

No. III.

SYDNEY
CORPORATION.An Act to consolidate and amend the Laws
relating to the Corporation of the City of
Sydney. [4th July, 1879.]

Preamble.

WHEREAS it is expedient to consolidate and amend the law relating to the Corporation of the City of Sydney and to make provision in other respects for the better government thereof as well as for other purposes 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 :—

PART I.

Preliminary.

Short title.

1. This Act may be cited as the "Sydney Corporation Act of 1879" and shall come into force on the first day of August one thousand eight hundred and seventy-nine It is divided into the Thirteen Parts comprising the subjects following viz. :—

PART I.—*Preliminary.*PART II.—*Constitution of Municipal Council — Auditors — Citizens Rolls—Disqualifications and Exemptions.*PART III.—*Election of Aldermen—Bribery—Penalties.*PART IV.—*Appointment of Officers—Meetings and Proceedings of Council.*PART V.—*Powers of Council as to Regulation of Public Ways.*PART VI.—*City Rate—Assessment Payment and Enforcement of Rates.*PART VII.—*Markets—Parks—Cattle Sale Yards &c.*PART VIII.—*Water Supply—Water and Street Watering Rates —Provisions against polluting Water.*PART IX.—*City Health Officer — Cleansing Public Ways — Cesspits—Drains—Nuisances.*PART X.—*Sewerage.*PART XI.—*Endowment—Cancellation of certain Debts—Licenses.*PART XII.—*Revenue—Accounts—Borrowing Powers.*PART XIII.—*By-laws—Miscellaneous Provisions—Procedure.*

Repeal of Acts.

2. The Acts specified in Schedule A hereto are hereby repealed to the extent therein expressed but without prejudicing or in any way affecting anything lawfully established done or commenced under any of such Acts.

Interpretation of
terms.

3. In the construction of this Act the following words within inverted commas shall unless the context otherwise indicate have the meanings and include the persons animals and things set against them respectively—

"Building"—Any house dwelling office shop store warehouse manufactory counting-house stable coach-house theatre or other building or erection whatsoever with the appurtenances thereto belonging.

" Building-

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- “Building-line”—A line inside of and in all its parts corresponding with the outer line of the curbing as now or hereafter lawfully defined and at the authorized distance therefrom as shown upon the plan approved by the Council of any street such building-line being so measured irrespective of the width of the carriage-way.
- “By-law”—Any by-law or regulation duly made by the Council according to the provisions of this Act or of any Act hereby repealed.
- “Cattle”—Horses sheep lambs oxen bulls cows calves pigs and goats.
- “Cess-pit”—Any pan or other receptacle for night-soil.
- “Citizen”—Every person whose name is included in the roll of citizens.
- “City”—The City of Sydney.
- “Civic Office”—The office of Mayor Alderman Auditor Town Clerk Treasurer Health Officer Engineer Surveyor or Inspector of Nuisances for the City.
- “Corporation”—The Mayor Aldermen and Citizens of the City of Sydney.
- “Council”—The Municipal Council of the City of Sydney.
- “Gazette”—The *Government Gazette*.
- “Governor”—The Governor with the advice of the Executive Council.
- “Justice”—A Justice of the Peace.
- “Landlord”—The owner or person at the time receiving rent from the tenant of any premises.
- “Owner”—The landlord or person at the time receiving the rent for any premises whether on his own account or otherwise or who shall claim to be the owner.
- “Premises”—Any land whether a building be erected thereon or not.
- “Public Way”—Any road highway street square lane court alley or other public thoroughfare or place whether the same be in actual use or not.
- “Rate”—Any rate made payable under the provisions of this Act.
- “Rolls”—The lists of citizens for the several wards duly certified as hereinafter provided.
- “Tenant”—Any person occupying any premises not being employed and paid as a *boná fide* servant of the owner thereof.
- “Town Clerk”—The Town Clerk or other person legally authorized to act as such for the time being.
- “Wards”—The eight wards into which the City is divided.

4. The Mayor Aldermen and Citizens of the City of Sydney shall continue to be a Corporation under the style and title of “The Municipal Council of Sydney” and under that name shall have perpetual succession and a common seal may sue and be sued in all Courts purchase and hold real and personal property of any description whatsoever to the use and for the purposes only of the said Corporation may grant alienate and convey sell assign or demise for any term not exceeding twenty-one years any real or personal estate and generally may exercise subject to the provisions of this Act all powers incident to a body corporate And every action suit prosecution or other proceeding whatsoever instituted before the commencement of this Act by or against the Corporation or the Municipal Council of Sydney may be continued without any alteration of any pleading legal process or record and all decrees injunctions and orders duly made and all fines and penalties lawfully imposed and incurred and all rates duly made or so much thereof as shall not have been levied and recovered may be enforced levied and recovered by and in the name of the Corporation or the Municipal Council of

Municipal Council to
continue to be a
Corporation.

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of Sydney in like manner as they could have been enforced levied and recovered if this Act had not been passed And all real and personal property of what description soever now belonging to or vested in the Municipal Council of Sydney shall continue to belong to and vest in the said Municipal Council subject to the provisions hereinafter contained And all contracts appointments and engagements made by the said Municipal Council together with all rights and liabilities existing at the commencement of this Act shall be and continue to be as binding on and as enforceable in favour of the said Municipal Council as if this Act had not been passed.

Boundaries of City
and Wards.

5. The boundaries of the City of Sydney shall be those described in Schedule B hereto and the City shall be divided into the eight wards following viz.—Gipps Ward Bourke Ward Brisbane Ward Macquarie Ward Cook Ward Fitzroy Ward Phillip Ward and Denison Ward the boundaries of which wards shall be those respectively described in Schedule C hereto.

PART II.

Constitution of Municipal Council—Auditors—Citizens Rolls.

Municipal Council.

6. The Municipal Council of the City of Sydney hereinafter termed "the Council" shall consist of twenty-four Aldermen three of whom shall be elected for each ward and from whom the Mayor shall be elected in manner hereinafter mentioned And any citizen capable of voting for the election of an Alderman and not disqualified under the provisions of this Act shall be eligible as an Alderman Provided always that any person holding any Civic office in or under the Municipal Council of Sydney at the commencement of this Act shall continue to hold the same until another person is elected or appointed under the provisions of this Act.

Auditors.

7. There shall be two Auditors for the City and any citizen qualified to be elected an Alderman shall be eligible to fill the office of Auditor.

Lists of citizens
capable of voting
to be made for each
ward.

8. On or before the first day of July in every year a list shall be made for each Ward by the Town Clerk of all persons capable under the provisions of this Act of voting in and for the election of the Mayor Aldermen and Auditors And such list shall be alphabetically arranged according to the form in Schedule D hereto and shall be made up from the receipts for City rates paid to the thirtieth day of June in each year given to citizens by the City Treasurer and shall be signed by the Town Clerk and published by being suspended from the fifteenth to the thirty-first days of July at such places in the several wards as shall be appointed by the Mayor and the said list shall be so arranged as to have the house of every citizen capable of voting entered therein under the name of the ward for which he is rated.

Revision Courts
to amend and settle
lists.

9. The Mayor and two Aldermen shall hold an open Revision Court in each ward for the purpose of revising and settling the list of Citizens between the tenth and thirty-first days of August in every year And the Mayor shall fix the first days of meeting and shall give at least three clear days notice of the holding of every such Court and the time and place appointed by fixing such notice on the outer door of the Town Hall and publishing the same in the *Gazette* and some other Sydney newspaper And every such Court shall hear any application from any citizen in writing made to the Town Clerk at least seven days previously for the amendment of such list either by inserting any names omitted or removing any names improperly appearing therein and any such sitting may be adjourned from day to day until the whole of the said list shall be finally settled.

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10. The Mayor shall in open Court write his initials against the names struck out or inserted as aforesaid and against any part of the list in which any mistake shall have been corrected or omission supplied and shall sign his name to every page of the list so settled and shall then cause to be written at the end of the list a certificate that the same has been revised and is correct and the Mayor shall there and then sign such certificate. And a copy of any such list certified by the Town Clerk to be correct shall be deemed to be the roll of citizens for the ward for which the same has been made out and shall be receivable in all Courts as *prima facie* evidence of such roll having been duly made and of the correctness of the contents thereof.

Certificate &c. of revision.

11. If at the time of the list being so amended it shall be proved on oath or otherwise to the satisfaction of the said Revision Court that any rate or part of such rate payable by any citizen is in arrear and unpaid his name shall not be inserted or retained therein.

No citizen owing rates to be retained on list.

12. No citizen whose name does not appear on the roll shall be entitled to vote at the election of any Alderman or Auditor and then only for such ward or wards as by the roll it appears such citizen is entitled to vote in and for and for such period only as the roll shall under the provisions of this Act be in force. And every citizen shall be entitled to give one or more votes at every such election according to the following scale that is to say:—

Only citizens on roll entitled to vote at elections.

- (1.) If he pay rates upon property assessed at an annual value not exceeding twenty-five pounds—one vote
- (2.) If he pay rates upon property assessed at an annual value exceeding twenty-five pounds and not exceeding seventy-five pounds—two votes
- (3.) If he pay rates upon property assessed at an annual value exceeding seventy-five pounds and not exceeding one hundred and fifty pounds—three votes
- (4.) If he pay rates upon property assessed at an annual value exceeding one hundred and fifty pounds—four votes

Cumulative votes.

And no citizen shall be entitled to more than four votes in any one ward or to vote otherwise than in respect of the aggregate or collective value at which his property in any one ward is assessed.

13. Every Judge of the Supreme or of a District Court and every person who holds any place of profit under the Crown or the Council or who is a Military or Naval officer on full pay in any force other than the Volunteer Force of this Colony and every person of unsound mind and every uncertificated insolvent or person who has compounded with his creditors shall be disqualified from being elected or from continuing to hold the office of either Alderman or Auditor. But such disqualification as to any person becoming insolvent or compounding with his creditors shall continue for the period of three years only from the time of his so becoming insolvent or compounding with his creditors. Provided that in the case of insolvency such insolvent shall have obtained his certificate.

Persons disqualified for election.

14. Any person who while holding any civic office under this Act shall continue to be or shall become directly or indirectly by means of partnership with any other person or otherwise howsoever knowingly engaged or interested in any contract agreement or employment with or on behalf of the Council except as a shareholder but not being a director in any joint stock company shall be liable to a penalty not exceeding one hundred pounds nor less than fifty pounds and shall be for three years thereafter disqualified from holding any civic office.

Civic officers contracting liable to penalty.

15. Members of the Legislative Council and Legislative Assembly respectively of New South Wales may claim exemption from serving in any civic office.

Members of Council and Assembly exempt.

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PART III.

Election of Aldermen—Bribery—Penalties.

Election of Aldermen.

16. In every ward on the first day of December in each year one Alderman shall retire from office and a new election of an Alderman shall take place on that day but such retiring Alderman shall be eligible for re-election. But in order to provide for the first election under this Act and for subsequent retirements in each year of the aforesaid number of Aldermen the following procedure shall be observed viz.:—

- (1.) The Aldermen now in office who were elected under the provisions of the Acts hereby repealed shall continue to hold office but eight shall retire on the first day of December one thousand eight hundred and eighty and eight on the same day and month of the year one thousand eight hundred and eighty-one those first elected retiring first.
- (2.) On the first day of December in this present year eight Aldermen shall be elected one for each ward but at that election no retirements shall take place in order that the Council may then be composed of twenty-four Aldermen.
- (3.) At every subsequent election eight Aldermen shall retire and eight shall be elected and the Aldermen to retire shall subject to the provisions hereinbefore contained be the eight first elected.
- (4.) In every case the retiring Aldermen shall be eligible for re-election if qualified in other respects.

Nomination of Aldermen.

17. On and after the tenth day and until noon of the fifth day next before any election of Aldermen any two citizens qualified to vote in any ward may by writing nominate to the Mayor for election in that ward any other citizen or two citizens if two Aldermen are to be elected and no more but no such nomination shall be received and no proceedings in respect of the same shall be taken unless it be accompanied by a consent to such nomination signed by each person nominated. On the two days next before the election and on the day of election there shall be published under the hand of the Returning Officer in two daily newspapers published in Sydney the names and residences of all citizens so nominated specifying their wards and the names and residences of two at least of their nominators.

Election when no opposition.

18. If at any election of Aldermen no greater number of persons in any ward shall be nominated for election than the number then to be elected the Returning Officer shall declare in manner hereinafter provided each person nominated to be duly elected.

Scrutineers.

19. Every person nominated may appoint a scrutineer on his behalf at the election for which such person may be nominated and such scrutineer before so acting shall subscribe and make a declaration in the form in Schedule E hereto.

Returning and Presiding Officers.

20. Every election for an Alderman shall be holden before the Mayor as Returning Officer in one ward and in the other wards before such Alderman or other citizen as Presiding Officer as the Mayor may appoint in writing under his hand and if any such officer be prevented from attending by unavoidable accident a substitute with like powers may be appointed in the same manner.

Polling booths.

21. For every election of Aldermen the Returning Officer shall cause booths to be erected or rooms to be provided at one or more polling place or polling places in and for each ward as he may deem necessary and shall cause such booths or rooms to be so divided and arranged as to carry into effect the provisions of this Act with inner compartments opening only into the room in which the ballot-box is placed and supplied with writing materials so that the voters may fill up their ballot-papers in secrecy. And every person wilfully intruding

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intruding into any compartment shall be deemed guilty of a misdemeanor and may be forthwith given into custody by the Presiding Officer and dealt with accordingly.

22. The Returning Officer shall also cause to be furnished for the use of each polling place printed copies of the roll and a sufficient number of ballot-papers according to the form in Schedule F hereto together with a ballot-box with a secure lock and with an aperture for the reception of the ballot-papers and shall appoint a poll clerk And a public notice of the situation of each polling place shall be published by the Returning Officer in any two daily newspapers published in Sydney two days before the day of election.

Ballot-boxes &c. supplied.

23. There shall be one key only to each ballot-box which the Returning Officer shall always keep and the boxes shall be by him locked before the election and unlocked after the election.

Key of ballot-boxes.

24. The voting shall at every election commence at eight o'clock in the morning and shall finally close at four o'clock in the afternoon of the same day unless adjourned as hereinafter provided.

Hours of voting.

25. Each citizen shall enter unattended unless in case of necessity into the booth or room in which the ballot-box is kept and thereupon the Presiding Officer or poll clerk having marked off the name of such citizen on a copy of the roll specially provided for that purpose (which shall be *prima facie* evidence of the identity of such voter with the person whose name shall be so marked off on the roll and of the fact of his having voted at such election) shall give him a ballot-paper according to the form in Schedule F hereto for each vote to which he is entitled which such citizen shall take into an inner compartment and there without delay cancel by striking through the name of every candidate except such as he intends to vote for and shall then fold up each ballot-paper so as to conceal the names and immediately put it into the ballot-box and thereupon he shall at once quit such booth or room and shall not re-enter the same during the election Provided that no two voters shall be in the same inner compartment at the same time and that no ballot-paper shall be valid in which are left uncanceled more names than there are persons to be elected.

Mode of voting.

26. Any Presiding Officer scrutineer or poll clerk may vote in any ward other than that in which he acts by immediately before the examination of the contents of the several ballot-boxes depositing his ballot-paper in the ballot-box for such ward.

Presiding Officer how to vote.

27. In case any citizen desirous of voting is blind or cannot read the Presiding Officer shall openly in the ballot-room strike through the names of all persons nominated upon such ballot-paper except such as the citizen shall declare his intention to vote for and shall thereupon exhibit the same to the scrutineers.

Blind or illiterate citizens.

28. At the close of the poll the ballot-boxes shall be sealed up or otherwise secured by the several Presiding Officers in the presence of such scrutineers as choose to attend so as to prevent any ballot-papers being taken therefrom or inserted therein and shall forthwith be conveyed by the Presiding Officers to the Town Hall and be delivered to the Returning Officer.

Disposal of ballot-boxes.

29. Immediately after such delivery to the Returning Officer of the said boxes the whole of the ballot-papers shall be examined and the votes counted by the Returning Officer and such other Presiding Officers and scrutineers as may attend and the result of the election shall be thereby ascertained And the Mayor shall on the second day after the election declare in the *Gazette* which shall then be published expressly for the purpose and in two daily newspapers published in Sydney the names of the Aldermen so elected for the several wards and the Town Clerk shall send by post a separate notice in writing of his election to every such Alderman addressed to his usual place of abode.

Declaration of the election.

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Disposal of ballot-papers.

30. All such ballot-papers together with the polling lists used thereat shall be sealed up and deposited by the Town Clerk with the records of the Council and the sealed packets containing the same shall be endorsed as being the papers connected with the election to which they relate And in case any question arises touching the election such papers upon production thereof with a certificate thereon under the hand of the Town Clerk that the same were so in his custody shall be received as conclusive evidence of such being the original papers in any legal proceedings And after three months such packets with their contents may be destroyed.

No inquiry at elections.

31. No question shall be put to any person applying to vote at any election of a Mayor Aldermen or Auditors other than the following "Are you the person named as number in the Citizens Roll for Ward" (the name and corresponding number being at the time mentioned to him) and every person wilfully making a false answer to such question shall be deemed guilty of a misdemeanour And no person shall be allowed to vote unless he shall answer such question satisfactorily Provided always that no person shall be excluded from voting at an election unless it shall appear to the Presiding Officer that the person claiming to vote is not the person whose name appears on the roll or that he has previously voted at the same election within the same ward or otherwise contrary to this Act.

Nomination and election of Auditors

32. On the same day in each year as that on which Aldermen are annually elected under the provisions of this Act two citizens qualified to be but not being Aldermen shall be elected Auditors for the following year commencing on the first day of January up to which time the retiring Auditors shall hold office and such retiring officers or either of them may be re-elected But no citizen shall be elected an Auditor unless he be nominated for such election to the Mayor under the hand of two other citizens not being Aldermen before twelve o'clock at noon on a day not more than ten nor less than five days before such election and unless his name and residence with those of his proposers or any two of them be published twice at least in two daily newspapers published in the City Provided further that no such nomination shall be valid or in any way acted upon unless assented to in writing by the person so nominated In every election of Auditors the proceedings shall be as nearly as practicable the same as for the election of Aldermen The persons elected shall be those for whom there shall appear to be a majority of votes in all the wards collectively and the Returning Officer shall declare the result of every such election at the same time and in the same way as herein provided in regard to the declaration of the election of an Alderman and no citizen shall be entitled to vote in more than one ward at any election for Auditors.

Retirement and election of Mayor.

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

Extraordinary vacancy of Aldermen or Auditors.

34. When any extraordinary vacancy shall occur in the office of Alderman or Auditor the citizens entitled to vote shall upon a day to be fixed by the Mayor not exceeding fourteen days after the occurrence of such vacancy and of which day he shall give notice in the *Gazette* and in one daily or other Sydney newspaper elect another citizen to supply such vacancy who shall thereupon hold such office for the residue of the regular term of office of his predecessor but he shall then be eligible for re-election if still qualified.

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35. Where the proceedings at any election of Aldermen or Auditors are interrupted or obstructed by any riot or open violence the poll may be adjourned to the following or such other day and hour as the Presiding Officer shall determine and declare and if necessary shall be in like manner further adjourned until all interruption or obstruction has ceased when the poll shall be resumed.

Adjournment of election on account of interruptions.

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

Adjournment for other causes.

37. In the event of the number of votes being equal for any two or more candidates the Returning Officer shall have a casting vote and give the same in writing and thereupon declare which of such candidates shall be duly elected.

Returning Officer to vote in case of equality.

38. No election under this Act shall be questioned by reason of any defect in the right or title to act or any want of right or title to act on the part of any Returning or Presiding Officer if he shall have really acted at such election nor by reason of any formal defect in any declaration or other instrument or in any publication under this Act Nor shall any of the proceedings of the Council afterwards be rendered invalid thereby And no advantage shall be taken of any such defect respecting any such election in any action brought in any Court of Justice.

Election not void for defects.

39. In case no election of the Mayor or of any Alderman or Auditor takes place upon the day provided for such election or if in case of any such election being held the same is afterwards declared void whether through the default of any officer concerned in such election or by any accident or other means whatsoever the Corporation or Council shall not thereby be deemed to be dissolved or to be disabled from taking any necessary steps for the election of a Mayor or Alderman or Auditor for the future but in any such case the election to any such civic office shall be held as in the case of an extraordinary vacancy and every act necessary to be done for completing such election shall be as valid as if the election were held upon the day or within the time originally appointed for that purpose.

Void or lapsed elections.

40. Subject to the provisions of this Act every election upon any extraordinary vacancy in any Civic office shall be held and carried out in all respects in the same way as an ordinary election for the same office And in order to provide for the interval during which the lists shall not be duly compiled and perfected into rolls under the provisions hereinbefore contained all elections of Aldermen and Auditors whether to fill extraordinary or other vacancies shall up to and including the first day of November one thousand eight hundred and eighty be conducted in accordance with the provisions of the several Acts hereby repealed And the citizen's lists prepared in pursuance of the said Acts shall be in force for the purpose of all such elections but no longer.

Extraordinary elections conducted as in ordinary elections.

41. Every Mayor Alderman and Auditor shall previously to acting as such take the oath of allegiance to Her Majesty and make and subscribe the following declaration of office and transmit the same to the Town Clerk:—

Oath of allegiance and declaration of office.

“ I having been elected Mayor (or Alderman or Auditor) of the City of Sydney do hereby declare that I will duly and faithfully fulfil the duties of the office according to the best of my judgment and ability”

And the neglect to make such declaration within fourteen days after notice of his election shall be deemed a refusal to accept office.

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Disqualifications
of office.

42. Every citizen holding the office of Mayor Alderman or Auditor who shall be declared insolvent or shall compound with his creditors or be absent from his official duties or the meetings of the Council (unless for illness certified by a duly qualified medical practitioner) for more than three consecutive months not having obtained leave of absence from the Council shall thereupon cease to hold his office and he shall be disqualified from election to any civic office until he shall have obtained his certificate or paid his debts in full or obtained a release from his creditors.

What to constitute
an extraordinary
vacancy.

43. An extraordinary vacancy in the office of a Mayor Alderman or Auditor shall be held to occur upon any of such persons ceasing to hold office before the expiration of the period for which he has been elected or is entitled to hold office. And whenever in consequence of absence from illness or otherwise it shall not be possible for any Alderman or Auditor or Town Clerk or any other officer or person to perform any duty which by this Act he is directed to perform it shall be lawful for the Mayor to appoint any other Alderman Auditor or person to perform the same for the time being. And if in like manner the Mayor shall be prevented from performing any duty imposed on him by this Act the Aldermen shall by the majority of their votes appoint one of themselves to perform it.

Acts of bribery.

44. Every act hereinafter enumerated shall be deemed and taken to be an act of bribery on the part of any candidate whether committed by such candidate or by any agent authorized to act for him in any manner respecting his election for either of the offices of Mayor Alderman or Auditor if committed with his knowledge or consent and every person guilty of any such act shall be deemed guilty of a misdemeanor and be punished accordingly that is to say—

- (1.) The giving any money or any other article whatsoever to any elector with a view to influence his vote.
- (2.) The holding out to any elector any promise or expectation of profit advancement or enrichment to himself or to any of his family or kindred friends or dependants in any shape or manner with the like view.
- (3.) The making use of any threat to any elector or otherwise intimidating him in any manner in the giving or withholding of his vote.
- (4.) Treating any elector by giving him liquor or otherwise with a view to influence his vote.
- (5.) Supplying him with meat drink lodging or horse or carriage hire with the like view.
- (6.) The payment to any elector of any sum of money for acting or joining in any procession during such election or before or after the same with the like motive.
- (7.) The keeping open or allowing to be kept open any public-house shop booth or tent or place of entertainment whether liquor or refreshment of any kind be distributed at such place of entertainment or not with the like motive.
- (8.) The giving of any dinner or other entertainment at any place whatsoever by a candidate to any number of electors before or during the election with the like motive.

Such acts to avoid
election.

45. The commission of any of the aforesaid acts shall render void the election of the person committing such act either by himself or by any such agent and when committed with his knowledge or consent shall disqualify him from holding or acting in any such Municipal office during the period of three years then next following.

What actions not
maintainable against
candidates &c.

46. No action or suit shall be maintainable by any publican or any owner or keeper of any shop booth tent or other place of entertainment against any candidate or any agent of any such candidate
for

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for any liquor food or refreshment of any kind whether for man or beast supplied upon the credit of any such candidate or agent as aforesaid during the progress of any such election under this Act.

47. If any person having or claiming any right to vote in any election of Mayor Aldermen or Auditor under this Act shall ask or take any money or other reward by way of gift loan or other device Or agree or contract for any money gift office employment or other reward whatsoever to give or to forbear to give his vote in any such election Or if any person by himself or by any person employed by him shall by any gift or reward or by any promise agreement or security for any gift or reward corrupt or procure or offer to corrupt or procure any person to give or withhold his vote in any such election such person shall for every such offence be liable to a penalty of fifty pounds.

Penalty for offering or taking reward for voting or abstaining from voting.

48. Any person who shall vote or attempt to vote a second time in the same election for an Auditor or who shall vote or attempt to vote a second time in the same ward at the same election for any Alderman or who shall vote or attempt to vote in or for any ward in respect of which he is not qualified or who shall personate or attempt to personate any other person for the purpose of voting at any such election shall be guilty of a misdemeanor and be punished accordingly.

Second voting and personation.

49. The Mayor shall during his Mayoralty be *ex officio* a Justice of the Peace for the Colony and shall preside at all Municipal proceedings and all Magisterial Courts within the City except those of General and Quarter Sessions and shall have precedence in the City and in all other places on all occasions next after Members of the Legislative Assembly.

Mayor *ex officio* a Justice &c.

50. If it shall appear upon affidavit that any person declared elected to be Mayor or an Alderman or Auditor has been unduly elected or that any person has been elected to or holds or exercises such office of Mayor Alderman or Auditor and is incapable under the provisions hereof of being or continuing such Mayor Alderman or Auditor it shall be lawful for the Supreme Court or any Judge thereof to grant a rule or order calling upon such person to shew cause to the Court why he should not be by the said Court ousted of the said office and upon the return of such rule or order if it shall appear to the Court that such person so elected or holding or exercising such office respectively was unduly elected or was at the time of his election or while holding or exercising such office incapable under the provisions hereof of being or continuing such Mayor Alderman or Auditor as the case may be the Court may make such rule or order absolute or may discharge such rule or order and in either case with or without the payment of costs to or by either party as the Court shall deem meet And the person against whom any rule shall be made absolute as aforesaid shall be deemed thereby to be ousted of such office accordingly Provided that no such order or rule shall in any case be granted if at the time of the application for such rule or order more than one month has elapsed after the election or the time when the person against whom such application shall be made shall have been disqualified.

Disputed elections or exercise of office.

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PART IV.

*Appointment of Officers—Meetings and Proceedings of Council.*Appointment of
officers.

51. The Council shall appoint a Town Clerk a City Treasurer a Health Officer (being a duly qualified medical practitioner) a City Engineer a City Surveyor and an Inspector of Nuisances and such other officers and servants as may be necessary and shall either at the time of their appointment or from time to time by special resolution of the Council in that behalf or by any by-laws assign to them respectively such duties salaries wages or other remuneration as the Council may deem right But every such officer or servant who by virtue of his office or employment may receive or have in his hands or under his control any moneys the property of the Corporation or Council shall give security sufficient in the opinion of the Council for the duly accounting for any such moneys and until he shall have given such security shall not enter upon the discharge of his duties nor be entitled to receive any salary.

Custody of seal and
muniments.

52. The Town Clerk shall have the charge and custody in the Town Hall or such other place in Sydney as the Council shall direct of the common seal and of all charters grants deeds muniments and records of the Corporation or Council or relating to the property thereof as well as all rolls of citizens ballot-papers ballot-boxes and all books letters and documents not relating to accounts.

Suspension of officers
and servants.

53. The Mayor may suspend any officer or servant of the Council guilty in his opinion of misconduct or neglect and may appoint a substitute taking from him if deemed necessary security for the faithful discharge of his duties Provided that the Mayor shall report the matter to the Council at their next meeting and that such substitute shall hold office and receive remuneration not exceeding that of the person suspended and only until the Council decide whether such person shall be re-instated or dismissed And if the Council confirm such suspension or dismiss the officer or servant he shall not be entitled to any salary or wages after the day of suspension.

Proviso.

Collectors &c. to pay
over moneys.

54. Every collector or other officer appointed or employed by the Council to collect money shall within three days after he has received any moneys belonging to the Corporation pay over the same to the City Treasurer whose receipt shall be a sufficient discharge for the same And every such collector or officer shall within such time and in such manner as the Council may direct either by any by-laws in that behalf or otherwise deliver to the Council true and perfect accounts and statements in writing under his hand of all moneys received by him.

Penalty on defaulters
&c.

55. If any such collector or other officer fail to render such accounts or statements as aforesaid or to produce and deliver up all the vouchers and receipts relating to the same in his possession or power or to pay any moneys of the Corporation that may be in his hands when thereunto required or if for three days after being thereunto required he fails to deliver up to the Council or to any person appointed by the Council to receive the same all books papers and writings property effects matters and things in his possession or power relating to the execution of his office or belonging to the Corporation or Council then on complaint thereof being made to any Justice he shall summon such officer to appear before him or any other Justice at a time and place to be set forth in such summons to answer such charge and upon the appearance of such officer or upon proof that such summons was personally served upon him or left at his last known place of abode such Justice may hear and determine the matter in a summary way and may adjust and declare the balance owing by such officer

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officer and if it appear either upon confession of such officer or upon inspection of the accounts or other evidence that any moneys of the Corporation are in the hands of such officer or owing by him to the Corporation such Justice may order such officer to pay the same and if he fail to pay the amount such orders warrants and proceedings may be made issued and taken as are authorized under any Statute in force for the time being under which Justices have summary jurisdiction for enforcing the payment or punishing the party offending for non-payment of money ordered to be paid and not paid And any officer employed by the Council who shall wilfully destroy any documents of or belonging to the Council shall be deemed guilty of a misdemeanor.

56. If any person duly authorized by the Council to act on behalf of the Corporation makes oath before any Justice that he truly believes upon grounds to be stated in his deposition that it is the intention of any such officer as aforesaid to abscond such Justice may instead of a summons issue his warrant for bringing such officer before such or any other Justice but no person executing such warrant shall keep such officer in custody longer than twenty-four hours without bringing him before some Justice who may either discharge such officer if he think there is no sufficient ground for his detention or order him to be detained in custody so as to be brought before him or some other Justice again at a time and place to be named in such order unless such officer give bail to the satisfaction of such Justice for his appearance at the time and place appointed to answer the complaint of the Corporation.

Remedy against absconders.

57. No such proceedings or other dealing with any such officer as aforesaid shall prejudice or affect any remedy which the Corporation may otherwise have by any existing law against such officer or his surety.

Not to affect other remedies.

58. Quarterly meetings of the Council shall be held at noon on the ninth day of March June September and December in every year.

Quarterly meetings of Council.

59. Notice of the time and place of every intended meeting of the Council shall be signed by the Town Clerk and shall be left at or sent by post to the usual or last known place of abode or business of every Member of the Council in time for reaching him twenty-four hours at least before the intended meeting and such notice shall state the business to be transacted at the meeting and no other shall be entertained.

Notice of meeting.

60. The Mayor may call meetings of the Council when he thinks fit and for such purpose shall direct the proper notices to be sent by the Town Clerk And the Mayor shall on receiving a requisition in writing in that behalf signed by at least five Aldermen stating the objects for which they require a special meeting call the same and if the Mayor shall refuse or delay for seven days to call such meeting the Aldermen making such requisition may call such meeting and may by writing under their hands direct the Town Clerk to send the requisite notices for the same.

Special meetings.

61. The quorum of Members of Council for transacting business shall be nine and if that number be not assembled within fifteen minutes after the hour fixed the meeting shall lapse but if the Mayor be present he shall have the power of adjourning such meeting till any other day named by him.

Quorum.

62. The Mayor if present shall preside at all meetings of the Council or of any committee of which he is a member and in his absence the Aldermen present shall elect one of their number to be chairman for the occasion and in case of an equality of votes for the election of a chairman the chairman shall be chosen by lot.

Chairman.

63. All questions of whatever kind at any meeting shall be decided by a majority of the votes of members present but in case of an equality of votes the chairman shall have a casting vote.

Decision of questions.

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Committees.

64. The Council may appoint from their own body any committee of any number not less than eight for any purpose which would in the opinion of the Council be better effected by such committee with such powers as the Council shall appoint and may fix the quorum of such committee in default of which five shall be a quorum. And so far as may be consistent with any provision of this Act and any by-law in that behalf for the time being in force every such committee may meet and adjourn at pleasure. Provided always that the acts of every such committee shall be submitted to the Council for approval and if not confirmed shall have no validity.

Proviso.

Minutes.

65. Minutes of every meeting of the Council shall be fairly transcribed into a book to be kept for that purpose and shall be read at the next succeeding Council meeting and if approved as correct shall be signed by the chairman of that meeting as being read and confirmed.

Remuneration of the Mayor and Auditors.

66. The Mayor and Auditors may receive from the City Fund such allowance for their services as the Council may from time to time determine.

PART V.

Powers of Council for regulation of Public Ways.

Public ways vested in Council.

67. All public ways in the City of Sydney now or hereafter formed shall be vested in the Council who shall have full power to alter widen level divert extend construct improve maintain repair and order such public ways and the footpaths thereof and to carry off any water mud or filth therefrom by means of sewers channels or drains or otherwise subject to the provisions of this Act and any by-laws made by the Council in that behalf. But no public way shall be opened altered widened diverted or extended or the width or the footpath thereof fixed or altered until the approval thereto of the Governor shall have been obtained and notice of such approval shall have been published in the *Gazette*.

Powers of City Surveyor.

68. The City Surveyor or any other surveyor appointed by the Council subject to the provisions of this or any other Act and any by-laws or regulations made under their authority shall within the boundaries of the City perform and may exercise all the duties and powers imposed and conferred upon the Town Surveyor of Sydney by the Act fourth William the Fourth number seven.

Width and formation of streets.

69. No street lane or alley shall be formed within the city unless such street be of the width of sixty-six feet at least and such lane or alley of the width of twenty feet at least in every part thereof respectively the width of such streets lanes and alleys respectively to be ascertained by measuring at right angles to the course thereof from the building-line on each side of such street lane or alley. And every such lane or alley shall have one or more entrances thereto of the same width as the lane and one of such entrances at the least shall be uncovered. And every such street lane or alley shall be formed in all respects according to any regulations in that behalf in any by-laws duly made under the authority of this Act.

Public ways on private land to be formed by owner.

70. Every person who shall hereafter propose to lay out upon his own premises within the city a public way shall before so doing deposit with the Town Clerk plans and sections signed by the owner showing the direction width and levels of any such proposed public way and no person shall lay out or form the same until he shall have received a notice from the Town Clerk signifying the approval thereof of the Council which shall be held to be a dedication of the same to the public. And every such person shall

cause

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cause any such intended public way to be formed and ballasted to the approved level in accordance with any special notice in that behalf from the Town Clerk and in the absence of any such notice according to any by-law duly made in that behalf before the Council shall be required to take over the management control and direction of such public way.

71. If any person intending to lay out or form any such public way fail to do so for three months after the sending or service of any notice from the Town Clerk requiring him so to form such public way as required by any such notice or any by-law duly made in that behalf the Council may cause such public way to be properly formed and shall keep an exact account of the expense thereof in a book open to the inspection of any citizen free of charge And shall within one month after such public way shall have been formed and completed by them cause an account of the cost thereof to be served upon the owner who caused the same to be so laid out or his agent And if within fourteen days after such account shall have been so served the amount shall not be paid to the City Treasurer the Council shall have the like remedies for recovering the same as in the case of any city rate.

Or by Council in his default.

And to recover cost from owner.

72. Every such public way shall when formed and completed be held to be for ever dedicated to the public use and all such ways as shall have been formed either at the public expense or otherwise prior to this Act coming into force and all public ways hereafter formed shall be held to have been and to be from the time of the formation and completion of the same for ever dedicated to the public use and shall be vested in and under the control management and direction of the Council as constituted by this Act But it shall be lawful for the Governor by notice in the *Gazette* to permit any owner of any land which shall have been formed into a public way and so dedicated to the public use to resume the possession for any purpose of so much of the said way as shall be more than twelve feet from the curb stone or exterior edge of the footway fixed according to the provisions of this or any other Act in that behalf subject to such terms conditions and provisions as shall be prescribed in such notice.

Dedication of public ways.

73. The Council may by notice published in the *Gazette* and also in two of the Sydney daily newspapers declare that any public way in the city in which the curbing shall have been permanently laid or so soon as such curbing shall be so laid and which shall not then be paved in accordance with the authorized plan and specification or to the provisions of this Act shall have the footpaths paved In every such case the Council shall cause the City Surveyor to prepare for inspection at his office a plan and specification either general or applying separately to any such particular public way showing of what width and materials and generally in what manner any such pavement shall be laid which plan shall be open to the inspection of any citizen free of charge.

Paving of footpaths.

74. After the expiration of fourteen days from the time of the first publication of such notice in the *Gazette* the Council may cause notices to be served in the case of occupied premises on the tenant or any inmate and in the case of unoccupied premises on the owner of every building or land in such public way requiring the footway along the side thereof to be paved according to such plan and specification and in the event of there not being any person in the occupation of any such building or land and of its being impossible to find the owner or of its being uncertain who is the owner of any such building or land such notice shall be posted up in some conspicuous part thereof.

Notice to pave.

75. Every footpath shall be deemed to extend across every intersecting gateway or other entrance from the street to any premises and the provisions of the last section shall apply thereto.

Pavement across gateway.

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In default Council to pave.

76. If any part of such footway be not paved according to such notice within one month or repaired within one week from the time of the service of a notice to repair the Council shall cause the same to be so paved or repaired and shall keep an account of the expense thereof and the amount of the same shall for the purposes of this Act be held to be a rate and be recoverable in the same way as in the case of the City rate And any tenant so compelled to pave in front of his premises may recover the amount of such rate from his landlord after he shall have been asked and neglected to pay such amount in an action as for money paid to his use in any Court of competent jurisdiction Provided that nothing herein contained shall prevent or interfere with any private agreement between landlord and tenant with respect to the ultimate liability of either to pay any specified rate.

Proviso.

Footway not paved according to plan deemed unpaved.

Penalty for using improper materials.

77. Every footpath which shall not be paved according to the authorized plan and specification at the office of the City Surveyor shall be deemed to be unpaved for the purposes of this Act And every person who shall knowingly cause any inferior or different material to be used in paving the footpath to that prescribed in such specification shall for every such offence be liable to a penalty not exceeding twenty pounds.

Dangerous buildings to be taken down or repaired at owner's expense.

78. If any building or wall or any thing affixed thereon within the City be deemed by the City Surveyor (who may for that purpose enter upon the premises and examine the same) to be in a ruinous or dangerous state he shall immediately cause a proper hoard or fence to be put up for the protection of passengers and shall cause notice in writing signed by him to be served upon the owner of such building or wall if he be known and resident within the city by leaving the same at his usual place of abode or business and shall also cause such notice to be put on the door or other conspicuous part of the premises or otherwise to be served upon the tenant thereof if any by leaving the same on the premises requiring such owner or tenant to take down secure or repair such building wall or other thing as the case may be within a reasonable time to be named in such notice And if such owner or tenant shall not commence within seven days after service thereof and complete the work therein required to be done within thirty days to the satisfaction of the said surveyor he shall if so directed by the Council cause all or so much of such required works as he may deem necessary to be done and all the expenses thereof shall be paid by the owner or tenant and if after a written demand of such expenses by the Town Clerk such owner or tenant shall neglect or refuse for one month to pay the same the Council shall have authority to enforce payment thereof as in the case of the City rate Provided always that if the tenant shall be compelled to pay such expenses he may recover the amount against the owner in an action for money paid to his use.

By Council.

Proviso.

And the materials may be sold for expenses.

79. If any such building or wall or any part thereof be pulled down by virtue of the powers aforesaid the City Surveyor or Building Surveyor may under the direction of the Council sell the materials thereof or so much of the same as shall be pulled down and apply the proceeds of such sale in or towards payment of the expenses incurred in respect of such house or building and shall pay any surplus arising from such sale to the owner of such building or wall on demand But the Council shall have the same remedies for compelling payment of so much of the said expenses as may remain due after application of such proceeds as for compelling payment of the whole amount.

Rubbish &c. not to be laid in public way

80. If any person not being authorized by the Council shall deposit any building materials rubbish or other thing on or make any excavation in any part of a public way without the written authority of

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of the City Surveyor such person shall be liable to a penalty not exceeding five pounds for every day during the continuance of the same until he shall have obtained such authority. And such penalties may be recovered either under a separate information for each day or under one information for the sum of the several penalties so incurred.

81. If any building excavation or place near any public way shall be dangerous to the passengers along such way for want of sufficient repairs protection inclosure or otherwise and if the tenant of the premises on which such building excavation or place is situate if the same is occupied and if not occupied then if the owner thereof shall not within seven days after service of a notice from the City Surveyor requiring him to do so repair or protect the same as required in such notice and to the satisfaction of the City Surveyor then such surveyor shall cause the same to be repaired or protected in such way as he shall deem sufficient and proper. And the expenses of such repair protection or inclosure shall be repaid to the Council by the tenant or owner as the case may be of the premises so repaired protected or inclosed and if not so repaid may be recovered in the same way as any City rate.

Dangerous places
to be repaired or in-
closed.

82. When any building materials rubbish or other things are laid on or any excavation made in any public way within the city the person laying or making the same whether by order of the Council or not shall cause a sufficient light to be fixed upon or near the same and shall continue such light every night from sunset to sunrise while such materials or excavation shall remain and shall cause such materials or other things and such excavation to be sufficiently fenced and inclosed in such manner as the City Surveyor may direct in writing. And every person offending against this enactment shall be liable to a penalty not exceeding five pounds and a further penalty not exceeding ten shillings for every day while such default is continued besides being liable in any civil action for any injury sustained by anyone by reason of such default or negligence.

Penalty for omission
to remove
obstructions &c.

83. The person who under the last preceding section shall be liable to any penalty or to any damages in any civil action at the suit of any person shall be the person who by himself or his servants shall have placed any such building materials rubbish or other things or shall have made such excavation and not the employer who shall by contract or otherwise have employed him to do any work for the purposes of which any such building materials rubbish or other things or any such excavation shall have been placed or made.

Who so liable.

84. Every person intending to build or take down or alter or repair the outward part of any building in any public way of the city whereby any street or footway may be obstructed or rendered inconvenient to passengers shall before beginning the same obtain a hoarding license from the City Surveyor who may if he shall see fit grant the same for a fee of two shillings and sixpence. And such person shall thereupon cause a sufficient hoard or fence to be put up in order to separate the building where such works are being carried on from the public way with a well protected footway for passengers outside of such hoard or fence and shall continue the same in good condition to the satisfaction of the City Surveyor so long as the public safety or convenience requires and shall to prevent accidents cause the same to be sufficiently lighted during the night and shall remove the same when directed in writing by the City Surveyor within a reasonable time. And every person guilty of any default herein shall be liable to a penalty not exceeding ten shillings for every day such default is continued besides being liable to damages in any civil action at the suit of any person on account of any such negligence. And the liability imposed by this

Hoards and fences

section

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section shall be held to be incurred by the person actually doing by himself or his servants or workmen any such work as herein mentioned and not by the person employing him by contract or otherwise to do the work.

No erection &c. except on notice to Council.

85. No person shall commence to erect rebuild extend add to or in any way alter any building in any public way until he shall have served a notice on the City Surveyor stating his intention so to do and at the same time describing the situation of the intended building with full and exact particulars of the intended work and shall have received the sanction of the said Surveyor to such erection re-building extension addition or alteration or until seven days shall have expired without such person having received any notice from the said surveyor that he does not sanction such work And every building erected rebuilt extended added to or altered against the provisions of this section shall be deemed an encroachment and shall be subject to the provisions hereinafter contained relating to encroachments.

No curbing on private land without consent.

86. No curbing shall be laid down upon land in the city not hitherto forming part of some public way or belonging to the Crown or the Corporation without consent of the owner of such land unless so laid down under the authority of the Act fourth William the Fourth number seven.

Open spaces and steps adjoining the ways to be enclosed under penalty.

87. Every tenant of any building or premises if the same be occupied and if not occupied then the owner of such building or premises having any steps entrance area garden or other open space adjoining any public way or footway thereof beneath the level of the curb-stone or exterior edge of such public way or foot-way shall sufficiently protect and guard the same by rails fences or other inclosures so as to prevent danger to street passengers And for every day during which the same shall not be so sufficiently protected and guarded after written requisition to that effect has been made by the City Surveyor the owner or tenant of such building or premises as the case may be shall be liable to a penalty not exceeding two pounds.

Building-line to be defined by notice in the *Gazette*.

88. Before the footpath in any new public way in the City shall be laid down the City Surveyor shall submit to the Council a plan of the same setting forth the proposed breadth of the carriage-way and footpath and thereupon the Council may by notice in the *Gazette* and one or more of the daily papers published in Sydney fix and declare the distance from the curb-stone or exterior edge of the footpath in any such public way within which it shall not be lawful to erect any building so that such distance shall not in any case exceed twelve feet unless with the consent in writing of the owner of the premises and a line drawn at such distance shall for all purposes be the building-line of such way But before such notice in the *Gazette* shall be published the Council shall by a preliminary notice in the *Gazette* and also in one Sydney newspaper at the least call upon all persons interested in such public way to set forth in writing addressed and transmitted to the Town Clerk within one month from the first publication of such last-mentioned notice any objection to the adoption of such plan and also any claim for compensation for any loss or damage which they may sustain by the adoption thereof and if such claim be well founded the amount thereof shall be paid by the Council after being first settled by arbitration as hereinafter enacted if both parties agree to submit said claim to arbitration.

How questions as to building-line to be determined.

89. Whenever any question shall arise in any proceeding at law or in equity touching any actual building-line in Sydney it shall be held conclusively that every curb-stone as laid down and subsisting before the passing of this Act is lawfully laid down And every notice given in the *Gazette* under the preceding section of this Act may be proved as conclusive and binding on all parties by production of the *Gazette*

And

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And all plans of public ways in the City framed under any Act heretofore in force or under the said section shall also be conclusive evidence of their contents on production thereof by any clerk or officer in the department of the Surveyor General or of the City Surveyor as the case may be.

90. Whenever it shall be represented by the City Surveyor or by any citizen to the Town Clerk for the information of the Council that any building whatever is or has been erected within the distance of twelve feet from the curb-stone or exterior edge of any footpath in any public way in the City of Sydney the Council shall forthwith direct the City Surveyor or Building Surveyor to enter upon the premises where such building is erected or otherwise ascertain by admeasurement whether the building complained of is within such distance aforesaid and thereupon such surveyor shall forthwith report to the Council the exact amount of encroachments by means of such building upon the said footpath or roadway.

Every encroachment to be reported by the City Surveyor to the Council.

91. Upon receipt of such surveyor's report the Council shall without unnecessary delay take the same into consideration and upon being satisfied that such building so complained of as an encroachment upon any such footpath is within the said distance the Council shall forthwith cause a notice to be served personally upon the owner or tenant of the premises whereon the said building is either wholly or partially erected requiring the owner of the said premises within a time to be stated in such notice to take down or otherwise remove every portion of such building as shall be erected within the distance aforesaid.

Council thereupon to require the owner to remove such encroachment.

92. If such notice shall be served personally upon the tenant of such premises he shall forthwith deliver the same personally to the owner thereof or his agent under a penalty of twenty pounds.

Tenant receiving notice to deliver same to owner of building under a penalty.

93. After the delivery of such notice to such owner or his agent as aforesaid the owner or agent (as the case may be) may thereupon require the Council by notice in writing to be served upon the Town Clerk to forthwith enter into an agreement for arbitration to refer the question as to the loss damage actual or prospective or expense which may presumably be incurred by the owner by reason of his compliance with the terms of the said notice and also to decide upon all differences which may arise between the Council and himself on account of such compliance by him as aforesaid which agreement shall provide that each party shall appoint an arbitrator with power for such arbitrators to appoint an umpire.

Arbitrators to fix the loss &c. to be incurred by the owner.

94. Whenever any such award shall be duly made and shall not be lawfully set aside the owner in whose favour such award may be made shall be entitled after the expiration of the time therein limited in that behalf and the performance of the conditions stipulated by the terms of the said award to demand and recover by an action brought upon the said award against the said Council whatever sum shall have been awarded to be paid to such owner Provided always that the Council shall not be compelled to pay more than one moiety of the said sum until the encroachment complained of has been removed.

Owner may sue the Council for the amount awarded to him.

Proviso.

95. If the owner of any such building shall neglect or refuse to enter into such arbitration agreement for one month after the receipt by him of the notice before mentioned and a written demand be made by the Council to execute such agreement and served upon him or his agent it shall be lawful for the Council to appoint a sole arbitrator who shall have all the authority vested in two arbitrators and an umpire by the last cited Act.

If owner refuses to enter into such agreement for arbitration Council may appoint a sole arbitrator.

96. If the owner of any such building shall neglect or refuse after receiving the notice before mentioned to comply with the terms thereof for four months after the delivery of the same to such owner

Upon neglect of owner the City Surveyor &c. may remove such building.

or

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or his agent it shall be lawful for the Council to direct the City Surveyor or Building Surveyor to take down and remove the said building or so much thereof as shall cause the encroachment complained of and the City Surveyor or Building Surveyor with his workmen or any contractor employed by either of them for the purpose is hereby authorized thereupon to enter upon the premises and take down and remove the said building or the encroaching portion thereof And the Council may defray all the expenses incurred or occasioned thereby and deduct the amount thereof from any sum which may be awarded to the owner of the said building as aforesaid and pay the balance if any to the said owner.

Owner &c. obstructing City Surveyor &c. liable to a penalty.

97. If the owner landlord or tenant of any such building or any other person shall wilfully obstruct the City Surveyor or building Surveyor or any workman acting under the authority of either of them in the execution of the work hereinbefore authorized to be done by them respectively he shall be liable for every such offence to a penalty not exceeding twenty pounds.

Council may stop street traffic.

98. For the purpose of doing any work upon or under any public way or whenever any public necessity may arise the Mayor may prevent any traffic through or along the same or may take any measures for the protection of the public from accidents.

Penalty for blasting without license.

99. Every person who shall blast or cause to be blasted any stone or rock within the city without having a written license under the hand of the City Surveyor shall for every such offence be liable to a penalty not exceeding ten pounds nor less than one pound.

Notice as to level of intended building.

100. Every person intending to erect or rebuild any building within the city shall fourteen days at the least before beginning to dig or lay out the foundation cause a written notice to be entered by himself his architect surveyor or attorney in a register to be kept at the office of the City Surveyor for that purpose of his intention so to build or rebuild together with the intended level of the cellar or lowest floor and the situation and construction of the intended privies cesspits and drains in connection with such building and the City Surveyor shall without fee signify his approval or disapproval of the same within seven days after such notice And in default of such notice or if any such intended works as aforesaid be proceeded with without such approval or before such last-mentioned seven days shall have elapsed the offender shall be liable to a penalty not exceeding twenty-five pounds and the Council may cause such works to be altered or otherwise dealt with as they may deem necessary and the expenses so incurred shall be repaid by and may be recovered from the offender together with the penalty aforesaid in a summary way before any two Justices.

Cellars or openings in footway not permitted.

101. It shall not be lawful for any person to construct any room cellar or passage in upon or beneath the surface of the footway of any street or public place within the said city And any person offending against the provisions of this section shall be liable on conviction before any two Justices of the Peace to a penalty of not less than ten pounds nor more than fifty pounds and such Justices shall further order the said offender to remove the said works and to restore the place affected thereby to the satisfaction of the City Surveyor within a period not exceeding fourteen days to be then fixed by the said Justices and in default to pay a penalty of ten pounds for every day or part of a day during which the said order shall remain uncompleted with after such fixed time.

City Surveyor to enter upon premises

102. For the purpose of fully carrying out the provisions of the last preceding section it shall be lawful for the City Surveyor under the direction in writing of the Mayor to enter upon any premises for the purpose of ascertaining the existence of any such forbidden work

or

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or whether any such order of the said Justices has been complied with and afterwards with workmen to enter and carry out the removal of the said works and the restoration of the said place if such offender shall fail to comply with the order of the said Justices within the time so fixed. And all expenses in connection therewith may be recovered from the said offender in a summary way before any two Justices of the Peace at the suit of the City Treasurer in addition to any penalty incurred under the last preceding section.

PART VI.

City Rate—Assessment Payment and Enforcement of Rates.

103. The Council shall from time to time direct valuers appointed by them to enter in a ward assessment book for each ward in the form or to the effect contained in Schedule II hereto an assessment of all ratable property of whatsoever kind within the city whether occupied or unoccupied such assessment being made according to the fair average annual value of such property with a deduction therefrom for outgoings not in any case exceeding ten per cent. upon such annual value and such books when completed shall be by such valuers delivered to the Town Clerk. And in case of the omission of any building from such assessment by any valuer it shall be lawful for the Council to enter an assessment for such building which entry shall be as binding and have the same effect as if it had been originally made by such valuer. And every building whether such building be vested in the Crown or be in the occupation of the Crown or not and all lands whether occupied or not within the said city shall be deemed to be "ratable property" within the meaning of this Act. And in assessing the average annual value of unoccupied land for the purpose of this section such value shall be deemed to be a sum not exceeding six per centum per annum on the estimated capital value of such land.

104. Every such valuer shall previously to acting in any such valuation make and subscribe before the Mayor or any Justice a declaration that he will make all valuations and otherwise perform the duties of his office faithfully and without favour.

105. The Town Clerk shall as soon as practicable but before the expiration of thirty days after the delivery to him of such books cause notices of the amount of such assessment in the form or to the effect contained in Schedule I hereto to be served upon the respective premises whether occupied or not.

106. Any occupier or owner of such premises may within fourteen days after the expiration of such thirty days as aforesaid appeal against such assessment and shall for such purpose deliver at the office of the Town Clerk a notice in writing of his intention to appeal stating the grounds of such appeal.

107. Such appeal shall be heard at a special sitting of the Metropolitan District Court to be holden not earlier than fourteen nor later than thirty days after the last day upon which notice of appeals may be lodged as hereinbefore provided and notice of the time and place where such Court shall be holden shall be published in the *Gazette* and in one or more Sydney newspapers at least seven clear days before the holding thereof. And after hearing the appellant or his agent duly authorized in writing in that behalf the Judge shall have power to confirm or alter the assessment but the same shall not be reduced in amount by reason of the premises so assessed having decreased in value subsequently to the making of the assessment.

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assessment appealed against The determination of the Judge on the hearing of every such appeal shall be final and conclusive as to such assessment not merely with regard to the amount but also upon the principle on which such assessment has been made.

No appeal unless notice—Costs of service.

108. No appeal shall be entertained unless such notice shall have been given as aforesaid and if on the hearing of any such appeal the Judge shall be of opinion that the same is frivolous and vexatious he may award such costs not exceeding two pounds as he may think fit against the appellant which may be recovered by the Town Clerk in the same way as costs in any suit in the District Court.

Confirmation of assessment books.

109. After the expiration of the fourteen days so prescribed as aforesaid without any notice of appeal or upon the decision of any such appeal and the necessary alterations (if any) being made in the ward assessment books the same shall be confirmed by the Council and signed by the Town Clerk and shall thereupon be the assessment books of the city for the purpose of all city rates until a new assessment be made and new assessment books be completed and confirmed in manner aforesaid But such assessment books after being so confirmed and signed may from time to time be altered by omitting therefrom all buildings pulled down or which have become ruinous within any ward of the city and by inserting in the said book all buildings newly erected or altered or omitted in any former assessment book in any such ward with an assessment of such buildings according to their like annual value And the information for such alteration shall be prepared by the City Surveyor and delivered before the thirty-first day of December in every year to the Town Clerk who shall give notice of every such assessment to the occupier or owner as the case may be as in the case of an original assessment and such party shall have a like power of appeal as is hereinbefore provided and on the decision of such appeal if any or at the expiry of the time allowed for such appeal all alterations in the ward assessment books when confirmed by the Council and signed by the Town Clerk shall be deemed portions of the original ward assessment books of the city and be as valid in law as if originally parts thereof.

Penalty on occupier for mis-statement.

110. Any occupier of property who on the request of any valuer as aforesaid or of the Town Clerk or of any collector of rates (who are hereby authorized to make such inquiries) refuses or wilfully omits to disclose or wilfully misstates to such valuer Town Clerk or collector the name of the owner of such property or of the person receiving or authorized to receive the rents of the same or anything required for or calculated to affect any such assessment as aforesaid shall for every such offence be liable to a penalty not exceeding five pounds.

Assessment books evidence.

111. The assessment books so made and signed by the Town Clerk as aforesaid and all entries made therein upon production thereof by the Town Clerk or City Treasurer or any civic officer authorized in that behalf by the Council shall without any other evidence that the requirements of this Act have been complied with be received in all Courts as *prima facie* evidence of the facts therein contained.

Limit of rates and how raised.

112. The Council shall on the assessment so made as aforesaid cause such rate to be raised as to them may seem proper for the general expenditure of the city (exclusive of lighting) not exceeding two shillings in the pound upon the assessment aforesaid which rate shall be designated the "City Rate" And all such rates shall on or before the thirty-first day of March in every year be fixed and ordered by the Council to be paid into the office of the City Treasurer by such instalments and on such days as may be fixed by the Council.

Rate books.

113. Rate books of the City in the form or to the effect of Schedule J hereto signed by the Town Clerk shall within three months after the completion of such assessment be filed by him in

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in the office of the City Treasurer and shall be altered or a new rate book filed within two months after the confirmation or any alteration or addition as aforesaid and every citizen shall have access thereto during office hours and be permitted to inspect the same upon payment of a fee of one shilling. And every such rate book so signed and all entries therein shall be received in all Courts as *prima facie* evidence of all matters therein set out.

114. Upon the making of any rate a notice signed by the Mayor and Town Clerk specifying the amount in the pound of the rate the purpose and period for which the same is made and on what days the same is payable shall be published in the *Gazette* and in each of the daily newspapers and upon any such notice being so published the rate therein mentioned shall be payable and paid at the times specified in such notice by the respective persons liable to pay the same for and in respect of all assessed buildings within the city according to the annual value of such buildings as ascertained and determined by the assessment books then in force for the city and it shall not be necessary in any such notice to set forth the names of the persons liable to the payment of the rate or the sums which according to such rate such persons are liable to pay or any other particulars than are hereinbefore in that behalf mentioned.

Notice of rate to be
gazetted.

115. The rate so made payable shall in the case of the premises in respect of which the same is payable being occupied be paid to the City Treasurer by the tenant of such premises at the time or respective times at which such rate is made payable or demanded and in the case of such premises being vacant then by such person who at the time or respective times at which such rate is made payable is the owner of such premises. And the City Treasurer shall give a receipt for such rate in the form in Schedule K hereto. But if the Council fail to recover any such rate in respect of occupied premises from the tenant of the same they may levy and recover the rate from the owner of such premises.

Liability for
payment of rate.

116. In any case where a tenant shall have been so required to pay either a greater amount of rates than he owes for rent or for a period of time during which he shall not have been in occupation of the premises he shall be entitled to deduct the amount in excess from any rent then due or accruing or to recover the same from his landlord (after he shall have been asked and neglected to repay such excess) in an action as for money paid to his use in any court of competent jurisdiction. Provided that nothing herein contained shall prevent or interfere with any private agreement between landlord and tenant with respect to the ultimate liability of either to pay any specified rate.

Repayment by land-
lord to tenant.

117. No land vested in trustees for purposes of public recreation health or enjoyment and no hospital benevolent asylum or other building used solely for charitable purposes and no building used solely for public worship or any school under the Public Schools Act shall be liable to be assessed or rated in respect of any rate under this Act.

Buildings exempt
from rates.

118. In case any person liable to pay any rate neglects or refuses to pay the amount thereof to the City Treasurer for fourteen days after a notice in the form or to the effect of the Schedule L hereto that such rate is due shall have been left at the premises liable for such rate or after he shall by any such notice have been called upon and required to pay such rate the Mayor may by warrant under his hand distrain the goods and chattels of such person if any on the property assessed or elsewhere in the city and cause such goods and chattels when distrained to be sold and out of the moneys to arise thereby may pay all costs charges and expenses attendant upon such distress and sale and shall then pay the amount of the rate for which such distress and sale are made and pay over any surplus to the person so distrained upon. In every case in which

Distress for rates.

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which a warrant of distress shall have been delivered to a collector or bailiff for levy the same shall be levied for such rate costs and expenses unless the whole of such costs and expenses shall be paid as well as such rate. In the event of any such distress not realizing sufficient to pay such rate costs charges and expenses the Mayor may from time to time make further and other distress in like manner until the whole amount of the same has been fully paid. But such costs shall be according to the scale mentioned in Schedule M hereto.

Warrant of distress.

119. The warrant of distress for the recovery of any rate may be in the form or to the effect of Schedule N hereto and in all cases where a distress may lawfully be made every police constable shall upon being so required by any bailiff distraining for rates aid in making a distress or sale pursuant to such warrant and for refusing so to do shall be liable to a penalty not exceeding five pounds. Provided that to save expense and simplify the collection of rates the Mayor may include any number of persons in one such warrant and may direct any warrant for distraining for rates under any of the provisions of this Act to any bailiff or person appointed by him in that behalf. And all such distresses and sales subsequent thereupon shall be conducted and carried out as nearly as practicable in accordance with the provisions of the Act fifteenth Victoria number eleven or any other Act regulating distresses for rent and replevins.

Distress not void for want of form.

120. No distress made under the authority of this Act shall be deemed unlawful nor shall the person making the same be deemed a trespasser on account of any defect or want of form in the warrant of distress or in any other proceeding relating thereto nor shall the person distraining be deemed a trespasser *ab initio* on account of any irregularity which he may afterwards commit but the person aggrieved by such irregularity may recover full satisfaction for the special damage in an action on the case.

Special rates may be made.

121. Whenever it appears to the Council that any work which they are authorized to execute is for the special benefit of any particular locality in the City the Council may for defraying the expenses incurred in executing such work pass a special resolution which shall distinctly define such locality and exhibit such work on a map annexed thereto and upon the same being approved by the Governor the Council may make and levy a special rate equally on all ratable property situated within such locality. But no such rate made in any one year shall exceed the amount of sixpence in the pound of the annual value of such property. Provided always that no such special resolution shall be passed unless a petition signed by not less than two-thirds of the ratepayers in such locality shall have been presented to the Council praying that a separate rate may be made and levied and stating for what period it is desired that such separate rate shall be made and levied. And every rate made under this section may be made for and in respect of such period as shall be named in the special resolution but not exceeding the period mentioned in such petition. Provided always that the provisions of this section shall not prevent the Council from making or levying during any such period another special rate in a different locality if so empowered by this or any other Act.

Rates to be made for particular period.

Proviso.

Old assessment to be acted on until new assessment.

All rates recoverable as city rates.

122. Until an assessment for the purpose of rating shall be made under this Act the assessment books of the Council in force at the time of this Act coming into operation shall be the assessment books on and under which rates may be levied enforced and recovered.

123. The provisions hereinbefore contained as to levying and recovering city rates shall be applicable in every respect to the levying and recovering every other rate made and imposed under the authority of this Act.

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124. If any person shall wilfully take away break throw down or otherwise destroy or damage any lamp in the city erected by the City Council or at the private expense of any person or any appendage thereof or wilfully extinguish any such lamp any Justice may issue a warrant for apprehending the party accused And any person seeing such offence committed may apprehend or assist in apprehending the offender and may without warrant deliver him into the custody of a constable to be conveyed before some Justice The Justice before whom any such offender shall be brought shall examine upon oath any witness touching such offence and if the party accused shall be convicted thereof by his own confession or on evidence on oath he shall for every such offence be liable to a penalty of not less than ten shillings nor more than forty shillings and shall besides make full satisfaction to be assessed by such Justice for the damage so done and if such offender do not forthwith pay the penalty adjudged and also make such satisfaction the Justice may order and commit him to gaol for any time not exceeding three months unless such penalty be paid and satisfaction be sooner made.

Penalty for wilfully
injuring lights &c.

125. Every person carelessly or negligently breaking destroying or damaging any lamp set up as aforesaid or any appendage thereof and not upon demand making satisfaction shall be liable to pay such sum of money to the complaining party as any Justice may on like hearing and confession or proof order and in case the sum so ordered shall not be paid forthwith the same together with the expenses attending the recovery thereof may be levied and recovered by distress and sale of the offender's goods and chattels with the reasonable charges of such distress and sale and for want of such distress such offender may be committed to gaol for any term not exceeding one month unless full satisfaction be sooner made.

Damages for careless
injury.

PART VII.

Markets—Parks—Cattle Sale-yards &c.

126. The Council may establish any public market in the city for the sale of fruit vegetables fish produce or general merchandise And upon such establishment being notified in the *Gazette* and in each of the daily newspapers any such market shall be subject to all the laws affecting markets in the city.

New markets.

127. The Council may pull down and re-erect any building which is lawfully vested in them or do anything thereto necessary or proper so that no private rights are thereby infringed And the Council shall have and may exercise all necessary and proper powers for the purpose of laying out any park garden shrubbery or property belonging to the Council.

Power to pull down
and re-erect building.

128. The Council shall for the management and protection of the several parks markets and other pieces of land and premises within the City of Sydney which have been granted or dedicated to them or may hereafter be granted or dedicated to them have all the powers and authority given to trustees by the "Public Parks Act of 1854."

Council to exercise
powers of trustees.

129. The Council may erect and maintain upon the land known as Prince Alfred Park suitable buildings for the purpose of holding annual and other Exhibitions and for like purposes of public recreation or instruction as they may deem desirable Provided always that the amounts borrowed under the authority of the Act hereinbefore repealed intituled "*An Act to authorize the erection and maintenance of certain buildings in Prince Alfred Park by the Municipal Council of the City of Sydney*" together with any other amounts borrowed and expended upon such buildings

Power to erect build-
ings on Prince Alfred
Park.

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buildings shall be transferred to the City Fund but with the like security and with the same rights and remedies in favour of the holders of debentures and all other persons as if the said Act had not been repealed.

Power to enclose land and let buildings.

130. It shall be lawful for the Council to enclose such portion of the said park as they may think fit and to let the land so enclosed together with such buildings thereon erected for any continuous period or periods during the year not exceeding in the whole four calendar months and any public right-of-way or other easement attaching to such land so enclosed shall during such period only as aforesaid in each year be deemed to be in abeyance Provided that such portion or the whole of the said park may continue to be enclosed for a further period of two months with the consent of the Governor.

Proviso.

Power to grant leases.

131. The Council may grant leases of any premises or any part thereof held by or belonging to the Corporation for any period not exceeding twenty-one years upon the best terms which may be obtained for the same provided that they be let by competition either by public auction or tender.

City Council empowered to establish cattle sale-yards.

132. It shall be lawful for the Council to establish in such place or places as they may determine adjoining the Great Southern and Western Railway not more than fourteen miles from the City of Sydney buildings yards and other premises for the sale of cattle and for such purposes may purchase acquire and hold any lands and any estate or interest therein and may sell and dispose of and exchange the same and to provide funds for the erection and maintenance of such buildings yards and premises the Council may borrow any sum of money not exceeding in the aggregate twenty-five thousand pounds at a rate of interest not exceeding six pounds per centum per annum by debentures secured upon the City Fund Provided that it shall be obligatory upon the Council to erect the said yards within a period of two years from the commencement of this Act Provided further that nothing in this or any succeeding section contained shall deprive the proprietor of any yards or premises situated within the aforesaid limits which shall before the commencement of this Act have been established and which are now being used for the *bona fide* purpose of holding sales of cattle thereat of his right to continue to hold such sales at such yards or premises nor shall anything in any such section contained operate to prohibit under the penalty therein prescribed the sale of cattle at any such yards But the privilege and exemption hereby provided shall not in any case continue for a period longer than ten years from the passing of this Act and shall not extend to any such proprietor unless he shall within fourteen days after the date of the proclamation mentioned in the next following section have given notice to the Town Clerk by writing under his hand that he claims to continue the right of using such yards or premises whereupon such proprietor shall be entitled to the benefit of the said privilege and exemption but such benefit shall absolutely cease and determine for all purposes if at any time after the date of such proclamation no sale of cattle yarded at such yards or premises shall for a continuous period of six calendar months have taken place thereat Provided further that the Council from and after the establishment of the Metropolitan Sale-yards shall have the power to levy one-half the same rates and charges for the use of any such sale-yards as apply to the yards that may hereafter be erected by the Corporation.

City Council empowered to borrow £25,000 for erection of yards &c.

Proviso.

Saving of existing rights.

The Governor shall proclaim the establishment of the sale-yards.

133. After such sale-yards shall in the opinion of the Governor be ready for the reception of cattle he shall forthwith by proclamation to be published in the *Gazette* declare the same to be the Metropolitan sale-yards for selling cattle and the same shall thereupon become the only market or place within the City of Sydney and the limits mentioned in the last section for the sale of cattle except as provided for in

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in section one hundred and thirty-eight And if any person shall sell or offer for sale except as hereinafter provided any cattle in any other place within the said city or within fourteen miles from the boundaries thereof he shall on conviction before two Justices be liable to a penalty of ten shillings for every head of such cattle so sold or offered for sale But nothing herein contained shall apply to cattle arriving in Sydney by sea or to sheep so arriving in numbers not exceeding fifty in any one shipment Provided that the provisions of this section shall not apply to private sales of cattle not exceeding six animals at one place or in one lot. Proviso.

134. If any person shall after the passing of this Act have in his possession any cattle upon any premises within the City of Sydney he shall forfeit and pay any sum not exceeding five pounds for each and every head of cattle so found in his possession. Penalty not exceeding five pounds for every head of cattle kept contrary to the provision of this Act.

135. The provisions relating to cattle hereinbefore contained shall not apply to any sale of cattle when the said cattle are not within the district and shall not affect any wharfinger or common carrier receiving cattle nor any milkman or person keeping milch cows or working bullocks nor any person keeping any cattle for the purpose of exhibiting the same nor any auctioneer or other person keeping cattle for sale nor any person having in his possession cattle imported from places beyond the Colony nor any person keeping horses nor any person keeping cattle on premises licensed for the purpose but in all such cases the burden of proving exemption from liability shall lie upon the person charged with a breach of its provisions. Persons not liable.

136. The Inspector of Nuisances at all times and any other officer of the Council when authorized in writing in that behalf by the Mayor of Sydney shall have power to search any premises on which he has reason to suspect that any cattle are kept contrary to the provisions of this Act and any person obstructing or molesting such Inspector or other officer so authorized when endeavouring to search such premises shall forfeit and pay a sum not exceeding ten pounds. Power to search premises.

137. The proceeds arising from the fees on the sale of cattle at such yards and all other profits accruing therefrom received by the Council shall after payment of the current expenses incident to the maintenance of such premises be invested and appropriated towards the payment of the principal sum so borrowed and any interest thereon accrued so long as any such shall remain due And an account thereof to be called the "Cattle Sale Yards Fund" shall be kept by the City Treasurer But whenever the sum so borrowed together with the interest shall have been paid off the profits arising from such yards shall be paid over to the City Fund. Cattle sale yards fund &c.

138. The Council shall have power to erect maintain or license sale-yards within the City of Sydney or fourteen miles therefrom for the sale of calves lambs pigs milch cows and horses and notwithstanding anything to the contrary contained in the Act fourteen Victoria number thirty-six or any other Act to license places within the said city or limits for the slaughter of pigs calves and sheep and to frame regulations for the management thereof. Sale and slaughter of pigs calves and sheep.

139. When any sale-yards are established and by-laws in respect to such yards are made and published it shall be lawful for the Council to take and demand in respect of any cattle intended for slaughter yarded or brought for sale by auction to any sale-yards or premises in the City of Sydney or within the distance of fourteen miles therefrom as hereinbefore provided the fees or charges specified and set forth in by-laws to be made in that behalf such fees and charges not to exceed the scale prescribed in Schedule G hereto. Power to charge fees for cattle yarded for sale.

140. The Council may let or farm out by auction any tolls and dues payable and receivable at any market and may also so let or farm out by auction any market or stall or shop therein for any period not exceeding three years by auction or tender. Power to lease tolls of markets.

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PART VIII.

Water Supply—Water and Street Watering Rates—Provisions against Polluting Water.

Interpretation of terms in Part VIII.

141. In the interpretation of Part VIII hereof the following words within inverted commas shall unless the context otherwise indicate bear the meanings respectively set against them viz. :—

“Mains”—The main or street pipes used for conducting water from the reservoir or source of supply

“Connection”—The smaller pipe used for delivering water from the mains into any premises

“Closet”—Any privy or place used for the discharge of faecal matter or urine

Council may take water near reserve.

142. The Council may take and use for the purpose of such water supply all waters collected flowing or being on or in any stream watercourse swamp or other source of water in the neighbourhood of the said Sydney Water Reserve and for this purpose they may enter and use any land and make lay and carry out on through or under the said land any reservoirs channels pipes and other works.

Council to secure supply of pure water.

143. The Council shall construct lay and maintain all reservoirs engines pipes and other works necessary for securing as full and pure a supply of water for the city and suburbs as can be obtained from the sources of supply so as aforesaid vested in and made available to the Council and shall take all available means either by bringing actions at law against parties offending or by making the requisite by-laws or otherwise for preserving the purity of such water and preventing the same from being in any way rendered impure or injurious to health.

Council to make fire-plugs.

144. The Council shall make and keep in order sufficient fire-plugs and fire-cocks for supplying in and from every street in which a main is laid down water for the extinguishment of any fire and they may erect and supply with water such drinking fountains as they may deem proper and may also supply such public privies and urinals with water for drainage and cleansing purposes as they may consider fit.

Compensation for land taken.

145. In any case in which the land of any person shall be taken or used or shall be injuriously affected either permanently or temporarily or any stone gravel earth clay sand or other material shall be taken therefrom to the damage or loss of such person or injury to the land for any of the purposes of the works of the Council under this part of this Act such person shall be entitled to reasonable compensation for the loss or injury sustained.

Water rate may be levied although service pipe not connected with main.

146. A water rate may be made and recovered by the Council in addition to every other rate authorized by this Act and such water rate may be enforced and recovered in respect of any premises in the city or suburbs situate within one hundred and fifty feet from the alignment of any public way along which a main water pipe belonging to the Council is laid although such premises are not actually supplied with water from such main.

Payment of water rate.

147. Such water rate shall be payable by the same persons and may be raised and recovered in the same manner as is herein provided in respect to the City rate and there shall be the same right as between the landlord and tenant of premises assessed for such water rate as is herein provided in respect to the city rate.

Amount of water rate.

148. Such water rate shall not exceed five shillings per annum for every room in each building including kitchens warehouses out-houses and water-closets And the Council may enter into any contract for the supply of water to any factory building garden or stable or for any special purpose at a rate to be calculated according to meter.

Watering streets.

149. Upon receiving a petition signed by two-thirds of the rate-payers in any public way in the said city or in any part of such public way

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way the Council shall cause the same to be watered or they may in their discretion cause any public way to be watered And may impose upon the tenants or owners of buildings in such public way a uniform rate sufficient to cover the expense which rate shall be assessed upon and according to the amount for which such buildings are assessed for the purposes of the City rate in addition to every other rate hereby authorized and made payable And every such rate may be made levied enforced and recovered in like manner as any City rate.

150. In every case in which there is on one side of any public way any public park or reserve one-half only of such watering rate shall be assessed upon and be payable in respect of the buildings on the side of such way opposite such park or reserve. Only half rate where public park.

151. No person shall wash any animal or any clothes wool leather or the skin of any animal or any noisome or offensive thing or throw or cast any dead animal or any filth dirt or other noisome or offensive thing in or into or shall bathe in any stream swamp or place from which the Council is hereby authorized to take water or in or into any reservoir basin or aqueduct tunnel or waterway or waterworks made or which may hereafter be made for the supply of water as aforesaid or cause or suffer the water of any sewer or drain to run or be conveyed into any such stream swamp reservoir basin aqueduct tunnel pipe waterway or waterworks or cause or permit any other thing whatsoever to be done or happen to the water contained in any such stream swamp place well fountain basin reservoir aqueduct tunnel waterway or waterworks whereby or by means whereof the said water or any part thereof shall or may be fouled corrupted or injured and every person offending against this enactment shall be liable to a penalty not exceeding fifty pounds for every such offence. Provisions against polluting water.

152. Any person who shall injure any public fountain pump cock or water-pipe cistern or public watercourse or any part thereof respectively shall pay the costs of repairing the same and if such injury be wilfully done such person shall be also liable to a penalty not exceeding five pounds Any person who shall in any manner clandestinely or unlawfully appropriate to his own use any water from any fountain pipe or cistern supplied in any manner by the Council shall be also liable to a penalty not exceeding twenty pounds and such amount may be recovered before any two Justices in a summary way And any person who shall open or leave open any cock or any public fountain or pump so that the water shall or may run to waste shall be liable to a penalty not exceeding five pounds And any person who shall wash any clothes or other materials at any public fountain or pump shall be liable to a penalty not exceeding one pound And any person who shall lead or cause to be led or taken any horses cattle sheep or other animals to any public fountain or pump now erected or hereafter to be erected for the purpose of watering or cleansing and shall therein water or cleanse the said horses cattle sheep or other animals shall for every such offence be liable to a penalty not exceeding two pounds Provided always that it shall be lawful to water any horse or other animal at any fountain specially appropriated for that purpose. Penalties for injuring public fountains &c.

153. It shall not be lawful for any person to connect with the main any pipe delivering the water directly into the closet-pan or other receptacle for faecal matter or urine without the intervention of a cistern or cisterns into which the water from the main shall first be received and any person so offending shall forfeit and pay a fine or penalty not exceeding fifty pounds. Proviso.

154. The City Engineer is hereby directed and empowered at any time to employ any artificers or workmen to cut off sever or otherwise disconnect from the main any pipe directly discharging the water into a closet without the intervention of a cistern [hereinafter termed "directly". No closet pipes hereafter to connect directly with the main. The City Engineer may disconnect pipes in certain cases.

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“directly connected”] and which in the opinion of the City Engineer may endanger the purity of the water by the absorption of noxious gases or suction of faecal matter or urine into such pipe or into the main or otherwise For the purpose of effecting such disconnection the City Engineer with his artificers and workmen is hereby directed and empowered to enter into and upon the premises of any person or corporation whatsoever to do or cause to be done anything in his opinion requisite or necessary in relation thereto.

The expense incurred by any disconnection to be paid by tenant and deducted from his rent.

155. Whenever the City Engineer shall have caused any pipe to be cut off or disconnected or other work to be done in relation thereto he shall forthwith serve the owner or occupier of the premises with a notice in writing (by delivering the same to any person being apparently above the age of fourteen years resident on the premises) requiring him to pay the actual cost or expense incurred The said owner or occupier is hereby required and authorized thereupon to pay the amount to the Council and if the amount be paid by an occupier only he may deduct the same from the rent then due or accruing Upon such owner or occupier making default in any such payment after the delivery of such notice as aforesaid the Council is hereby authorized to sue for and recover the same with full costs of suit in an action brought in any Court of competent jurisdiction.

Owners of premises shall fix closet-cisterns or be liable to a penalty.

156. The owner of every dwelling-house or premises which shall have therein or thereon any closet with a pipe or branch-pipe directly connected with the main shall be required to fix and erect a cistern or cisterns for the reception of the water intended to be used for the closet and every cistern shall be made of such materials and dimensions and of such model or plan of construction and with such ball-cocks stop-cocks waste-pipes and other appliances as shall be deemed requisite by the City Engineer and shall have been approved by the Council for securing the water from pollution through any noxious gases or matter evolved or derived from such closets or otherwise Every owner neglecting to comply with the provisions of this section shall forfeit and pay a fine or penalty not exceeding five pounds.

Upon neglect of owner the tenant after fourteen days notice to fix cistern and deduct the expense from rent.

157. Whenever any owner shall have neglected to fix and erect a cistern with its appliances as is in the last preceding section provided for the tenant or occupier of the premises is hereby authorized and required after receiving a written notice thereof from the City Engineer in that behalf to fix and erect such cistern with its appliances before mentioned within fourteen days after the receipt of such notice and the said tenant or occupier shall upon payment by him of the charges and expense of such fixing and erection be entitled either to deduct the amount so paid from the rent then due or accruing or at his option to sue for and recover the same with full costs of suit from the owner as for money paid to his use.

Any person re-establishing any connection with the main unless authorized or wilfully injuring any pipe &c. liable to a penalty.

158. Any person who shall without the authority of the City Engineer re-establish any such connection which may have been cut off removed or severed by him or who shall in any manner wilfully injure or tamper with any connection-pipe cistern ball-cock stop-cock or waste-pipe which may have been approved by the City Engineer so as to destroy diminish or endanger its efficiency may be summoned for such offence before two Justices and on conviction thereof shall be adjudged to pay the amount of the charges and expenses which the City Engineer may have incurred (and which he is hereby authorized to incur) in repairing or restoring the same to a state of efficiency Every such offender shall also forfeit and pay a fine or penalty not exceeding ten pounds and the amount of charges and expenses and fine or penalty respectively shall when recovered be paid over to the Council in aid of the City fund.

Council may require any Municipal Council to prevent water pollution.

159. It shall be lawful for the Council at any time by a notice in writing signed by the Town Clerk and addressed to the Council of any

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any adjoining Municipality (from which any drainage of impure water or other filth shall then or at any time be contaminating or shall have contaminated the said water supply by flowing or discharging into the said swamps or either of them or in any other manner polluting the same) to require and demand that such nuisance shall forthwith be stayed and that the Council of such Municipality shall forthwith undertake and carry into effect all such works as may be requisite either in conjunction with the Council or without its co-operation for securing the said watershed and swamps from such sources of pollution. Provided always that if the Council of any Municipality upon being served with notice as aforesaid shall deny the existence of any such alleged nuisance such Municipal Council shall be at liberty to give written notice of such denial to the City Council within seven days after the receipt by such Municipality of such first-named notice. And thereupon the question of such alleged nuisance shall be referred to the decision of two arbitrators one to be appointed by each Council and such reference and arbitration shall be held under and proceed according to the provisions of the Act thirty-one Victoria number fifteen intituled "*An Act to make arbitration more effectual.*"

160. If after the service of any such notice upon the Mayor of any such Municipality or after the arbitrators shall have adjudged the existence of any nuisance in case of such reference as aforesaid the Council of such Municipality shall neglect for the space of one month to commence the necessary works or within a reasonable time afterwards to complete the same in compliance with any such notice it shall be lawful for the Council thereupon to commence or to complete as the case may be all such works as in the opinion of the said Council shall be necessary for carrying into effect the works required for securing the said watershed and swamps from the pollution and nuisance specified in such notice. And it shall be lawful for the Council to sue for and recover by action of debt the amount of the expenses incurred by them in that behalf to the extent of the works done within the Municipality so neglecting as aforesaid or any proportionate part of such expenses as the said works proceed.

Upon neglect of Municipality Corporation may perform and charge for the work.

161. The amount of any verdict or judgment given in favor of the Council in any such action shall be deemed payable as a charge upon the general rates then or to be thereafter assessed by the Municipal Council then being the defendants in such action but subject to any mortgage or debentures then existing or outstanding and in default of payment within the time prescribed by law it shall be lawful for the Council to apply to the Supreme Court for the appointment of a Receiver and the said Supreme Court is hereby empowered to grant the said application. And the Receiver when appointed shall thereupon have and exercise all the power and authority given to a Receiver in and by section one hundred and ninety-one of the "Municipalities Act of 1867" or of a Receiver appointed by the said Court in a suit in Equity.

The debt to be a charge upon the rates of the Municipality.

162. It shall not be lawful for any Justice who shall have been fined during the twelve months preceding for any breach of the provisions of this part of this Act or who may at the time be owner of or resident on or who shall at the time be the agent or trustee of or otherwise interested in or acting on behalf of the owner of any premises wherein there may be any closet having its water-pipe directly connected with the main to sit on the Bench or take any part in the proceedings whilst any case is being heard against a person for any breach of the provisions of this Act under a penalty of fifty pounds. But no conviction shall be set aside in any Court of Law by reason only of any such Justice having sat on the said Bench or taken any part in the proceedings as aforesaid. Provided that nothing herein shall disqualify any Justice by reason of his being a trustee or member of a board of management of any charitable institution.

No Justice of the Peace interested in effect to sit on the Bench &c. under a penalty of £50.

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PART IX.

City Health Officer—Cleansing Public Ways—Cesspits—Drains—Nuisances.

Health Officer.

163. The City Health Officer shall be a duly qualified medical practitioner and upon the appearance of any epidemic endemic or contagious disease or any indications thereof within the city or the suburbs or of any peculiar circumstances or occurrences likely to effect the sanitary condition of the city he shall immediately report the same to the Council and shall describe or otherwise point out the types and stages of any such disease and the existence of any nuisance or other local cause tending to produce aggravate or continue any such disease or otherwise injure or endanger the public health and so as to supply the Council with the best and most prompt advice as to the means of preventing the spread of any such disease and of promoting the health of the inhabitants of the city And the other general duties of the City Health Officer may be regulated and fixed by by-laws under this Act.

Report of Health Officer.

164. The City Health Officer shall at the first meeting of the Council in each month and at any other time when required by the Council or when he may deem it right make to the Council a full report as to the sanitary condition of the city with special reference to the foregoing and any other particulars required by such by-laws And in order to enable him to make such report and rightly to perform his other duties he shall have power at all seasonable times with the aid if necessary of the Inspector of Nuisances or any other officers or servants of the Council or of any officer of the police upon the order of the Mayor signed by the Town Clerk to enter any public school manufactory benevolent or charitable institution common lodging-house or burial-ground or other premises in the city in or about which anything is suspected to exist prejudicial to the health of the inhabitants or neighbourhood.

Power of Council to enter land &c. to carry out advice of Health Officer.

165. The Council shall have full power from time to time to enter use and occupy any premises in the city and to carry into effect any works or operations which they may deem necessary or proper for carrying into effect any such advice as aforesaid of such officer and any suggestion or recommendation of such officer for preventing or suppressing disease or securing the health of the inhabitants of the city.

Cleansing of streets.

166. The Council shall cause all public ways in the city to be properly swept and cleansed and all filth and refuse matter to be collected and removed therefrom and also from all premises and shall also cause all privies and cesspits within the city to be emptied and cleansed at convenient times Provided that the tenant of any such premises may remove any refuse matter on his own premises to any other place but only for manure so that the same be not a nuisance to any neighbour and be removed at such times and in such manner as shall be approved by the Council either by any special leave or under any by-law in that behalf And all filth and refuse matter collected by the Council from privies sewers cess-pits and public ways or from any premises in the city shall be the property of the Council who may sell and dispose of the same and pay the proceeds to the City Fund.

Deposit of night-soil.

167. The Council may provide fit places within or without the boundaries of the city for the deposit of night-soil and other filth and refuse matter so collected and not sold and may purchase or rent any land suitable for such purpose whether the same be within the boundaries of the city or otherwise Provided always that it shall be the duty of the Council within two days after the deposit of any such night-soil filth or refuse matter to cause the same to be deodorized or to be so otherwise treated as to prevent any offensive smell or other nuisance from being caused by any such deposit And provided further that

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no such night-soil filth or refuse matter shall in any case be deposited within the boundaries of any Municipality now or hereafter to be established unless with the consent of the Council of such Municipality in writing and under the corporate seal thereof.

168. The Council may subject to the restrictions in the last preceding section grant licenses to such persons as they may deem fit to carry away and deposit at such places any night-soil filth or other refuse from earth-closets or other places not being the cesspits of privies or water-closets.

169. Every person not employed or licensed by the Council so to do who shall collect or carry away any night-soil filth or other refuse as aforesaid from any place within the city shall be liable for every such offence to a penalty not exceeding forty shillings.

170. The Council may by any by-laws under this Act provide for the conditions upon which such licenses shall be granted and for the revocation of such licenses and otherwise in respect thereof.

171. No owner or tenant or agent of any premises within the city shall empty or cause to be emptied any cesspit which may be included in his premises without the sanction in writing of the Council or Inspector of Nuisances. Provided however that such sanction shall not be given unless the officers of the said Council are from any cause at the time unable to empty such cesspit with the proper night-carts and appliances appointed to be used by them whether supplied by a contractor or by the Council and any such owner or tenant so offending shall be liable to a penalty not exceeding ten pounds.

172. The Council shall cause its own servants or contractors under the direction of the Inspector of Nuisances or other officers appointed in that behalf to empty all cesspits within the City once in every six months or oftener if necessary in the opinion of the Inspector of Nuisances and the Council shall cause such implements and appliances to be used and shall take all such other measures in the performance of the work as shall be deemed best adapted for the suppression of offensive smells or of other nuisances.

173. If at any time the cesspit in any premises shall overflow or burst or cease to be water-tight or if from any other cause its contents are liable to escape or the effluvia arising therefrom becomes excessive or any other nuisance in connection therewith occurs the tenant or the owner of the premises or his agent (in case the premises shall not be occupied by any other person than the owner's *bonâ fide* servant) shall within twenty-four hours give notice thereof to the Inspector of Nuisances otherwise such tenant or owner or agent as the case may be shall be liable to a penalty not exceeding ten pounds.

174. No person shall construct in any manner a gutter or drain whether above or below the surface of the ground on any premises in the city which shall communicate with a street sewer or gutter in any manner so that the contents of any cesspit whether in the case of an overflow or otherwise may be discharged into such street sewer without the express written sanction of the City Engineer or City Surveyor first obtained. And whoever offends against this enactment shall be liable to a penalty not exceeding twenty pounds and a further penalty not exceeding two pounds for every day during which the offence is continued after notice in writing in that behalf shall have been given to the owner his agent or tenant or other person as the case may be by the Inspector of Nuisances.

175. The Council may fill up remove alter or otherwise deal with any gutter drain closet cesspit or well which shall be deemed by the said Council to be—

- (1.) Injurious to health.
- (2.) Opposed to decency by exposure or otherwise.

(3.)

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(3.) An obstruction to the emptying or cleansing of cesspits.

(4.) Constructed or placed contrary to the provisions of this Act or of any by-laws made under its authority.

One week's written notice to be first served on the owner his agent or tenant.

176. Before commencing any such works or operations the Inspector of Nuisances shall give at least one week's notice in writing to the owner his agent or occupant of the premises requiring him to perform the work therein specified and notifying that in default of his compliance therewith during the time which may be allowed by any by-law made for the purpose of dealing with such cases the Council will cause such specified work to be done at his expense.

All reasonable expenses incurred by Council to be repaid by owners &c.

177. All reasonable expenses incurred by the Council in carrying into effect any of the provisions of this Act for the prevention of nuisances upon or in respect of any premises shall be repaid to the Council by the owner his agent or tenant within one week after a written demand of the amount made by the Council shall have been served upon him otherwise the same may be recovered by the Council by summary proceedings in the manner hereinafter set forth.

The occupant may recover from the owner any sums paid to the Council under the authority of this Act.

178. If the tenant of the premises be not also the owner and shall not himself have caused the matter complained of and specified in the aforesaid notice and shall forthwith after the delivery of such notice serve the same on the owner or agent of the premises and if such owner or agent does not within three days after the service of such notice perform the work so required to be done such tenant thereupon may comply with the terms of the said notice and after defraying the necessary expense occasioned thereby he may deduct the amount from any rent then due by him or accruing or at his option sue for and recover the same with costs of suit from the owner or his agent as for money paid at his request.

No person hereafter allowed to form a cesspit in any spot unauthorized.

179. No person shall hereafter place any closet or make or place any cesspit in any unauthorized spot upon his premises or construct the latter of any unauthorized materials or dimensions. And any person so offending shall be liable to a penalty not exceeding twenty pounds. And if the closet be removed or the cesspit filled up as the case may be by the Council (which they are hereby authorized to do) the person offending as abovementioned shall also be liable to pay all the expenses incurred thereby and which may be recovered by the Council by summary proceedings in the manner hereinafter provided.

Council may incur expenditure for preparing depôt &c.

180. The Council on determining to provide a depôt for the reception of night-soil is hereby empowered to incur all needful expenditure in enclosing or otherwise preparing such depôt and providing all proper plant and appliances for dealing with the night-soil therein whether by burying the same in the ground or otherwise and also for making and repairing any roads leading to the depôt.

Power of entry on premises for Inspector of Nuisances &c.

181. Whenever the Inspector of Nuisances has reasonable grounds for believing that there exists on any premises in the city a foul closet whether occasioned by the blocking-up of water-closet pans or of their discharge pipes or the surcharge of cesspits or of earth-closet pans or insufficient closet accommodation or any concealed drain connected with the closet or any other nuisance such inspector may demand admission on the premises from the owner his agent or occupant or other person in charge of the said premises to inspect the same and thereupon enter at any time except on Sundays between the hours of ten o'clock in the morning and four o'clock in the afternoon.

Inspector of Nuisances may give notice to owner or occupant to remove any nuisance.

182. Such inspector on discovering the existence of any such nuisance as above mentioned or any other of a like kind may thereupon give notice in writing to the owner his agent or tenant to remove the same forthwith or within a time to be therein stated according to the exigency of the case and to purify the locality by cleansing and by the application of disinfectants or otherwise. And if the owner his agent

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agent or tenant shall not have complied with such notice before the expiration of the time limited he shall be liable to a penalty not exceeding twenty pounds and also to pay any reasonable expenses incurred by the Council in removing the said nuisance (and which the Council is hereby empowered to do) which expenses may be sued for and recovered in a summary way as hereinafter provided.

183. If the owner his agent or the occupant of any premises shall refuse permission for the Inspector of Nuisances or other proper officer to enter as before mentioned or shall prevent his entry upon the premises such owner agent or occupant shall be liable to a penalty not exceeding five pounds.

Owner &c. refusing admittance to Inspector of Nuisances liable to a penalty.

184. If the occupant of any premises prevents the owner or his agent from obeying or carrying into effect the provisions of this Act any Justice to whom application is made on affidavit made before him in this behalf shall by order in writing require such occupant to desist from such prevention or to permit the execution of the work required to be executed provided that such work appears to such Justice to be necessary for the purpose of obeying or carrying into effect the provisions of this Act and if within three days after the service of such order the occupant against whom it is made do not comply therewith he shall be liable to a penalty not exceeding five pounds for every day afterwards during the continuance of such non-compliance and such penalties may be recovered either under a separate information for each day or under one information for the sum of the several penalties so incurred.

Occupant of premises obstructing owner liable to a penalty.

185. Whoever refuses to obey an order of a Justice as hereinbefore provided for the admission of the Inspector of Nuisances or other officer or person authorized to carry into effect any operations or measures under the authority of this Act or their respective workmen or labourers upon any premises or who wilfully obstructs any person acting under the authority or employed in the execution of this Act shall be liable for every such offence to a penalty not exceeding ten pounds.

Persons obstructing officers in execution of this Act liable to a penalty.

186. The Council may make by-laws for the purpose of carrying into effect the provisions of this Part of the Act and particularly in respect of any of the subjects following (namely)—

The subjects of by-laws against nuisances.

- (1.) Regulating the construction in all respects and the dimensions and situation of cesspits and closets to be hereafter made
- (2.) Prescribing the extent of closet accommodation to be supplied for dwelling-houses factories or any other places of business
- (3.) Providing for such alterations as may be requisite in the opinion of the Council in that behalf for preserving public health or decency in the case of existing cesspits and closets
- (4.) To appoint a place with the approval of the Governor either within or without the city as a depôt for the deposit of night-soil
- (5.) The method to be employed in the removal of night-soil from cesspits and also whether by contract or otherwise
- (6.) The manner of its disposal whether by burying in the earth or otherwise
- (7.) If sold or given away for making all necessary conditions and stipulations for the proper transit of night-soil and its ultimate disposition
- (8.) To regulate the height above the surface of the ground and the depth beneath of all cesspits in accordance with the nature of the ground and the probable number of persons for whom they are intended
- (9.) To appoint the days and hours for the inspection of premises or for doing any work authorized by this Act

(10.)

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(10.) And generally for carrying into effect the intentions and objects of this Part of the Act

By-laws may state maximum and minimum penalty.

And every by-law made in accordance with the provisions of this Part of the Act may state some maximum and minimum penalty for any neglect or breach thereof Provided that no such penalty shall exceed twenty pounds.

This part of the Act not to affect common-law remedy.

187. Nothing in this part contained shall be construed to impair any power of abating nuisances at common law or to affect any other provisions in this Act contained except as by this Part is expressly declared or necessarily inferred.

Proper privies to be provided.

188. The City Surveyor or Building Surveyor shall require the owner or his agent of every premises within the city to which no sufficient privy and ashpit with proper door and coverings is attached to provide the same where practicable in such situation (not disturbing any building unless the same be a privy then already erected) as they may deem necessary And every such privy and ashpit shall be constructed to the satisfaction of the City Surveyor or Building Surveyor so as effectually to prevent the escape of the contents thereof or any effluvium arising therefrom.

When used in common.

189. Where a privy and ashpit are used in common by the persons occupying or using two or more buildings the Council may dispense with the provisions of a privy and ashpit for each such building.

Penalties for not providing such privy &c.

190. The owner or agent of any such building upon being required so to do shall provide such building with such privy and ashpit as aforesaid to the satisfaction of the City Surveyor or Building Surveyor within one month next after notice in writing for that purpose given by the Town Clerk to him or to the occupier of such building if occupied and if the same be not occupied and the owner is not known or cannot be found then after the posting of such notice on the building and in default the Council shall cause such privy and ashpit to be erected and provided and the expense thereof may be raised levied recovered and enforced in the same way as the city rate.

Power of inspection.

191. The City or Building Surveyor City Health Officer or Inspector of Nuisances may inspect any premises within the city to ascertain if there be thereon a privy ashpit or cesspit as required by this Act and any by-law thereunder and may also inspect any privy ashpit or cesspit upon any premises within the city and for any such purpose may at all reasonable times in the day-time enter upon any lands and buildings with such assistants and workmen as may be necessary and cause the ground to be opened where thought fit doing as little damage as may be And if any such privy ashpit or cesspit on such premises be found to be in proper order and condition the City or Building Surveyor shall cause the ground to be closed and made good without unnecessary delay and the expense occasioned thereby shall in that case be defrayed by the Council.

Dust-boxes.

192. The Council may make provision by means of boxes or otherwise and may also provide by any by-law in that behalf for the deposit until removed by the Council under any by-law under this Act of any dust and ashes collected on any premises within the city and any person who shall not so deposit the dust and ashes collected on his premises and shall not in every respect otherwise comply with any such by-law shall for every day for which he shall be guilty of such offence be liable to a penalty not exceeding two pounds.

Purifying unhealthy dwellings.

193. If upon the certificate of the City Health Officer or any other duly qualified medical practitioner it appears to the Council that any building within the city is in a condition dangerous to health and that the whitewashing cleansing or purifying thereof or any part thereof might check or prevent infectious or contagious disease the Town Clerk shall give notice in writing to the owner his agent or tenant of such building

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building to whitewash cleanse or purify the same as the case may require within a reasonable time and in the manner specified in the notice and in default of compliance with such notice within such time the Mayor may cause the required work to be done and for such purpose any person duly authorized under the hand of the Mayor may enter such building without other warrant and do such work and repayment of the expenses may be recovered in a summary way before any Justice against the tenant or owner or his agent of such building who shall also be liable to a penalty not exceeding ten shillings for every day of such default. Penalty for default.

194. If the tenant of any building or premises in the city which is under lease whether he be or be not then in actual occupation or if the owner or the agent of any building or premises in the city which is or are not under lease shall suffer any stagnant water muck filth or other offensive matter to remain in any part thereof for forty-eight hours after written notice served on him from the Town Clerk City Surveyor City Health Officer or Inspector of Nuisances to remove the same or shall allow any such matter to flow or soak from any building or cess-pit the Council shall forthwith remove or abate such nuisance and do what is necessary to prevent a recurrence thereof and may for such purpose enter any building or premises and do all things necessary for such purpose And repayment of the expense thereof may be recovered against the tenant or owner or agent of such building or premises as the case may be And he shall also be liable to a penalty for every such offence not exceeding two pounds and to a further penalty of one pound for every day during which such nuisance shall continue. Penalty for non-removal of offensive matter.

195. The Council may erect such public water-closets privies urinals and like conveniences within the city and in such situations as they think fit and may defray the expense thereof and of keeping the same in good order and may make compensation out of the City Fund for any injury occasioned to any person by the erection thereof. Providing of public water-closets.

196. The Council may abate and remove any nuisance within the city unless after two days notice in writing under the hand of the Town Clerk the same be abated and removed by the owner or his agent or by the tenant of the premises wherein such nuisance shall exist or have arisen and may also after like notice cleanse or keep cleansed or compel to be cleansed and kept cleansed by such owner his agent or tenant every such nuisance and may recover against such owner agent or tenant the whole expense incurred by the Council in and about any such abatement removal and cleansing. Abating of nuisances.

197. No person shall sell expose or have for sale or keep on his premises any meat or any other article intended but unfit for human food or sell expose or have for sale any adulterated butter meal bread or other article of food or any adulterated milk knowing either of them to be adulterated and any person offending against this enactment shall for every such offence be liable to a penalty not exceeding twenty pounds and shall also be liable to a further penalty not exceeding five pounds for every day during which any such forbidden article shall be kept on the premises of such person. Sale of blown meat &c. forbidden.

198. No person shall keep or have in his possession or retain in any building shop or other place any dead animal carcase meat poultry or fish unfit for human food and every person offending against this enactment shall for every such offence be liable to a penalty not exceeding twenty pounds and to a further penalty not exceeding five pounds for every day on or during which he shall so keep or retain any such forbidden thing. No person to keep meat &c. unfit for food.

199. The Inspector of Nuisances or City Health Officer may at all reasonable times accompanied or not by any assistants enter any building shop or place used for the sale of meat poultry or fish for the purpose Inspector of Nuisances &c. may enter premises.

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of seeing that this enactment is complied with and may seize any dead animal carcase meat poultry or fish found therein or thereon which in his opinion is unfit for human food and upon any proceeding in that behalf in a summary way any Justice may besides inflicting the penalty or penalties above-mentioned order such animal carcase meat poultry or fish to be destroyed.

Penalty for defacing wall.

200. Every person who shall paste or otherwise affix any placard or other paper upon any building wall post or fence within the city except on places appointed by the Council for the purpose or who shall deface any wall building or any part of the pavement or kerbing by chalk or paint or in any other manner or shall write any indecent word or make any indecent drawing thereon shall be liable to a penalty not exceeding forty shillings and any constable or other person may apprehend and convey any one so offending before any Justice to be dealt with according to law Provided that nothing herein contained shall prevent any person from pasting or affixing any placard or other paper on any building owned or occupied or rented by himself or on any fence post or wall connected therewith.

PART X.

Sewerage.

Duration of Part X.

201. The provisions contained in Part X of this Act with respect to sewerage and drainage shall cease to have any operation so soon as Parliament shall have passed an Act transferring the powers of constructing and regulating sewers and drains hereby conferred on the Council to some other authority.

Sewers vested in Council.

202. All public sewers and drains now or hereafter made within the city together with all works and materials thereunto belonging or therewith used are hereby vested in the Council who shall have the entire management and control of the same.

Power to make sewers and drain

203. The Council may at any time construct any sewers or drains of such materials and in such manner as they shall think necessary for all purposes of health and cleanliness and may enlarge alter or otherwise improve any sewer or drain vested in them and for such purposes may cause any such new sewers and drains to communicate with any sewers now in existence And the Council may also enlarge alter the level or course of or otherwise improve any sewer or drain communicating with any sewer or drain vested in them for securing a better communication of any such sewer or drain with the sewer or drain vested in the Council but so that no person shall by means of any such alteration be deprived except during the progress of the work of any private sewer or drain to which he is entitled Provided however that no new sewer shall be constructed communicating directly with any arm of the sea Provided also that if it be found expedient in the interests of the public health that any new sewer or drain should be constructed with an outlet independent of any old sewer before a general system of sewerage shall have been authorized by any Act of Parliament hereafter to be passed the Governor on the application of the Council aforesaid accompanied by proper plans and specifications showing the works to be constructed may on being satisfied of the immediate necessity for such construction by proclamation in the *Gazette* grant special power to the said Council to construct such sewer or drain.

Provisoes.

Sewage not to be conveyed into any bay stream or watercourse.

204. Nothing in this Act or any other Act shall authorize the Council to make or use any sewer or drain for the purpose of conveying sewage into any bay within the Harbour of Port Jackson or into any stream

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stream or watercourse until such sewage is freed from all excrementitious or other foul or noxious matter such as would become a nuisance or injurious to health.

205. For the purpose of any work in the construction enlargement alteration improvement and also of the inspecting repairing and maintaining of any public sewer or drain and any private sewer or drain in connection therewith the Council may break up and stop traffic along any public or private way within the City in such way and for such time as the City Engineer or City Surveyor may deem proper taking all due means by fencing boarding lighting and otherwise for preventing danger to any person using or attempting to pass into or along such public or private way And after any such work shall be finished the Council shall immediately make good and available for use every such public or private way. Powers of Council in carrying out works.

206. The Council shall whenever they construct enlarge alter or improve any sewer or drain so construct enlarge alter and improve the same that the same be not a nuisance or injurious to health and they shall provide all sewers and drains vested in them with proper traps coverings or means of ventilation so as to prevent any stench arising from the same and they shall cleanse and keep in repair such sewers and drains. Sewers to be constructed so as not to be a nuisance.

207. The Council may if they deem it necessary for the purpose of the construction enlargement extension alteration or improvement of any sewer or drain carry the same through the land of any person but doing no unnecessary damage and during the carrying out of any such work they shall fence guard and light every open place to prevent danger to any person But compensation shall be paid to any person through whose land the Council shall so carry any such sewer or drain to be assessed and determined if not agreed upon between the Council and such person by arbitrators or an umpire under the provisions of the Act thirty-first Victoria number fifteen intituled "*An Act to make Arbitrations more effectual*" and there shall for such purpose be held to be an agreement and reference to arbitration of the question of the amount of such compensation and any expenses of and attendant upon such arbitration within the meaning of the provisions of that Act. Power to carry sewers through any land.

208. The Council may by notice in writing signed by the Town Clerk require the owner or occupier of any building within fifty yards of any completed sewer or drain vested in the Council with which such building or premises is capable of being communicated by means of a sewer or drain to make such sewer or drain to communicate with such public sewer or drain and all such communicating sewers or drains shall be made within such time and according to such plans and directions as the Council may prescribe in such notice and any by-laws in that behalf or either of them. Council may require communication with sewers to be made.

209. If such communicating sewer or drain be not made within such time the Council may make and complete the same and if the same be proceeded with or made not in accordance with such notice plans and directions the Council may break up any work thereon already done and proceed to make and complete the same and for such purpose may carry the same through the land of any person who shall be entitled to recover any compensation to which he may be entitled in respect of such carrying the same through his land from the person who ought to have made such communicating sewer or drain who alone shall be liable for any such compensation The cost and expense of and attendant on the making digging up and completing of any such communicating sewer or drain by the Council may be recovered by the Council in the same way as the city rate. Power of Council if communicating sewer not made.

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Penalty for making communicating sewers without notice.

210. Every person who shall without notice to and sanction by the City Engineer or otherwise than according to such plans and directions make or branch or continue any private sewer or drain into any of the sewers or drains vested in the Council or into any sewer or drain communicating therewith shall for every such offence be liable to a penalty not exceeding twenty pounds.

Cleansing &c. of communicating sewers.

211. All sewers and drains communicating with any sewers or drains vested in the Council shall wherever requisite in the opinion of the City Engineer be repaired and cleansed under the inspection and direction of the Council by any of their officers in that behalf by and at the costs and charges of the owners or occupiers of the dwellings or buildings to which the same belong and every such owner or occupier neglecting so to repair or cleanse any such sewer or drain according to the directions of the Council shall be liable to a penalty not exceeding five pounds for every week during which the same may be omitted or neglected and if the Council shall think right so to do the same may be repaired and cleansed by the Council and the cost and expense thereof may be raised levied and recovered in the same way as any city rate.

Sewerage rates.

212. The Council shall in each year impose sewerage rates upon and in respect of all buildings in the city liable for or in respect of the city rate which are or shall be situate within one hundred and fifty feet of any sewer or drain vested in the Council whether or not there be any communicating sewer or drain between such building and any such public sewer or drain and such sewerage rate shall be imposed according to the then existing assessment for the purposes of the city rate and in addition to any other rate hereby made payable but such sewerage rate shall not exceed one shilling in the pound of the annual value of such building according to such assessment Such rate shall be made at such time and be payable at such times and in such proportions as shall be prescribed by a notice in the *Gazette* signed by the Town Clerk in that behalf and shall be raised levied enforced and recovered in the same way as the city rate.

PART XI.

Endowment—Cancellation of certain Debts—Licenses.

Temporary endowment of £25,000 per annum.

213. For the purpose of making provision for the interval during which the revenues of the Council may be insufficient to meet their requirements a sum not exceeding twenty-five thousand pounds shall be appropriated from and paid out of the Consolidated Revenue Fund as an annual endowment to the City Fund during each and every year for the period of ten years commencing from the year one thousand eight hundred and seventy-nine And such sum shall be paid by quarterly payments commencing on the thirtieth day of June next and thereafter on the last day of each succeeding quarter until the thirty-first day of December one thousand eight hundred and eighty-eight when all such payments shall cease And each quarterly payment authorized under this section shall be made by the Colonial Treasurer under the warrant of the Governor And the receipt of the Mayor countersigned by the City Treasurer shall be a sufficient discharge to the Colonial Treasurer for every such payment Provided that such endowment shall not exceed the proportion of one pound for each pound raised by the city rate in excess of one shilling in the pound on the assessed annual value of city property.

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214. Upon the passing of this Act the liability of the Municipal Council to repay the several sums advanced as temporary loans from the Consolidated Revenue Fund to the said Council during the year one thousand eight hundred and seventy-five amounting in the aggregate to the sum of forty thousand pounds together with the interest accrued due up to the date of the commencement of this Act shall and the same is hereby declared to be cancelled and discharged and the said Municipal Council and the revenues thereof to be absolutely exonerated and relieved therefrom. And for the further relief of the said Council from liabilities incurred by or devolving on the said Council under and by virtue of the several Acts hereinafter cited it is hereby declared that all sums of money borrowed whether for purposes of sewerage or of water supply under the authority of the Act seventeenth Victoria number thirty-four intituled "*An Act for the better Sewerage and Cleansing the City of Sydney and portions of the Suburbs thereof*" or of the Act of the same year of Her Majesty and numbered thirty-five intituled "*An Act for supplying the City of Sydney and portions of the suburbs thereof with Water*" and which on the passing of this Act shall be a charge upon any revenues of the said Council shall together with all sums accrued due thereon by way of interest cease to be a charge upon the sewerage or water rates or other revenues of the said city from the passing of this Act but the same shall be chargeable only upon and payable out of the Consolidated Revenue Fund of the Colony. And the several sums so borrowed with the interest accrued thereon shall for the purposes of this section be considered as secured upon such fund and payable thereout in the same manner as if the persons or bodies corporate from whom the same were originally borrowed held Government Debentures for the respective amounts so borrowed including interest due thereon secured in the customary way and all the provisions usually included in Loan Acts authorizing the raising of money by Debentures or Treasury Bills for public purposes shall and may be applied in order to give effect to the meaning and intent of this section. Provided always that the remission and transfer of indebtedness hereby provided for shall not be construed to entitle the said Council to the payment of any sum due to such Council as for past endowment against which the Colonial Treasurer shall have set off any debt due by such Council to the Consolidated Revenue Fund. And provided also that in the event of the existing sewerage and water works being hereafter transferred to any other authority by Act of Parliament the Council shall only be entitled in respect of their liability in connexion with such works (amounting on the twenty-eighth February one thousand eight hundred and seventy-nine to the sum of Three hundred and ninety-eight thousand six hundred and thirty-four pounds seventeen shillings and fivepence) to claim exemption from such liability according to the provisions hereinbefore contained with respect to the debts incurred under the said vested Acts. And such exemption shall not exceed the said sum together with the interest accrued due thereon at the time of such transfer. Provided however that any further sums which shall be proved to the satisfaction of the Governor and Executive Council to have been expended on such works during the interval between the said twenty-eighth day of February one thousand eight hundred and seventy-nine and the date of the transfer of such works shall upon such transfer be a charge upon the Consolidated Revenue Fund and all obligations in respect of such sum of three hundred and ninety-eight thousand six hundred and thirty-four pounds seventeen shillings and fivepence and the interest thereon or in respect of such further sum as may be so expended during the said interval shall upon such transfer being effected cease to be a charge upon the revenues of the said Council.

Relief of the Council from existing indebtedness for sewerage water and general purposes and transfer to Consolidated Revenue Fund.

Provisoes.

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Proceeds of auc-
tioneers licenses to
go to City Fund.

215. All sums paid to the Colonial Treasurer in respect of general or district licenses of auctioneers under certificates granted by any Court of Petty Sessions holden within the city under the Act eleventh Victoria number sixteen and any Act or Acts amending the same shall in every year as soon as practicable after the registration of such licenses in the Treasury be paid over to the Council and form part of the City Fund.

Hawking licenses.

216. The Council may grant licenses to persons for hawking and selling in the city any poultry fish vegetables garden produce and such other articles as may be provided in any by-law in that behalf and may make by-laws as to the granting of such licenses the fees payable in respect thereof the period and conditions for and under which such licenses shall be in force and for regulating such hawking generally.

PART XII.

Revenue—Accounts—Borrowing Powers.

Accounts.

217. The rents profits and proceeds of all land dues tolls and other property vested in or belonging to the Corporation or the Council and all city and lighting rates levied under this Act and all other city revenues shall by the City Treasurer be carried to a fund called the "City Fund" and all water rates shall be carried to a fund called the "Water Fund" And all sewerage rates shall be carried to a fund called the "Sewerage Fund." And the allowance (if any) to the Mayor Aldermen and Auditors and the salaries or other emoluments of the Town Clerk and other civic officers and servants appointed by the Council and the expenses of preparing all rolls and notices and other matters connected with elections and towards purchasing or erecting and maintaining the corporate and other buildings belonging to the Corporation and all other expenses not herein otherwise provided for shall be defrayed out of the said City Fund and the expenses incurred for the construction and maintenance of water-works and sewers shall be defrayed out of the "Water Fund" and "Sewerage Fund" respectively All such payments shall be by drafts or cheques signed by the Mayor and the City Treasurer respectively And no part of any such funds shall be applied to any purpose not authorized by this Act.

Books of accounts
&c.

218. The Council shall cause books to be provided and kept and true and regular accounts to be entered therein of all sums of money received and paid for and on account of the Corporation and of the several purposes for which such sums of money have been received and paid which books shall at reasonable times be open to the inspection of the Mayor or any Alderman or Auditor or any mortgagee or holder of debentures without fee or reward and any such person may also take copies of or extracts from the said books during office hours without any payment And any officer having charge of the said books refusing to permit such person so to inspect or take copies or extracts from such books shall be liable to a penalty not exceeding five pounds for every such offence.

Auditing of
accounts.

219. All the accounts aforesaid with all vouchers and papers relating thereto shall in the months of July and January in every year be submitted to the Auditors and shall be by them examined and audited for the whole of the previous half year and if found to be correct the Auditors shall so certify and sign the said accounts.

Accounts to be
published.

220. After such examination and auditing for the second half of every year as aforesaid the City Treasurer shall make out in writing and cause to be printed a full abstract of his accounts for the whole

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whole year And a copy of such abstract shall be open to the inspection of all ratepayers of the city and delivered to such as shall apply for the same on payment of one shilling for each copy and shall also in the month of February in every year be published in the *Gazette* and laid upon the table of both Houses of Parliament if then sitting and if not then sitting within one month after the opening of the ensuing Session.

221. When the period of ten years during which the Council under the provisions of this Act are entitled to an annual endowment in aid of the City Fund shall have expired but not sooner the Council may borrow by mortgage debentures or otherwise on the credit of the Corporation and on the security of any rates revenues or other property real or personal belonging to them and not held in trust for any specific purpose any sum of money not exceeding in the whole the entire revenue of the Corporation for five years and not if added to any previous debt exceeding in the aggregate the whole of such revenue for five years next preceding such loan but no money shall be borrowed on the security of any grant of money or endowment given by the Government towards defraying any expenses of the Corporation In every mortgage deed the consideration shall be fully stated and the same shall be executed under the common seal of the Corporation and the interest on every mortgage debt unless otherwise provided by the deed shall be paid by the City Treasurer half-yearly on demand.

Money may be raised on mortgage.

222. A full copy of every such mortgage deed shall within a week after the execution thereof be entered in a register to be kept for that purpose by the Town Clerk with an index thereto And such register may be inspected at all reasonable times by any citizen or other person interested in any mortgage therein without fee or reward.

Mortgages to be registered.

223. Any mortgagee under such mortgage may by indorsement or otherwise transfer the same or his interest therein to any other person and in every deed or instrument of transfer the consideration for such transfer shall be duly stated Every such transfer deed shall within thirty days after the date thereof be produced to the Town Clerk and shall for a fee of five shillings be entered at length in the register aforesaid and shall thereupon entitle the transferee named in such transfer and so registered his executors administrators and assigns to the full benefit of the original mortgage and the principal and interest moneys thereby secured And this provision shall apply in all respects to any subsequent transfer by any transferee of any such mortgage debt.

Mortgages may be transferred.

PART XIII.

By-Laws—Miscellaneous Provisions—Procedure.

224. The Council may make by-laws for carrying out the provisions of this Act and for enforcing and securing the observance thereof And the Council may also make by-laws for or relating to the following matters and subjects so far as the same are not expressly provided for in this Act—

By-laws.

The regulation of their own proceedings and the duties and salaries of their officers and servants—

The mode of holding regulating and determining the validity of elections—

The collection of all rates—

The preparation of the rolls—

The suppression of all nuisances and of houses of ill-fame and disorderly houses—

The promotion of public health and public decency—

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- The keeping of all premises in the city free from offensive or unwholesome matter—
- The regulation of traffic of all kinds in the city also for regulating porters and barrow-men—
- The regulating the pace at which all horses shall be ridden and vehicles driven in the city—
- The regulating the hawking of all goods in the city—
- The appointing the place or places for the inspection and wholesale disposal of fish not being preserved or salted—
- The opening maintaining and regulating public ways and the use and traffic of and in the same—
- For the inspection and prevention of the sale of unwholesome or adulterated food—
- The sale and mode of delivery of butcher's meat by carcass or otherwise and the disposal and removal of any blood offal or other refuse—
- The preserving the purity of water for the water supply and preventing any pollution thereof—
- The regulation or suppression of any trade causing a nuisance or which is in any way offensive or noisome—
- The consumption by factory chimneys of their own smoke—
- The form and mode of service of all notices and process and the form of mortgages and other instruments—
- The construction of communicating drains with main sewers—
- The due regulation of the markets and cattle sale-yards and the amount of tolls and fees on produce and cattle brought thereto—the sale of all articles and cattle therein—the rents or tolls for the occupation of stalls or standing-places therein and of tolls for the sale of cattle therein or for weighing articles at any weighbridge and the effectual collection of all such tolls rents and fees—
- For regulating the use by the public of all public parks gardens shrubberies and places and the removal of trespassers and offenders therefrom—
- The regulation of the manner and times of driving cattle along the public ways of the city—
- The regulation of bathing and the observances of decency therein and the setting apart places for bathing for the sole use of either sex respectively and for requiring persons bathing to wear appropriate clothing—
- The erection and use of baths or bathing-houses or machines and charging license and other fees for the same—
- The preventing the erection of any tent pavilion booth shed or other structure of calico canvas or other inflammable material without the consent of the Council

Penalties under
by-laws.

And the Council may by any such by-laws fix the maximum penalty for every offence against such by-laws or any of them not exceeding the penalty if any already lawfully fixed for the same offence and in any other case not exceeding ten pounds.

Force and evidence
of by-laws.

225. All by-laws made by the Council when approved by the Governor and published in the *Gazette* but not sooner or otherwise shall have the force of law and in all proceedings in any Court the production of the *Gazette* containing any such by-law shall be *prima facie* evidence of such by-law and that all the provisions of this Act relating to the making and confirmation of such by-law have been duly complied with and that such by-law is in full force and effect and if any person shall dispute the validity of any such by-law the onus of proving the invalidity of the same shall be upon such person.

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226. All acts and proceedings of the Council or of any person holding the office of Mayor Alderman or Auditor and acting as such shall notwithstanding it be afterwards discovered that there was some defect in the election of any such person or that he was disqualified or had not duly made such declaration as aforesaid be as valid and effectual as if such person had been duly elected or qualified or had duly made such declaration.

Proceedings of Council &c. not invalid for formal defects.

227. The Council shall set up and maintain at the expense of the city permanent and conspicuous boundary-marks of some durable material in accordance as near as possible with the boundaries of the city and the several wards and in the most public and convenient places along or near the line of such boundaries. And any person wilfully or maliciously destroying injuring or concealing any such boundary-mark shall for every such offence be liable to pay the value of such boundary-mark and also to a penalty not exceeding five pounds recoverable in a summary way before any Justice.

Boundary-marks of city and wards.

228. The Council may enter into any contract or agreement with any person to execute any works or for furnishing materials or other things required for the city and which are authorized by this Act to be executed or obtained by the Council.

Council may contract for works.

229. The owner of any premises shall in all cases be primarily liable to pay the amount of any expense incurred by the Council in carrying out any work required by the Council to be done on or in respect to any such premises under the provisions of this Act except so far as any tenant has by any express agreement in that behalf rendered himself liable to pay the same. But if any tenant not being so liable shall be compelled to pay or shall have his goods levied on to pay such amount he shall in the absence of any such express agreement be entitled to deduct the same from any rent then or to grow due. Or he may sue his landlord after making a demand for recovery of the amount.

Owner to bear expense of work ordered in absence of covenant by tenant.

230. The Council may delegate to any of their officers the performance of any duties and any authority by this Act imposed upon and given to any specified officer and may authorize any officer to do and perform any matter or thing by this Act authorized to be done and performed by the Council.

Council may appoint officers to do acts.

231. The Corporation may accept and hold any real or personal estate conveyed assigned devised or bequeathed to them or to the Council in trust for any charitable or public purpose. And the Council shall have full power to act for and on behalf of the Corporation in the administration of such estates for the purposes and according to the trusts for which the same may have been conveyed devised assigned or bequeathed.

City may hold and Council administer charity property.

232. If for any reason whatsoever any rate is not made within or by the time at which the same ought under this Act to be made or if by reason of any irregularity in any assessment or making or levying of any rate any such rate may be or be considered to be illegal or not enforceable or any doubt may arise as to the validity of any such rate it shall be lawful for the Governor to extend the time for the making of any such assessment or rate and the levy of the same (as well after as before the expiration of the time within or by which such assessment or rate ought to be made or levied) and to authorize the doing by the Council of such acts as may be necessary to cure any such irregularity and to make valid any such assessment and rate.

Power to remedy defects from irregularity in making rate &c.

233. If any civic officer or servant of the Council neglect or refuse to do anything directed or required to be done by him by this Act or by any by-law in force for the time being such civic officer shall for every such offence be liable to a penalty not exceeding fifty pounds and such servant shall for every such offence be liable to a penalty not exceeding five pounds.

Penalty on civic officer for neglect.

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The Sydney Police Act not to apply to military practice.

234. The provisions of the Sydney Police Act fourth William the Fourth number seven or of any other Act subjecting any person to a penalty who shall discharge any firearms within the limits of the City of Sydney shall not apply to persons while engaged in any military duty or exercise or while shooting at a mark or target for any purpose connected with the duties of the Military or Volunteer Force or of the Police Force within the boundaries of the area appropriated for such purposes.

All penalties &c. to be paid to the City fund for purposes of this Act.

235. All penalties imposed by this Act or by any by-law made under its authority and all sums of money and costs made payable under this Act or any such by-law for the recovery whereof no other procedure is hereinbefore prescribed may be recovered and enforced and all complaints heard in a summary way before any two Justices according to the provisions in force for the time being regulating summary proceedings before Justices and shall when recovered be paid over to the City Fund to be applied for the purposes of this Act.

All legal proceedings may be taken in the name of the Inspector of Nuisances and other officers.

236. All complaints or other legal proceedings for the breach of this Act or of any by-laws made under its authority may unless hereinbefore otherwise provided be laid and taken by the Inspector of Nuisances or any other officer appointed by the Council in that behalf against any person for non-compliance with or any breach of this Act.

Service of notices &c.

237. Any notice summons order or other legal document may be served personally upon any owner or tenant of premises or may be delivered to any person being apparently above the age of fourteen years resident on the premises.

Recovery of rates by suit.

238. In addition to the mode of enforcing payment of any sum due and recoverable in respect of any rate or of any part thereof and any other amount otherwise payable by any person under the provisions of this Act by the means hereinbefore mentioned the Council may recover any such sum by action or suit against any person liable under the provisions of this Act to pay the same sum and may in any such proceeding recover the arrears of any rates not exceeding three years arrears.

Limit of time for actions for forfeiture

239. No person shall be made liable to any incapacity disability forfeiture or penalty under this Act unless the action or prosecution be commenced within one month after such incapacity disability forfeiture or penalty shall have been incurred.

Council and officers to have powers of 4 Wm. 4 No. 7.

240. For the purpose of maintaining and regulating the use of and preventing any obstruction or nuisance in any public way and also for securing and promoting the health of the inhabitants of the city and preventing any nuisance therein the Council their officers and servants shall have power to enforce any provision in that behalf contained in the Act fourth William the Fourth number seven or any Act amending the same and nothing in any such Act contained shall be construed to impair or abridge any power contained in this Act of framing by-laws for the regulation of any of the matters specified in the two hundred and twenty-fourth section hereof.

Obstructing or molesting officers liable to a penalty.

241. Every person who shall wilfully obstruct hinder or molest any officer servant or other person lawfully employed by or acting under the authority of the Council in the execution of any duty or the exercise of any power under this Act or the Act fourth William the Fourth number seven or any Act amending the same or any by-law to be made hereunder shall be liable to a penalty not exceeding ten pounds.

Arbitration of disputes.

242. In any case where by this Act it is declared that any person shall be entitled to compensation for any loss or injury sustained by him and in the case of any difference or dispute on any subject matter of this Act between any parties whomsoever if such parties agree to submit the same to arbitration and in every case where any matter is required by this Act to be made the subject of a reference to arbitrators

or

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or is directed to be settled by arbitration such agreement and such arbitration shall be held to be under and shall proceed in every respect according to the provisions of the Act thirty-first Victoria number fifteen intituled "*An Act to make arbitration more effectual*" Provided always that where such parties are unable to agree to any submission to arbitration or are unable to agree to any sum to be paid by way of compensation then the amount to be paid as compensation shall be determined in the Supreme Court by an action to recover such compensation to be brought by the claimant against the Council or upon an issue agreed upon by the claimant and Council respectively with power to the Council to plead in bar of the action any tender which they may have made to such claimant on paying into Court the amount so tendered or to pay into Court such sum of money as the Council shall think fit and to plead such payment in bar And the party succeeding in such action or upon such issue as aforesaid shall be entitled to costs to be awarded and recovered according to the practice of the Court.

243. Where any notice is required to be given or served under this Act the same unless otherwise provided herein may be served either personally or by delivering or leaving the same at or on the premises at which the person to whom the notice is addressed lives or carries on his business or by being posted at any post office addressed to the last known place of abode or business of such person or by being posted on any conspicuous part of the premises in respect of which or of anything in connection therewith such notice is addressed to any such person And in all proceedings in which the Council is a party service on the Town Clerk of any legal process shall be taken to be good service on the Council. Service of notice.

244. Any person feeling himself aggrieved by any conviction or fine or penalty or charge imposed under the authority of this Act where the fine or penalty exceeds five pounds may appeal against the same to the next Court of Quarter Sessions holden at Sydney unless such Quarter Sessions shall be held within fourteen days from the date of such conviction and in that case to the Court of Quarter Sessions then next following Such Court shall have power to hear and determine the matter of such appeal in a summary way and shall have and exercise all other powers vested in them by the third section of the Act fifth William the Fourth number twenty-two and the decision of such Court shall be final and conclusive in respect to the subject of such appeal Provided always that the person so appealing shall have given written notice seven days at the least before the hearing of such appeal of his intention to appeal and stating the grounds thereof to any one of the convicting Justices and to the City Engineer City Surveyor Inspector of Nuisances or other officer duly appointed by the Council and who prosecuted the matter before the Justices in Petty Sessions and provided also that such person (in case a fine or penalty shall have been awarded against him) shall pay into the hands of the convicting Justices the full amount thereof together with the costs awarded within one week next after conviction and shall within one week from the date of such conviction enter into a bond with two sureties approved by such Justices conditioned to prosecute such appeal with effect and to abide the event of such appeal and to pay the full amount of all such costs as shall or may on such appeal be awarded against him. Appeal to Quarter Sessions allowed.

245. Whenever any matter or thing shall by this Act be directed to be performed on a certain day and that day happen to be Sunday Good Friday Christmas Day or other public holiday the said matter or thing shall be performed on the next succeeding day. Provision in case of holidays.

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SCHEDULES.

SCHEDULE A.

Year and Number of Act.	Title of Act.	Extent of Repeal.
2 Wm. IV No. 16	An Act for regulating the rates of tolls or dues to be levied at the Markets of Sydney and Parramatta.	The whole so far as relates to the City of Sydney.
4 Wm. IV No. 11	An Act for making altering and improving the roads throughout the Colony of New South Wales and for opening and improving the streets in the towns thereof.	The whole so far as relates to the City of Sydney.
4 Wm. IV No. 1	An Act for protecting from Encroachment and Damage and for facilitating the formation of the Tunnel for supplying with Water the Town and Port of Sydney in the Colony of New South Wales.	The whole.
5 Wm. IV No. 20	An Act for better regulating the alignment of streets in the Town of Sydney.	The whole.
6 Wm. IV No. 9..	An Act to explain and amend an Act of the Governor and Council intituled " <i>An Act for better regulating the alignment of streets in the Town of Sydney.</i> "	The whole.
3 Vict. No. 19 ...	An Act to authorize the establishment of Markets in certain towns in the Colony of New South Wales and for the appointment of Commissioners to manage the same.	The whole so far as relates to the City of Sydney.
6 Vict. No. 3 ...	An Act to declare the Town of Sydney to be a city and to incorporate the inhabitants thereof.	The whole.
6 Vic. No. 9 ...	An Act to declare that an Act passed in the present Session of the Governor and Legislative Council of New South Wales may at any time be altered amended or repealed.	The whole.
14 Vict. No. 41 ...	An Act to provide for the regulation of the Corporation of the City of Sydney.	The whole.
17 Vict. No. 33 ...	An Act to dissolve the Corporation of the City of Sydney and for the appointment of Commissioners in lieu thereof for a limited period.	The whole.
17 Vict. No. 34 ...	An Act for the better Sewerage and Cleansing the City of Sydney and portions of the Suburbs thereof.	The whole of the un-repealed sections.
17 Vict. No. 35 ...	An Act for supplying the City of Sydney and portions of the Suburbs thereof with Water.	The whole.
18 Vict. No. 30 ...	An Act to repeal certain sections of the Sydney Corporation Act 14 Vict. No. 41 and to amend the City Corporation Abolition Act 17 Vict. No. 33.	The whole.
18 Vict. No. 36 ...	An Act for applying certain sums raised or to be raised under the "Sydney Sewerage Act of 1853" and the "Sydney Water Act of 1853" for the service of the Years 1854 and 1855.	The whole.
19 Vict. No. 18 ...	An Act to provide for paving certain streets in the City of Sydney.	The whole.

*Sydney Corporation.*SCHEDULE A—*continued.*

Year and Number of Act.	Title of Act.	Extent of Repeal.
19 Vict. No. 42 ...	An Act for applying certain sums raised or to be raised under the "Sydney Sewerage Act of 1853" and the "Sydney Water Act of 1853" for the service of the year 1856.	The whole.
20 Vict. No. 36 ...	An Act to re-establish a Municipal Council in the City of Sydney.	The whole.
20 Vict. No. 40 ...	An Act to appropriate and apply certain sums raised or to be raised under the "Sydney Sewerage Act of 1853" and the "Sydney Water Act of 1853" for the service of the year 1857.	The whole.
23 Vict. No. [Qy. 33 Vict.] ...	An Act to authorize the erection and maintenance of certain Buildings in Prince Alfred Park by the Municipal Council of the City of Sydney.	The whole.
23 Vict. No. 7 ...	An Act to legalise certain Sydney Municipal Elections and to make regulations for future Elections of Aldermen and Auditors for the City of Sydney.	The whole.
30 Vict. No. 7 ...	An Act to provide for paving certain streets in the City of Sydney.	The whole.
30 Vict. No. 20 ...	An Act to extend the powers of the Municipal Council of Sydney.	The whole.
32 Vict. No. 4 ...	An Act to authorize the appropriation of the old Burial Ground or Cathedral Close in Sydney to certain Municipal and other public purposes.	The whole as far as relates to the Corporation and Council.
33 Vict. No. 9 ...	An Act to amend the boundaries of the City of Sydney.	The whole.
33 Vict. No. 16 ...	An Act to authorize the Municipal Council of the City of Sydney to establish Yards for the sale of Cattle.	The whole.
36 Vict. No. 11 ...	An Act to authorize the leasing and improving of City Properties.	The whole.
36 Vict. No. 12 ...	An Act to authorize a supplementary Grant of Land to the Municipal Council of Sydney for the site of the Town Hall and to enlarge the statutory time prescribed for the completion thereof.	The whole.
36 Vict. No. 22 ...	An Act to amend the "Sydney Sewerage Act of 1853."	The whole.
39 Vict. No. 7 ...	An Act for preventing the pollution of the water supplied to the City of Sydney and its Suburbs.	The whole.
39 Vict. No. 14 ...	An Act for preventing certain nuisances in the City of Sydney and other Municipalities.	The whole so far as it relates to the City of Sydney.
40 Vict. No. 13 ...	An Act further to amend "The Sydney Sewerage Act of 1853" to make provision for imposing a more equitable Sewerage Rate.	The whole so far as it relates to the City of Sydney.

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SCHEDULE B.

Boundaries of the City.

Commencing in the centre of Parramatta-street at its junction with Bay-street thence on the west by a straight line along the centre of Bay-street and its prolongation to the eastern shore of Blackwattle Cove thence again on the west and on the north-west north-north-east and east by the waters of Port Jackson to the centre of the bridge at the foot of William-street East thence on the east by the stream entering Rushcutter's Bay to a culvert on the South Head Old Road at the north-west corner of Sydney Common thence again on the east by the centre of Dowling-street to a point where it intersects the southern boundary of the Borough of Paddington thence on the north by that boundary to its intersection with the centre of Regent-street thence by the centre of Leinster-street to the centre of Gordon-street thence by the centre of that street to the north side of Park Road thence by the north side of that road to the south-eastern angle of St. Matthias's Church land thence by the south-eastern and eastern boundaries of that land to the southern alignment of the South Head Old Road thence by the southern alignment of that road easterly to its intersection with the line laid down marked out by stone posts and deemed to be the dividing-line between the Sydney Common and the Water Reserve thence again on the east by the said dividing-line to its intersection with the southern boundary of the Sydney Common thence by that boundary to the south-west angle of the said Common thence in a northerly direction by the western boundary of the said Common to its intersection with the centre of Cleveland-street thence by the centre of that street and a prolongation thereof to a landmark on the road to Cook's River thence on the west by the eastern side of that road to the north-eastern angle of the University Reserve thence by a straight line from that angle to the point of commencement in the centre of Parramatta-street opposite the centre of Bay-street.

SCHEDULE C.

Boundaries of the several Wards.

GIPPS WARD.

The portion of the City of Sydney starting from the waters of Sydney Cove at a point joining the prolongation of the southern building-line of the Commissariat Buildings to George street thence along the centre of George-street to Margaret-street thence along the centre of Margaret-street and Margaret-place to the waters of Darling Harbour thence along the water's edge to the point of starting.

BOURKE WARD.

The portion of the City of Sydney starting from the waters of Sydney Cove at a point joining the prolongation of the southern building-line of the Commissariat Buildings to George-street thence along the centre of George-street to King-street thence along the centre of King-street in a direct line prolonged to Bourke-street thence along the centre of Bourke-street to the waters of Woolloomooloo Bay thence along the water's edge to the point of commencement.

BRISBANE WARD.

The portion of the City of Sydney bounded by the southern boundary of Gipps Ward thence along the centre of George-street to Bathurst-street thence along the centre of Bathurst-street to the waters of Darling Harbour thence along the water's edge to the foot of Margaret-place.

MACQUARIE WARD.

The portion of the City of Sydney bounded by the centre of George-street from King-street to Liverpool-street thence along the centre of Liverpool-street to the Old South Head Road thence along the centre of the Old South Head Road to Crown-street thence along the centre of Crown-street to its intersection with the southern boundary of Bourke Ward thence by part of the southern boundary of Bourke Ward to George-street.

COOK WARD.

The portion of the City of Sydney bounded by the centre of Liverpool-street from its junction with Elizabeth-street to the South Head Old Road along the centre of that road to the north-west angle of Sydney Common thence along the centre of Dowling-street to a point where it intersects the southern boundary of the Borough of Paddington thence by that boundary to its intersection with the centre of Regent-street thence by the centre of Leinster-street to the centre of Gordon-street thence by the centre of that street to the north side of Park Road thence by the north side of Park Road to the south-eastern angle of St. Matthias's Church land thence by the south-eastern and eastern boundaries of that land to the southern alignment of the South Head Old Road thence

Sydney Corporation.

thence by the southern alignment of that road easterly to its intersection with a line laid down marked out with stone posts and deemed to be the dividing-line between Sydney Common and the Water Reserve thence in a south-westerly direction by the said dividing-line to its intersection with the southern boundary of Sydney Common thence by that boundary to the south-west angle of Sydney Common thence in a northerly direction by the western boundary of that Common to its intersection with the centre of Cleveland-street thence along the centre of that street to the centre of Elizabeth-street thence along the centre of Elizabeth-street to the centre of Liverpool-street.

FITZROY WARD.

The portion of the City of Sydney starting from the northern termination of Bourke-street along the water's edge to the boundary of the city at Rushcutter's Bay thence along the eastern boundary of the city to the north-west corner of Sydney Common thence along the centre of the South Head Road to Crown-street thence along the centre of Crown-street to its intersection with the southern boundary of Bourke Ward thence by the southern boundary of Bourke Ward to Bourke-street thence along centre of Bourke-street to water's edge.

PHILLIP WARD.

The portion of the City of Sydney bounded by the western boundary of Cook Ward from the south end of Elizabeth-street along the centre of Cleveland-street to the eastern side of the old road to Cook's River thence along the eastern side of that road to Parramatta-street thence along the centre of Parramatta and George Streets to Liverpool-street thence along centre of Liverpool-street to its junction with Cook Ward.

DENISON WARD.

The portion of the City of Sydney commencing at the centre of Parramatta-street at its junction with Bay-street thence along the centre of Bay-street and its prolongation to the eastern shore of Blackwattle Swamp Cove thence along the waters of Port Jackson to the western termination of Bathurst-street thence by the centre of Bathurst-street to its junction with George-street thence along the centre of George-street and Parramatta-street to the point of commencement.

SCHEDULE D.

Ward.
List of Citizens for the Year 18 .

Number in Rate Book.	No.	Christian name and surname of each Person.	Residence.	Number of Votes.

SCHEDULE E.

Scrutineer's Declaration.

I A.B. appointed on behalf of C.D. one of the persons nominated for election this day as Alderman for _____ Ward (or as Auditor for the City of Sydney) to be a Scrutineer at such election do hereby solemnly declare that I will faithfully assist as such Scrutineer and will not attempt to ascertain for whom any elector shall vote nor by any word or action directly or indirectly aid in discovering the same unless in answer to any question which I am legally bound to answer or in compliance with the provisions of the "Sydney Corporation Act of 1879."

SCHEDULE F.

Ballot-paper.

ELECTION of an Alderman (or two Aldermen) on the _____ day of _____ 18

List of Candidates for Election.

For _____ Ward of the City of Sydney.
Names. _____ Addresses.

Ballot-paper.

ELECTION of an Auditor (or Auditors) on the _____ day of _____ 18

List of Candidates for Election for the City of Sydney.

Names. _____ Addresses.

SCHEDULE G.

Sydney Corporation.

SCHEDULE J.
Form of Rate Book.

No.	Situation.	Person rated.	Period for which rate is ordered half-year ending	Assessed annual value in pounds.	City Rate.		Date of Payment.
					Amount in the £.	Amount.	
						£ s. d.	

SCHEDULE K.

City Rate No. _____ Ward. _____
 Amount assessed not exceeding £ : _____
 RECEIVED on the _____ 18 from _____ the sum of _____
 being the amount of the half-yearly City Rate to the 30th June 18 _____ on premises of
 corresponding number with the above in the City Rate Books.
 £ _____
 Registered for _____ votes. _____
 City Treasurer.
 Town Clerk.

SCHEDULE L.
Form of Notice of Rates.
City of Sydney.

No. _____ Ward. _____
 To _____
 NOTICE is hereby given that by virtue of the "Sydney Corporation Act of 1879" the Council of the City of Sydney have ordered and directed you to be assessed and rated in respect of the undermentioned premises at the sums and for the purposes hereunder set forth:—

Person rated.	Premises assessed.	Net value clear of outgoings.	Nature of rates.	In the £.	Amount of rates.
			City rate half-year ending or other rate half-year ending as the case may be.		
				£	

You are hereby required to pay the amount of the said rates into the office of the City Treasurer within fourteen days from the date of service of this notice. And if the same be not paid into such office within the period above prescribed a warrant will be forthwith issued by the Mayor for the recovery of the same with costs.

Dated at the Town Hall Sydney this _____ day of _____ 187 .

Date of Service _____ 187 . _____
 City Treasurer.

N.B.—You are requested to bring this notice with you when you come to pay.

City Treasurer's Office
 Sydney _____ 187 .
 Received the amount of rates above mentioned.

City Treasurer.

Sydney Corporation.

SCHEDULE M.

Table of Costs.

	s.	d.
For every warrant of distress	2	0
For every levy	1	0
For man in possession one shilling per hour for the first three hours and if longer detained six shillings per day or part of a day.		
For inventory sale commission and delivery of goods not exceeding one shilling in the pound on the net proceeds of the sale.		

SCHEDULE N.

Warrant of distress against any number of tenants actually rated or the occupants.

To _____ and his assistants.

WHEREAS the several persons whose names appear in the Schedule hereunder written have been rated by the Council of the Corporation of Sydney in respect of the premises named in the said Schedule at the sums and for the rates set down opposite to their respective names And whereas the said several sums were and still are due and payable on account of such rates and default has been made in the payment thereof respectively to the City Treasurer although demand has been made according to law These are therefore to authorize you forthwith to make distress of the several goods and chattels in the first place of the person or persons named in the said Schedule if he she or they be then resident in the said premises and have any goods and chattels there and in case of a change of possession then upon the goods and chattels of any person or persons who shall then be the occupier or occupiers in possession of the said premises so named in the said Schedule at the time of the execution of this warrant and if within the space of three days next after the making of either of such distresses respectively the said several sums of money set opposite to their respective names at which the person or persons was or were so rated as aforesaid and the said several sums for costs also set opposite to their respective names including your lawful charges for levy inventory sale commission and delivery of goods in each case shall not be paid that then you do sell the said goods and chattels of the person or persons so by you distrained and out of the money arising by such sales respectively you retain the respective sums so due and owing for the premises in the said Schedule mentioned and occupied by the parties or parties whose goods you shall have sold rendering to him her or them the overplus after deducting the charges of taking keeping and selling the said distress and that you certify to me on or before the day of _____ what you shall have done by virtue of this warrant.

SCHEDULE.

No. in Rate Book.	Names of Ratepayers.	Description of Property.	Situation of Property.	What Rates.	Costs.	Total.
				s. d.	s. d.	£ s. d.

Given under my hand and the Common Seal of the Corporation of Sydney
at the Town Hall this _____ day of _____ A.D. 18 _____

Mayor. L.S.