of service hereof to build on the line of junction between my land situate [*here sufficiently describe situation*] and your vacant land adjoining on the            side thereof a party-wall [or party-fence or party-fence wall or external wall or as the case may be] which will be of the undernoted thickness and dimensions.

*Particulars.*

Dated the            day of

*(Signature and address)*

No. 5.

To A.B.            of

WITH reference to the work referred to in your notice to me dated the            day of            take notice that I require the dimensions and thickness thereof to be increased as undermentioned.

[*Here state alteration required*]

Dated this            day of

*(Signature and address)*

No. 6.

To A.B.            of

TAKE notice that unless within seven days from the date of delivery hereof you have [*here specify the work required to be done*] extending from the house [or building or premises] situate [*here sufficiently describe situation*] over the boundary-line between such house [or as the case may be] and my adjoining premises [or land] situate on the            side thereof I will cause            the same to be done at your risk and expense.

Dated this            day of

*(Signature and address)*

No. 7.

To A.B.            of

TAKE notice that on the expiration of one month from the date of service hereof I intend to build [or take down or erect or cut into or alter] the party-wall [or external wall or party-fence or fence wall or chimney jambs or breasts or flue of chimneys or as the case may be] on the line of junction between my house [or building or premises or land] situate [*here sufficiently describe the situation*] and the house [or as the case may be] adjoining on the            side thereof.

And that C.D.            of            is to be the architect [or builder or superintendent] and have charge of the works to be executed And that such work will be commenced on the            day of

Dated this            day of

*(Signature and address)*

No. 8.

To A.B.            of

TAKE notice that I intend on the expiration of one month from the date of service hereof to raise [or pull down and raise] the party-wall [or fence or fence-wall] on the line of junction between my house [or building or premises or land] situate [*describe sufficiently the situation*] and the house [or building or premises or land] thereto adjoining on the            side thereof and that such party-wall [or &c.] is intended to be [*describe height thickness and quality of material*] and that the said wall will be commenced on the            day of

Dated this            day of

*(Signature and address)*

No. 9.

---

*City of Sydney Improvement.*


---

No. 9.

To A.B. of

TAKE notice that I intend on the expiration of three months from the date thereof to pull down the timber partition [*or as the case may be*] and instead thereof to build a party-wall on the line of junction between my house [*or building as the case may be*] situated [*here sufficiently describe situation*] and the house [*or building or as the case may be*] thereto adjoining on the side thereof and that the said work will be begun on the day of

(Signature and address)

Dated the day of

No. 10.

To A.B. of

TAKE notice that I apprehend that the party-wall party-arch external wall [*or as the case may be*] or some part thereof on the line of junction between my house [*or building or ground*] situated [*here describe situation*] and the house [*or building or ground*] thereto adjoining situated on the side thereof is so far out of repair as to render it necessary to repair or pull down and rebuild such party-wall [*or party-arch or external wall as the case may be*] such wall or some part thereof and that I intend to have such wall surveyed pursuant to the Act And also that I have given notice to the surveyor for the purpose of his certifying as to the condition of such wall and as to whether the whole or any part thereof ought to be repaired or pulled down and rebuilt.

(Signature and address)

Dated the day of

No. 11.

To the City Building Surveyor.

TAKE notice that I apprehend that the party-wall [*or party-arch or external wall or as the case may be*] or some part thereof on the line of junction between my house [*or building or ground*] situated [*here describe situation*] and the house [*or building or ground*] thereto adjoining situated on the east [*west north or south*] side thereof is so far out of repair as to render it necessary to repair or pull down and rebuild such wall or some part thereof and that I require a survey thereof to be made pursuant to the Act and that in the presence of such one or more surveyors or agents appointed by me or by [A.B.] the owner of the adjoining property for the purpose of certifying the condition of such wall and whether the whole or any part thereof ought to be repaired or pulled down and rebuilt and I do hereby also intimate that I have served notice on [A.B.] in accordance with the Act.

(Signature and address)

Dated the day of

No. 12.

To A.B. of

TAKE notice that if within one month from the date of service hereof you do not stop up the opening made in the external wall on the side of your premises situated [*here describe the situation*] and which abuts on my ground [*or house or premises or building*] I shall at your expense cause the same to be stopped up conformably with the "City of Sydney Improvement Act of 1879."

(Signature and address)

Dated the day of

No. 13.

To A.B. of

TAKE notice that I intend on the expiration of seven days from the date of service hereof to enter upon the land [*or house or building or premises*] adjoining my land [*or house or building or premises*] on the side thereof for the purpose of performing the undermentioned works

[Specify works.]

(Signature and address)

Dated the day of

No. 14.

To A.B. of

TAKE notice that I intend on the expiration of one month after the date of service hereof to build an external wall against the existing party [*or external wall between my premises or land*] situate [*here describe situation*] and the adjoining house [*or building or premises or land*] on the side thereof and to cut away such portions of the footings or chimney breasts or chimney shafts [*or as the case may be*] in such party [*or external*] wall as will be necessary for the purpose of such building as aforesaid.

(Signature and address)

Dated the day of