

No. XLI.

An Act to provide for the Regulation of the Corporation of the City of Sydney. [Assented to, 2nd October. 1850.]

CONTINUANCE OF THE CORPORATE BODY, RIGHTS AND PRIVILEGES, &c.

WHEREAS an Act was passed by the Governor and Legislative Council of New South Wales in the sixth year of the reign of Her present Majesty, intituled, "*An Act to declare the Town of Sydney to be a City, and to Incorporate the Inhabitants thereof*:" And whereas a certain other Act was also passed by the said Governor and Council in the seventh year of the reign of Her said Majesty, intituled, "*An Act for the more easy and effectual recovery of Rates in the City of Sydney*:" And whereas a certain other Act was also passed by the said Governor and Council in the eighth year of the reign of Her said Majesty, intituled, "*An Act to amend an Act intituled, 'An Act to declare the Town of Sydney to be a City, and to Incorporate the Inhabitants thereof,' and for other purposes*:" And whereas a certain other Act was also passed by the said Governor and Council in the eleventh year of the reign of Her said Majesty, intituled, "*An Act for removing doubts as to the Election of Mayor and Aldermen, and for other purposes therein mentioned*:" And whereas it is expedient to repeal the said several recited Acts, (except as hereinafter mentioned,) and to make other provisions in lieu thereof: Be it therefore enacted, by His Excellency the Governor of New South Wales, with the advice and consent of the Legislative Council thereof, That from and after the passing of this Act, the said recited Acts shall be and the same are hereby repealed, except so far as the said first recited Act declares the Town of Sydney to be a City, incorporates the inhabitants thereof, and defines the boundaries of the said City and the wards thereof; and except so far as such Acts or any of them repeal the Acts thereby repealed, and except as hereinafter excepted.

Preamble.
6 Vic., No. 3.
7 Vic., No. 11.
8 Vic., No. 14.
and 11 Vic., No. 36.
repealed with certain exceptions.

II. And be it enacted, That after the passing of this Act, the Body Corporate and Politic, now styled the "Mayor, Aldermen, Councillors, and Citizens of the City of Sydney," shall continue to be styled and bear the name of the "Mayor, Aldermen, Councillors, and Citizens of the City of Sydney;" and under that name shall have perpetual succession, and shall be capable in law to sue and be sued, and to implead and be impleaded, in all Courts of Law and Equity, and other places, in all manner of actions, causes, and matters whatsoever, and to accept, take, purchase, and hold goods and chattels, lands and tenements, real and personal, moveable and immovable estates, and to grant, sell, alienate, assign, demise, and convey the same, and to do and suffer all acts as a Body Corporate, under and subject to the provisions and regulations of this Act; and shall and may have a Common Seal; and in all cases of legal proceedings, service of notice thereof upon either the Mayor or Town Clerk, for the time being, shall be deemed and taken as good and sufficient service upon the Corporate Body.

Corporation to continue to be styled "Mayor, Aldermen, Councillors, and Citizens of the City of Sydney."

III. And be it enacted, That nothing in this Act contained shall be held or construed to abolish the Corporate Body created by the said first recited Act, or to abrogate or repeal any acts, matters, or things, made or done, or commenced to be made or done, under the authority thereof, but that the same shall continue in as full force and effect as if this Act had not been passed; and the Mayor, Aldermen, Councillors, Auditors, and Assessors, and all corporate officers, shall hold the offices to which they were respectively elected or appointed, under the said first recited Act, during the period for which they were respectively elected or appointed, except in so far as such period may be abridged or extended under the provisions of this Act; and possess the same powers, rights, privileges, and immunities, and be subject to the same provisions, regulations

Provision for the continuance of the present Corporation.
Powers, rights, privileges, and immunities.

Continuance of Corporate Body, &c., continued.

lations, and restrictions, and to the performance of the same duties as they respectively possessed, or were subject to before the passing of this Act, except in so far as the same may be specially restricted or enlarged, or otherwise altered, under and by virtue of this Act.

Property of Council shall still be vested in Corporation.

IV. And be it enacted, That all the lands, tenements, buildings, hereditaments, and real estate, chattels, real and personal estate and property, whatsoever, and all powers, rights, remedies, and capacities, in respect of the same, which shall at the passing of this Act be vested in or held in trust for the Corporate Body established under or by virtue of the said first recited Act, shall continue to be vested in, or held in trust for, the said Corporate Body after the passing of this Act, and all moneys then due and owing by or to, or on account of the said Corporate Body shall still be recoverable by or from the said body; and all contracts, agreements, mortgages, bonds, covenants, and securities, then made or entered into, with or in favor of, or by or for the said Corporate Body, or any person on their behalf, shall take effect, and may be proceeded on and enforced by, against, and with reference to the said Corporate Body as fully in all respects as if this Act had not been passed.

Debts, liabilities, mortgages, and agreements still to be in force.

Actions not to abate.

V. And be it enacted, That no action, suit, prosecution, or other proceeding whatsoever, commenced or carried on previously to the passing of this Act, either by or against the Corporate Body established by the first recited Act, shall abate, or be discontinued, or prejudicially affected by virtue of the enactments herein contained, but shall continue and take effect both in favor of and against the said Corporate Body; and all decrees and orders made, and all fines and penalties imposed and incurred respectively, and all rates made, or so much thereof as shall not have been levied, and paid before the passing of this Act, shall be enforced, levied, recovered, and proceeded for in such and the like manner as if this Act had not been passed, except in so far as the levying, recovering, and enforcing payment of the same, may be specially altered, under and by virtue of this Act.

Fines, Penalties, and rates still to be recoverable.

QUALIFICATION OF CITIZENS.

Qualification of Citizens.

Occupancy £20 annual value; six months residence.

VI. And be it enacted, That every male person of full age who on the last day of July in any year after the passing of this Act, shall have occupied any house, warehouse, counting-house, shop, office, or chamber used as an office within the said City, of the clear annual value of twenty pounds sterling money, at the least, during the whole six calendar months preceding such date, and also, during the time of such occupation as aforesaid, shall have been an inhabitant householder within the said City, or within seven miles thereof, shall, if duly enrolled on the Citizen Roll in that year according to the provisions hereinafter contained, be a Citizen of the said City, and Member of the Body Corporate of the Mayor, Aldermen, Councillors and Citizens of the same, and shall be entitled to vote in the election of Mayor, Aldermen, Councillors, Assessors, and Auditors under the provisions hereof, and no person, whose name is not enrolled in such Citizen Roll for the time being, shall have any voice or be entitled to vote in any such election: Provided always, that no person shall be so enrolled in any year, unless if rated he shall have paid, on or before the last day of July as aforesaid, all such rates as shall have become payable by him in respect of the said premises, except such as shall become payable within six calendar months next before the said last day of July: Provided also, that the premises, in respect of the occupation of which any person shall have been so rated, need not be the same premises or in the same ward, but may be different premises, in the same ward, or in different wards within the City: Provided likewise, that no person being an alien, unless naturalized according to law, shall be so enrolled in any year; and that no person shall be so enrolled in any year who, within twelve calendar months before, shall have received eleemosynary relief in or from any benevolent society or other charitable institution: Provided also, that in every case under this Act the distance of seven miles aforesaid shall be computed by the nearest public road or way, by land or water, from the nearest part of the boundary of the City.

Enrolment on Citizen Roll.

Payment of rates.

Aliens and others not qualified.

VII. And be it enacted, That where any premises as aforesaid, in the said City, shall jointly be occupied by more persons than one, as owners or tenants, each of such joint occupiers shall be entitled to be enrolled as a Citizen thereof, and to vote as aforesaid, in respect of the premises so jointly occupied by them, provided that the value of such premises, to be ascertained and determined as hereinafter mentioned, shall be of an amount which, when divided by the number of such occupiers, shall give for each occupier a sum not less than the sum which would entitle such person to be enrolled, and to vote as aforesaid, if he were a separate occupier, but not otherwise.

Qualification of Citizens, continued.

In certain cases where persons occupy premises jointly, each person to be entitled to be enrolled a Citizen.

VIII. And be it enacted, That where any house, warehouse, counting-house, shop, office, or chamber used as an office, as aforesaid, in the said City, shall come to any person by descent, marriage, marriage-settlement, or devise, such person shall be entitled to reckon the occupancy thereof by the person from or by whom such house, warehouse, counting-house, chamber, shop, or office, shall have so come to him, as his own occupancy, conjointly with the time during which he shall have since occupied the same, and shall be entitled to be enrolled a Citizen and to vote as aforesaid in respect of such successive occupancy, provided he shall be otherwise qualified as herein provided.

In case of titles by descent, &c., how the occupation is to be reckoned.

IX. And be it enacted, That every person whose name is enrolled as a Citizen on the Citizen Roll of the City of Sydney, which shall be in force at the passing of this Act, shall be entitled to vote in the election of Mayor, Aldermen, Councillors, Auditors, and Assessors under this Act, until the revision and completion of the first Citizen Roll under and by virtue of this Act; and that after the revision and completion of the first Citizen Roll under this Act, every person whose name shall be enrolled therein, or in any subsequent Citizen Roll for the time being, shall be entitled to vote in the election of Mayor, Aldermen, Councillors, Auditors, and Assessors under this Act.

What Citizens entitled to vote at the first and subsequent elections under this Act.

CITIZEN LISTS.

X. And be it enacted, That on or before the thirty-first day of July in every year, after the passing of this Act, a person or persons to be called collector or collectors, shall be appointed by the Mayor of the said City, for each Ward of the same; and such collector or collectors shall, on or before the tenth day of August in every year, make out, sign, and deliver to the Town Clerk of the said City, an alphabetical list, to be called the Citizen List, according to the form in the Schedule to this Act annexed, marked A, of all persons who shall be entitled to be enrolled in the Citizen Roll for that year, according to the provisions of this Act, in respect of property within such Ward; and each collector shall keep a true copy of the list so delivered by him, to be perused by any person, without payment of any fee, at all reasonable hours, between the tenth and thirty-first days of August, in every year; and the Town Clerk shall within a reasonable time cause copies to be printed of all such lists delivered to him, and shall deliver a copy of any such list to any person requiring the same, on payment of a reasonable price for each copy; and shall cause a copy of the Citizen List of each Ward to be fixed on some public and conspicuous building within the Ward, on every day from the twentieth to the thirty-first days of August inclusively in every year.

Citizen Lists.

Collectors to be appointed by 31st July to make out lists of all persons entitled to be enrolled Citizens; and deliver same to Town Clerk by 10th August.

Schedule A.

Lists to be perused from 10th to 31st August;

and to be affixed on public buildings from 20th to 31st August.

XI. And be it enacted, That any person whose name shall have been omitted in any such Citizen List, and who shall claim to have his name inserted therein, shall, on or before the thirty-first day of August, in every year, give notice thereof to the Town Clerk, in writing, according to the form in the Schedule to this Act annexed, marked B, or to the like effect; and every person whose name shall have been inserted in any Citizen List, or who shall have duly claimed, and shall be entitled to have his name inscribed in such list, may object to any other person as not being entitled to have his name retained in the Citizen List, and any person so objecting shall, on or before the thirty-first day of August, in every year, give to the Town Clerk, and also to the person objected to, or leave at the

Claims and objections to be lodged with Town Clerk by 31st August.

Schedule B.

*Citizen Lists, con-
tinued.*

Schedule C.

Schedule D.

Schedule E.

Lists to be perused
and published from
5th to 15th Sep-
tembr.

Alderman and Asses-
sors to revise Lists
at revision courts
to be held from
16th September to
5th October, after
3 days notice.

Aldermen may
retain, insert, and
expunge names.

Mistakes may be
corrected, and
omissions supplied.

Power to the Alder-
man to adjourn any
Court to 5th October.

the premises for which he shall appear to be rated in the Citizen List, notice thereof, in writing, according to the form in the Schedule to this Act annexed, marked C, or to the like effect; and the Town Clerk shall include the names of all persons so claiming to be inserted on the Citizen List, in a list according to the form in the Schedule to this Act annexed, marked D, and shall include the names of all persons so objected to, as not entitled to be retained on the Citizen List, in a list according to the form in the Schedule to this Act annexed marked E; and shall cause copies of such several lists to be fixed on the outer doors or walls of some public or conspicuous buildings respectively within each Ward, on every day from the fifth to the fifteenth day of September inclusively, in every year; and the Town Clerk shall likewise keep a list of the names of all persons so claiming as aforesaid, and also a list of the names of all persons so objected to as aforesaid, to be perused by any person, without payment of any fee, at all reasonable hours, from the said fifth to the said fifteenth day of September, in every year, and shall deliver a copy of each of such lists to any person requiring the same, on payment of a sum not exceeding one shilling for each copy.

XII. And be it enacted, That an Alderman and two Assessors, to be respectively chosen as hereinafter mentioned, in every year, by the Citizens of the said City, shall respectively hold an open Court within each Ward of the said City for the purpose of revising the said Citizen Lists; such revisions to take place at such time as the said Alderman may appoint between the sixteenth day of September and the fifth day of October inclusively, in each and every year, he having first given three clear days' notice of the holding of such Court, by advertising the same in the *New South Wales Government Gazette*, and in one daily or other newspaper circulating in the said City of Sydney; and the Town Clerk, or person acting as such, shall, at the opening of the Court, produce the said lists, and a copy of the lists of the persons so claiming, and of the persons so objected to, made out in manner aforesaid; and the collectors of such Citizen Lists appointed under this Act shall attend the Court, and shall answer upon oath all such questions as the Court may put to them, or any of them, touching any matters necessary for revising the Citizen Lists; and the said Alderman shall insert in such lists the name of every person who shall be proved, to the satisfaction of the Court, to be entitled to be inserted therein, according to the provisions of this Act, and shall retain on the said lists the names of all persons to whom no objection shall have been duly made, and shall also retain on the said lists the name of every person who shall have been objected to by any person, unless the party so objecting shall appear, by himself, or by some one on his behalf, in support of such objection; and when the name of any person inserted in any of the said lists shall have been duly objected to, and the person objecting shall appear, by himself, or by some one in his behalf, in support of such objection, the Court shall require proof of the qualification of the person so objected to; and in case the qualification of such person shall not be proved to the satisfaction of the Court, the said Alderman shall expunge the name of every such person from the said lists, and shall also expunge therefrom the name of every person who shall be proved to the Court to be dead; and shall correct any mistake, or supply any omission, which shall be proved to the Court to have been made in any of the said lists, in respect of the name or place of abode of any person who shall be included therein, or in respect of the local description of his property: Provided always, that no person's name shall be inserted by the said Alderman in any such lists, or shall be expunged therefrom, except in the case of death, unless notice shall have been given, as is hereinbefore required, in each of the said cases.

XIII. And be it enacted, That every Alderman holding any Court under this Act, for the revision of the said lists, shall have power to adjourn the same from time to time, provided that no such adjourned Court shall be held beyond the said fifth day of October, in any year; and the said Alderman shall have power to require any person having the custody
of

of any book containing any rate made for the said City during that or the preceding year, to produce the said book, and allow the same to be inspected at any Court to be held for the revision of the Citizen Lists; and the said Alderman shall have power to administer an oath or oaths, as well to the Town Clerk and to the Collectors, as to all persons claiming to be inserted in or making objection to the omission or insertion of any name in any of the said lists, and to all persons objected to in any such lists, and to all persons claiming to have any mistake in any of such lists corrected, and to all witnesses who may be tendered or examined on either side, by which oath the person under examination shall be required to state the truth, the whole truth, and nothing but the truth, relating to the matter in hand; and the said Alderman and Assessors, by the decision of the three, or any two of them, shall upon the hearing in open Court, determine upon the validity of such claims and objections; and the said Alderman shall, in open Court, write his initials against the names struck out, or inserted, and against any part of the said lists in which any mistake shall have been corrected, and shall sign his name to every page of the several lists so settled.

Citizen Lists, continued.

Oath may be administered to Town Clerk, and others.

Aldermen shall initial alterations and sign lists.

XIV. And be it enacted, That every person authorized by law to make an affirmation instead of taking an oath, shall make such affirmation in every case in which, by this Act, an oath is required to be taken; and if any person taking any oath required by this Act, or making any affirmation instead of taking such oath, or making any declaration, shall wilfully swear or affirm or declare falsely, such person shall be deemed guilty of perjury, or of a misdemeanor, as the case may be, and shall be punished accordingly.

Affirmation may be substituted for oath.

Punishment for swearing, affirming, or declaring falsely.

XV. And be it enacted, That the Citizen List of each ward, so revised and signed as last aforesaid, shall be delivered by the said Alderman to the Town Clerk, who shall keep the same, and shall cause each of the said Citizen Lists to be fairly and truly copied into an alphabetical list, in books to be by him provided for that purpose, the Citizen List of each Ward being kept separate, with every name therein numbered, beginning the numbers from the first name, and continuing them in a regular series to the last name, and shall cause such books to be completed on or before the fifteenth day of October in each and every year, and shall deliver such books, together with the lists, at the expiration of his office, to the person succeeding him in such office; and every such book, in which the said Citizen Lists shall have been copied, shall be the Citizen Roll of the Citizens of the City entitled to vote, in each and every year after the passing of this Act, in the choice of the Mayor, Aldermen, Councillors, Assessors, and Auditors of the said City, as hereinafter mentioned, at any Election which may take place in the said City, between the first day of November in the year wherein such Citizen Roll shall have been made, and the first day of November, in each and every succeeding year.

Revised lists to be delivered to the Town Clerk.

Roll books to be completed by 15th October in every year.

How long to be in force.

XVI. And be it enacted, That the Town Clerk shall cause copies of the Citizen Roll in every year, so revised as aforesaid, to be written or printed, and shall deliver one copy of each list to the Alderman of each Ward, and further copies to all persons applying for the same, on payment of a reasonable price for each copy; and the amount received for such copies, and for copies of the Collectors' lists, and of the list of claims and objections as aforesaid, shall be paid over to the City Treasurer, and shall be applied in aid of the City Fund hereinafter mentioned.

Copies of the Citizen Roll to be written or printed for distribution.

QUALIFICATION OF COUNCILLORS, &c.

XVII. And be it enacted, That no person being in Holy Orders, or being a regular Minister of any religious congregation, shall be qualified to be elected, or to be a Councillor, Alderman, Auditor, or Assessor, under this Act; nor shall any person be qualified to be elected, or to be a Councillor, or an Alderman of the said City, who shall not then be enrolled on the Citizen Roll, nor unless he shall be seized or possessed of real or personal estate, or both, to the amount of one thousand pounds, either in his own right or in that of his wife, or be rated upon the annual value

Qualification of Councillors, &c.

Property qualification £1,000, or rated on annual value of £100.

Qualification of Councilors, &c., continued.

value of not less than one hundred pounds; nor during such time as he shall hold office or place of profit, other than that of Mayor, in the gift or disposal of the Council of the said City; nor during such time as he shall have directly or indirectly, by himself or his partner, any share or interest in any contract or employment with, by, or on behalf of such Council:

Persons not qualified.

Provided that no person shall be disqualified from being a Councillor, Alderman, Auditor, or Assessor as aforesaid, by reason of his being a proprietor or shareholder of any Company which shall contract with the Council of the said City for lighting, or for supplying with water, or insuring against fire, any part of the said City: Provided also, that no person who may, under the provisions of this Act, have been elected Assessor for any Ward, shall whilst he continue to be such, be elected a Councillor for the same or any other Ward, or Auditor of the City; neither shall any Judge or Chairman of any Court of Justice, nor any Ministerial Law Officer of the Crown, be capable of being elected an Alderman, Councillor, Auditor or Assessor, under this Act.

Elections.

Councillors, Aldermen, and Mayor to be elected as hereinafter mentioned,

ELECTIONS.

by a majority of votes in the whole of the wards collectively.

XVIII. And be it enacted, That in every year, at the times and in the manner hereinafter mentioned, there shall be elected the number hereinafter mentioned of fit and proper persons, who shall be called Councillors of the said City; and one fit and proper person, who shall be called the Mayor of the said City; and once in every three years, at the time, and in the manner hereinafter directed, the number hereinafter mentioned of fit and proper persons who shall be called Aldermen of the said City; and the Mayor, Aldermen, and Councillors, for the time being, shall be, and be called the Council of the said City; and that in the election of Mayor, Aldermen, and Councillors, under this Act, the persons elected shall be they for whom there shall appear to be a majority of votes in the whole of the wards collectively.

Six Councillors to go out of office on 1st November, annually.

XIX. And be it enacted, That upon the first day of November next, and on the first day of November in each and every succeeding year, six Councillors of the said City shall go out of office, and those who shall go out of office shall be the Councillors who have been for the longest time in office without re-election, whether elected under the said first recited Act or this Act: Provided always, that any Councillor so going out of office shall be capable of being forthwith re-elected, if then qualified as herein provided.

Retiring Councillors may be re-elected.

Six Councillors to be elected on 1st or 4th November in every year, to supply vacancies.

XX. And be it enacted, That on the first day of November next, and on the first day of November in every succeeding year, or in the event of a Poll being demanded as hereinafter mentioned, on the fourth day of November in every year, the Citizens so enrolled as aforesaid on the Citizen Roll of the said City for the time being, shall openly assemble and shall elect in the manner hereinafter mentioned, from the persons qualified to be Councillors, six Councillors of the said City, to supply the places of those Councillors who may then retire by rotation.

Three Aldermen to go out of office on 1st December, 1851, and on 1st December every third year.

XXI. And be it enacted, That on the first day of December, in the year one thousand eight hundred and fifty-one, and on the first day of December in every succeeding third year, three Aldermen of the said City shall go out of office, and those who shall so go out of office shall always be the Aldermen who have been for the longest time in office without re-election under the provisions of the said first recited Act, or this Act.

Aldermen to be chosen on 1st or 4th December, 1851, and every succeeding third year, from Citizens or Councillors.

XXII. And be it enacted, That on the said first day of December, in the year one thousand eight hundred and fifty-one, and on the first day of December in every succeeding third year, or, in the event of a poll being demanded as hereinafter mentioned, on the fourth day of December, one thousand eight hundred and fifty-one, and on the fourth day of December in every succeeding third year, the Citizens so enrolled on the said Citizen Roll as aforesaid for the time being, shall openly assemble and elect, in manner hereinafter mentioned, from the persons qualified to be Councillors of the said City, such number of Aldermen of the said City as shall be needed to supply the places of those who shall then

then go out of office as herein mentioned : Provided always, that nothing herein contained shall be deemed to prevent the election of any Councillor for the time being as an Alderman of the said City, or any Alderman who may go out of office from being forthwith re-elected, if he be duly qualified as herein provided.

Elections, continued.

Retiring Aldermen may be re-elected.

XXIII. And be it enacted, That of the Aldermen so elected one shall be appointed to each vacant Ward, provided that the Alderman residing in any Ward shall be the Alderman of the same; but if two Aldermen reside in the same Ward, the Alderman elected by the greatest number of votes shall be Alderman thereof; and in the event of an equality of votes in favor of two or more Aldermen resident in the same Ward, then the said Council shall decide by resolution which of the persons so resident in the Ward shall be Alderman of the same; and if there be no Alderman resident in any Ward, the said Council shall appoint the Alderman to such Ward.

Aldermen to be appointed to Wards.

XXIV. And be it enacted, That from and after the passing of this Act all elections of Councillors and Aldermen shall be conducted in manner following, that is to say: the Mayor of the said City shall preside at a meeting of the Citizens, to be holden at noon on the day fixed for the election of such officers respectively by this Act, at the Town Hall, or some public place within the said City, of which at least three clear days' notice shall be given, by advertisement in the *New South Wales Government Gazette*, and one daily or other newspaper circulating in the said City, and shall declare the purpose for which such meeting is held; and if there be at such meeting no more candidates proposed than the number of Councillors or Aldermen respectively required to supply the places of those who then retire by rotation, the Mayor or presiding officer shall declare such candidates to be duly elected; and in the event of there being more candidates for either of such offices than the number then to be elected, the Mayor or other presiding officer shall call for a shew of hands separately in favor of each candidate, and shall, after such shew of hands, declare the persons on whom the election has fallen, who shall be elected to the respective offices accordingly, unless a poll be demanded by one or more of the candidates, or by not less than six Citizens on his or their behalf, and on such demand being made for a poll, the polling shall commence at the different polling places in the various Wards in the manner hereinafter directed, on the day next but two following the said day of nomination.

Nomination of Candidates for Councillors and Aldermen.

Mayor to preside at Town Hall, after three days' notice.

Result how declared.

XXV. And be it enacted, That on the fifteenth day of December next, and on the fifteenth day of December in every succeeding year, the Citizens so enrolled as aforesaid on the Citizen Roll for the time being shall openly assemble in the several Wards of the said City, and elect, in the manner hereinafter mentioned, one fit and proper person out of the Aldermen and Councillors to be Mayor of the said City, and the person so elected shall enter on office on the first day of January next following, and shall continue in such office for one whole year, or until a successor shall be appointed and shall enter on office: Provided always, that in case an extraordinary vacancy shall be occasioned in the office of Mayor during any year by reason of death, resignation, or otherwise, such vacancy shall not cause a dissolution of the Corporate Body, but the Town Clerk shall, within fourteen days from the occurrence of such vacancy, appoint a day and give public notice thereof in the *New South Wales Government Gazette*, and in one daily or other newspaper circulating in the said City, for the election of another fit and proper person to be Mayor of the said City, and the Citizens entitled to vote as aforesaid shall, on the day so appointed, openly assemble in the various Wards, and elect from the Aldermen and Councillors another fit and proper person to be Mayor of the said City, and the person so elected shall hold such office during the remainder of the year, or until a successor shall be appointed and shall enter on office: Provided also, that the person holding the office of Mayor of the said City at the passing of this Act shall continue to hold such office until the first day of January next, or until a successor shall

Mayor to be elected by the Citizens from the Council on 15 December,

to enter on office on 1st January.

Extraordinary vacancy of Mayor.

Provision for present Mayor continuing in office to 1st January next.

shall

Elections, continued. shall be appointed and shall enter on office under the provisions of this Act, anything in the said first recited Act, or in any other Act of the Governor and Legislative Council of New South Wales, to the contrary notwithstanding.

Election to be held before Alderman and Assessors in each ward from 9 a.m., to 4 p.m.

XXVI. And be it enacted, That every election of Mayor, and in the event of a poll being demanded as aforesaid, every election of Aldermen and Councillors, according to the provisions of this Act, shall be held before the Alderman and Assessors for the time being of each Ward; and the voting at every such election shall commence at nine o'clock in the forenoon, and shall finally close at four o'clock in the afternoon of the same day, and shall be conducted in manner following, that is to say, every Citizen entitled to vote in the election of Mayor, Aldermen, and Councillors may vote for one person as Mayor, and for any number of persons not exceeding the number of Aldermen and Councillors then to be chosen, by delivering to the Aldermen and Assessors, or other presiding officer, as hereinafter mentioned, a voting paper containing the christian names and surnames of the persons for whom he votes as Mayor, Aldermen, and Councillors respectively, such papers respectively being previously signed with the name of the Citizen voting, and with the name of the street, lane, or other place in which the property for which he appears to be rated on the Citizen Roll for the time being is situated.

Mode of voting.

Form of voting papers.

Booths to be erected or rooms hired for taking a Poll, if expedient.

XXVII. And be it enacted, That at every election the Mayor, if it shall appear to him expedient for taking the poll at such election, may cause a booth to be erected, or a room to be hired, and used as such booth in one place within each Ward; and shall appoint a Clerk or Clerks to take the poll at each of the said booths or rooms; and no person shall be admitted to vote at any such election except at the booth or room allotted for the ward wherein the house, warehouse, counting-house, shop, or office occupied by him, or to which he is entitled as described in the said Citizen Roll may be; and public notice of the situation of the different booths or rooms shall be given two days at least before the commencement of the poll by the Mayor, or in case of an extraordinary vacancy in the office of Mayor, by the Town Clerk, as hereinbefore mentioned: Provided always, that no election shall be holden under this Act in any Church, Chapel, or other place of Public Worship.

Two days notice of poll to be given.

No inquiry of a voter except as, to three points.

XXVIII. And be it enacted, That no inquiry shall be permitted at any election as to the right of any person to vote as a Citizen, except only as follows, that is to say, that the Alderman or other presiding officer, may of his own accord, or shall, if required on behalf of any candidate, or by any two Citizens entitled to vote, put to any voter at the time of his delivering his voting paper, and not afterwards, the following questions, or any of them, and no other; *First*—Are you the person whose name is signed as A. B. to the voting paper now delivered in by you? *Second*—Are you the person whose name appears as A. B. in the Citizen Roll now in force for the City of Sydney, being registered therein for property described to be situated (here specify the street or place described in the Citizen Roll)? *Third*—Have you already voted at the present election? And no person required to answer any of the said questions shall be permitted or qualified to vote until he shall have answered the same; and if

Punishment for false answer.

any person shall wilfully make a false answer to any of the questions aforesaid he shall be deemed guilty of a misdemeanor, and may be indicted and punished accordingly; and the said Alderman or other presiding officer may of his own accord, or shall, if required on behalf of any candidate, or his agent, or by any two Citizens entitled to vote, at the time aforesaid, administer an oath, or in case of a Quaker or Moravian an affirmation, to any voter, in the following form, that is to say: "You do swear (or, being a Quaker or Moravian, do affirm) that you are the same person whose name appears as A. B. on the Citizen Roll now in force for the City of Sydney: So help you God." And no elector shall hereafter at any such election be required to take an oath or affirmation except as aforesaid, either in proof of his residence, age, or qualification or right to vote, any law or statute to the contrary notwithstanding; and no person

Oath to be administered or affirmation to be made if required, as to identity.

No other oath or affirmation as to qualification.

person claiming to vote at any such election shall be excluded from voting thereat, except by reason of its appearing to the said Alderman or other presiding officer upon putting such questions as aforesaid, or any of them, that the person so claiming to vote is not the same person whose name appears on such Citizen Roll as aforesaid, or that he has previously voted at the same election, or except by reason of such person refusing to take the said oath or make the said affirmation, or to take or make the following oath or affirmation against bribery: "I, A. B., do swear" (or, being one of the people called Quakers, I, A. B., do solemnly affirm) "That I have not received or had by myself or any person whatsoever in trust for me, or for my use and benefit, directly or indirectly, any sum or sums of money, office, place of emolument, gift, or reward, or any promise or security for any money, office, employment, or gift, in order to give my vote at this election: So help me God."

Elections, continued.

Form of oath or affirmation against bribery.

XXIX. And be it enacted, That the Alderman for each Ward shall, immediately at the close of the poll, collect and seal up all the voting papers which shall have been taken at the polling places whereat he presided, and shall, with the least possible delay, deliver the same or cause the same to be delivered to the Mayor of the said City, who shall examine the voting papers so delivered in as aforesaid, for the purpose of ascertaining which of the several persons voted for as aforesaid are elected Mayor, Aldermen, and Councillors; and so many of such persons so voted for as Mayor, Aldermen and Councillors respectively, being equal to the number of persons then to be chosen as Mayor, Aldermen and Councillors, as shall have the greatest number of votes in the whole of the Wards collectively, shall be the Mayor, Aldermen and Councillors respectively; and in case of an equality in the number of votes for any two or more persons, either as Mayor, Aldermen or Councillors, the said Mayor shall, if necessary, in order to prevent any excess in the number of persons elected, decide by lot which of such persons shall be elected Mayor, Aldermen and Councillors respectively; and the said Mayor shall cause the voting papers to be delivered to the Town Clerk, who shall keep the same in his office during six calendar months at the least after every such election; and the Town Clerk shall permit any Citizen to inspect the voting papers of any year, on payment of one shilling for every search; and the Mayor shall publish a list of the persons so elected, not later than two of the clock in the afternoon of the day next but two following the day of such election: Provided always, that in the event of an extraordinary vacancy in the office of Mayor, the Town Clerk shall perform the duties which in this section are required to be performed by the Mayor.

Result of Election how and when to be declared.

Voting papers to be kept six months by Town Clerk, and may be inspected by Citizens.

In extraordinary vacancy in the office of Mayor Town Clerk to act.

XXX. And be it enacted, That the Mayor for the time being, in examining the voting papers as aforesaid, shall reject none from mere want of form, provided that the name and designation of the party signing the paper, and the names of the parties contained in it, be intelligibly expressed, and in a manner to be commonly understood.

Voting Paper not to be rejected from mere want of form.

XXXI. And be it enacted, That the Mayor shall, during the continuance of his office, continue to be a Member of the said Council: Provided always, that if he be an Alderman he may continue during his Mayoralty to preside at elections within the Ward for which he shall be appointed Alderman as aforesaid; and provided also, that he shall continue a Councillor of the said City until the first day of November after he shall cease to be Mayor.

Mayor to continue Member of Council, to 1st November, after Mayoralty.

XXXII. And be it enacted, That the Mayor for the time being, duly elected under the provisions of this Act, shall be *ex officio* a Justice of the Peace in and for the said City; and, after having been duly sworn as a Justice, it shall and may be lawful for him to act as such, within the limits of the same, during his continuance in office; and such Mayor shall, during the period of his Mayoralty, have precedence in all Municipal proceedings and in all Magisterial Courts within the said City, except in the Courts of General Quarter Sessions, and next after the Members of the Legislative Council on all other occasions, and at all other places within the said City.

The Mayor to be a Justice of the Peace for the City.

Precedence of Mayor.

XXXIII.

Elections, continued.

Election of Assessors, on 15th November.

XXXIII. And be it enacted, That on the fifteenth day of November in every year the Citizens of each Ward shall elect, from persons qualified to be Councillors, two Citizens, who shall be and be called the Assessors of such Ward; and every such Assessor shall continue in office one year, or until a successor be elected; and the election of such Assessors respectively shall be in the form and manner hereinbefore provided for the election of Mayor, so far as the same shall be applicable: Provided, that no Citizen shall be eligible to be, or be elected, or qualified to act as Assessor as aforesaid, who shall be of the Council, or shall be the Town Clerk or the Treasurer of the Corporation.

Mode of election.

Election of Auditors, on 15th November;

XXXIV. And be it enacted, That on the fifteenth day of November in every year, the Citizens of the said City so entitled to vote as aforesaid, shall elect two fit and proper persons, qualified to be, but not actually being of the Council, to be the Auditors of the said City, and the Auditors so elected shall enter on office on the first day of January next following, and shall hold office for one whole year, or until successors be elected and shall enter on office: Provided always, that the retiring Auditors and Assessors shall be capable of being re-elected if still duly qualified.

to enter on office on 1st January.

Retiring Auditors and Assessors may be re-elected.

Mode of election of Auditors.

XXXV. And be it enacted, That in the election of Auditors, the Citizens entitled to vote shall proceed as hereinbefore directed for the election of Mayor, so far as the same shall be applicable; and the persons so elected Auditors shall be those for whom there shall appear to be a majority of votes in the whole of the Wards collectively, and the Mayor shall declare the result of every election of Auditors and Assessors within two days after the holding thereof.

Result of election, when and by whom to be declared.

Election not to be void for want of title in the person before whom the same shall be held.

XXXVI. And be it enacted, That no election of Mayor, Aldermen, Councillors, Assessors, or Auditors, under the provisions of this Act, shall be liable to be questioned by reason only of any defect in the title or any want of title of the persons by or before whom such election shall have been held: Provided such persons have been appointed to act or have been actually acting at such election.

Ward in which Citizens are to vote.

XXXVII. And be it enacted, That every Citizen shall be entitled to vote in the election of the Mayor, Aldermen, Councillors, Auditors, and Assessors to be chosen, as aforesaid, within that Ward in which the property for which he shall be enrolled on the Citizen Roll shall appear to be situated; and if he shall be so enrolled, in respect to distinct premises, in two or more Wards, he shall be entitled to vote in such one of the said wards as he shall select, but not more than one: Provided always, that every Alderman shall be entitled to vote in the Ward in which he presides.

Aldermen may vote in Ward where they preside.

Extraordinary vacancies of Aldermen, Councillors, Auditors, or Assessors, to be filled up within 14 days.

XXXVIII. And be it enacted, That if any extraordinary vacancy shall be occasioned in the office of Alderman, Councillor, Auditor, or Assessor, the Citizens entitled to vote shall, upon a day to be fixed by the Mayor, such day not to be later than fourteen days from the occurrence of such vacancy, and of which the Mayor shall give due notice by advertisement in the *New South Wales Government Gazette*, and in one daily or other newspaper circulating in the said City, elect, from the persons qualified to be Councillors, another Citizen to supply such vacancy; and such election shall be held, and the voting and other proceedings shall be conducted, in the same manner and subject to the same provisions respectively as are hereinbefore enacted with respect to the election of Aldermen, Councillors, Auditors, and Assessors, as aforesaid; and every person so elected shall hold such office until the time at which the person in place of whom he was chosen would regularly have gone out of office, and he shall then go out of office, but shall be capable of immediate re-election, if then qualified as herein provided: Provided always, that after the full number of Councillors to be regularly elected in any year shall have declared their acceptance of office, no new election of Councillors shall be made by reason of such extraordinary vacancy until the period fixed for the ordinary elections by this Act, unless the number of the whole Council, Mayor and Aldermen included, remaining after such vacancy shall be less than twenty-four, in which case the extraordinary vacancies shall be filled up within the time and in the manner hereinbefore described.

Extraordinary vacancies of Councillors not to be filled up until number of Council be less than 24.

XXXIX.

XXXIX. And be it enacted, That no advantage shall be taken of the invalidity of any election which may take place under this Act in any action or suit which may be brought by or against the said Council, but such action shall be tried on its merits as if no such objection existed.

Elections, continued.
No advantage to be taken of invalidity of elections in actions.

XI. And be it enacted, That in case no election shall be made of the Mayor, or of any of the Aldermen, Councillors, Assessors, or Auditors of the said City, upon the day or within the time appointed by this Act for any nomination or election, in consequence of any riotous proceedings or otherwise, or such election being made, shall afterwards become void, whether such omission or avoidance shall happen through the default of the officer or officers who ought to preside at such election, or by any accident or other means whatsoever, or if the Citizen Roll shall not be completed by the time herein provided, or if the full number of Aldermen and Councillors shall not be elected according to the true intent and meaning of this Act, the Council shall not thereby be deemed or be taken to be dissolved, nor shall the Citizens, so entitled to vote as aforesaid, be disabled from electing such Mayor, Aldermen, Councillors, Assessors, or Auditors for the future, but in any case where no such nomination or election shall be made as aforesaid, the nomination or election for any such Aldermen and Councillors, and the election for any such Mayor, Assessors, or Auditors may be had, held, and proceeded with, upon the day next after the day on which such nomination or election ought to have been made, unless such day shall happen to be on a Sunday, and then upon the Monday following, and if the said last mentioned day shall elapse without such nomination or election having been made, then the same shall take place on such other day as the Mayor for the time being of the said City shall appoint, and he shall cause notice to be given thereof by advertising the same in the *New South Wales Government Gazette*, and in one daily or other newspaper circulating in the said City, and every act necessary to be done in order to and for the completing such nomination or election shall and may be then done, and the same shall be as effectual and valid for all purposes as if the nomination or election had been made on the proper day appointed for that purpose.

Proceedings in case nomination or elections are not made within the time appointed under this Act.

XII. And for the prevention of bribery or corruption at any election: Be it enacted, That from and after the passing of this Act all and each of the following acts shall be deemed and taken to be acts of bribery and corruption on the part of any candidate, whether committed by such candidate or by any agent authorized to act for him, that is to say,—the giving of money, or any other article whatsoever, cockades included, to any elector with a view to influence his vote, or the holding out to him any promise or expectation of profit, advancement, or enrichment in any shape, in order to influence his vote, or making use of any threat to any voter, or otherwise intimidating him in any manner with a view to influence his vote, the treating of any voter, or the supplying him with meat, drink, lodging, or horse or carriage hire, or conveyance by steam or otherwise whilst at such election, or whilst engaged in coming to or going from such election, 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, 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, the giving of any dinner, supper, breakfast, or other entertainment at any place whatsoever, by a candidate to any number of persons with a view of influencing their votes.

What shall be deemed acts of bribery or corruption, at elections.

XIII. And be it enacted, That any person so offending in any one of the cases mentioned in the last section shall, for every such offence, forfeit the sum of two hundred pounds of lawful money of Great Britain, to be recovered, with full costs of suit, by any one who shall sue for the same by action of debt, bill, plaint, or information in the Supreme Court of the said Colony; and any person offending in any one of the cases aforesaid, being lawfully convicted thereof, shall for the space of seven years

Penalty on persons guilty of acts of bribery or corruption.

How to be recovered.

Elections, continued.
Disability to vote,
or exercise any
franchise for 7 years.

years thereafter be disabled to vote in any election to be held under the provisions of this Act, or in any municipal election whatsoever in any part of the said Colony of New South Wales and its dependencies, and also shall for the same number of years be as incapable of holding, exercising, or enjoying any office or franchise which he then shall be, or at any time thereafter may become entitled to as a Citizen, as if such person were naturally dead.

Principals bound by
acts of their agents.

XLIII. And be it enacted, That the acts of all authorized agents of a candidate or member shall in matters connected with elections, be held to be the acts of their principal, provided that it shall be proved that such acts were committed with his knowledge, power, or consent.

Acts of bribery, by
persons not being the
authorized agents of
candidates, punish-
able as a misde-
meanor.

XLIV. And be it enacted, That if any of the above mentioned acts hereby declared to be acts of bribery and corruption shall be committed by any person not the authorized agent of any candidate or member, the person so committing, or having committed them, shall be deemed guilty of a misdemeanor, and may be indicted for such act or acts as for a misdemeanor, and punished with fine and imprisonment, at the discretion of the Court or Judge before whom the case is tried.

Penalty on persons
receiving or offering
reward for voting, or
forbearing to vote.

XLV. And be it enacted, That if any person who shall have, or claim to have, any right to vote in any election of Mayor, Alderman, Councillor, Assessor, or Auditor under this Act, shall, after the passing of this Act, ask or take any money or other reward by way of gift, loan, or other device, or agree or contract for any money, gift, office, employment, or other reward whatsoever, to give, or to forbear to give, his vote in any such election, or if any person by himself, or by any person employed by him, shall by any gift or reward, or by any promise, agreement, or security for any gift or reward, corrupt or procure, or offer to corrupt or procure, any person to give, or to forbear to give, his vote in any such election, such person so offending in any of the cases aforesaid, shall, for every such offence, forfeit the sum of fifty pounds of lawful money of Great Britain, to be recovered with full costs of suit by any one who shall sue for the same by action of debt, bill, plaint, or information in the Supreme Court of the said Colony; and any person offending in any of the cases aforesaid, being lawfully convicted thereof, shall for ever thereafter, except as hereinafter provided, be disabled to vote in any election to be held under the provisions of this Act, or in any municipal election whatsoever in any part of the said Colony of New South Wales and its dependencies, and also shall for ever be as incapable of holding, exercising, or enjoying any office or franchise which he then shall be, or at any time thereafter may become entitled to as a Citizen, as if such person were naturally dead.

How to be recovered.

Loss of franchise.

Persons exempt from
penalties in certain
cases.

XLVI. And be it enacted, That if any person offending in any of the cases last aforesaid shall, within the space of six calendar months next after such election as aforesaid, discover any other person offending in any of the cases aforesaid, so that such other person be thereon convicted, such person so discovering, and not having been before that time convicted of any such offence, shall be indemnified and discharged from all penalties and disabilities which he then shall have incurred by any such offence.

Prosecution must
commence within
one year.

XLVII. Provided always and be it enacted, That no person shall be made liable to any incapacity, disability, forfeiture, or penalty by this Act imposed in any of the cases aforesaid, unless prosecution be commenced within one year after such incapacity, disability, forfeiture, or penalty shall be incurred, anything herein contained to the contrary notwithstanding.

Punishment for
voting twice, or per-
sonating voters.

XLVIII. And be it enacted, That every person who shall poll a second time, or offer to poll a second time, at the same election, or who shall personate or offer to personate any other person for the purpose of polling at such election, shall be guilty of a misdemeanor, and, upon being thereof convicted, shall be fined and imprisoned for any term not more than two years, at the discretion of the Court or Judge who shall try such person.

XLIX. And be it enacted, That no person elected a Mayor, Alderman, Councillor, Auditor, or Assessor, under the provisions of this Act, shall be capable of acting as such until he shall have taken the Oath of Allegiance to Her Majesty, Her Heirs and Successors, and have made and subscribed the Declaration hereinafter mentioned, before any one of such Councillors (who is hereby authorized and required to administer the said Oath and Declaration), such Declaration being in the words or to the effect following, that is to say, "I, A. B., having been elected Mayor [or Alderman, Councillor, Auditor, or Assessor] for the City of Sydney, do hereby declare that I take the said office upon myself, and will duly and faithfully fulfil the duties thereof, according to the best of my judgment and ability; [and, in case of the party being qualified by estate, say] and I do hereby declare that I am seized or possessed of real or personal estate [or both, as the case may be] in my own right, or in that of my wife, to the amount of one thousand pounds [as the case may require] over and above what will satisfy my debts; and that I have not fraudulently or collusively obtained the same in order to qualify me for the office to which I have been elected;" and that every person who shall have made and signed the foregoing Declaration in respect of estate shall, once in every year, if required in writing so to do by any two Members of the Council, make and subscribe a Declaration that he is qualified to the same amount, in real or personal estate, or both, as the case may then be, as the amount mentioned in the Declaration originally made and subscribed by him.

Elections, continued.
Mayor, Aldermen, Councillors, Auditors, and Assessors, not to act until they make declaration of acceptance of office.

Form of Declaration in respect of Estate.

Declaration shall be made once a year, if required by two Councillors.

L. And be it enacted, That every person duly qualified, who shall be duly elected to the office of Mayor, Alderman, Councillor, Auditor, or Assessor, under the provisions of this Act, shall accept such office to which he shall have been elected, or shall, in lieu thereof, pay to the Corporate Body of the said City a fine of not less than twenty-five nor more than fifty pounds in the case of Alderman, Councillor, Auditor, or Assessor, and a fine of not less than fifty nor more than one hundred pounds in the case of Mayor, as the Council of the said City, by a resolution to be made in every such case, shall determine; and such fine, if not duly paid, shall be levied, under the warrant of any Justice having jurisdiction within the said City (who is hereby required, on the application of the Council, to issue the same), by distress and sale of the goods and chattels of the person so refusing to accept office, together with the reasonable costs and expenses of such distress and sale; and every such person so elected shall accept such office, by taking the Oath of Allegiance, and making and subscribing the Declaration hereinbefore mentioned, within five days after notice of his election, to be served at his usual place of abode, otherwise such person shall be liable to pay the same fine as for his non-acceptance of such office, and such office shall thereupon be deemed to be vacant, and shall be filled up by a fresh election, to be made in the manner hereinbefore mentioned: Provided always, that no person disabled by lunacy, or imbecility of mind, or by deafness, blindness, or other permanent infirmity of body, shall be liable to such fine as aforesaid: Provided also, that every person so elected to any such office who shall be above the age of sixty-five years, or who shall have already served such office (or paid the fine for not accepting such office) within the five years next before the day on which he shall be so re-elected, shall be exempted from accepting the same office if he shall claim such exemption within five days after notice of his election: Provided further, that nothing in this Act contained shall extend to compel the acceptance of any office or duty whatever by any person holding any Civil employment under the Government of this Colony, or being a Military, Naval, Marine, Commissariat, or Ordnance Officer on full pay, either in Her Majesty's Service or in that of the Honorable East India Company.

Every Citizen elected to the office of Mayor, Alderman, Councillor, Auditor, or Assessor, shall accept the office or pay a fine to the City Fund.

Exemptions from fine and acceptance of office.

LI. And be it enacted, That no Member or Officer of the Legislative Council shall be liable to serve in any office in or under the Corporation or Council of the Corporation of the said City of Sydney, or any other Incorporated City, Town, or District in New South Wales, nor shall

Members and officers of the Legislative Council to be exempt from filling offices in or under the Corporation.

Elections, continued. shall any Member or Officer of the said Legislative Council, who may have been or shall be elected or appointed to any such office, be liable to any fine or penalty for neglecting or refusing to serve such office, anything in this Act contained to the contrary in anywise notwithstanding.

Provision for resigning office.

LII. And be it enacted, That every person elected into any Corporate Office, under and by virtue of the first recited Act, or this Act, may, at any time, resign such Office, and the resignation shall be held to be complete from the date of its being received by the Town Clerk, or person acting as such: Provided nevertheless, that the person so resigning shall be liable to the same penalties as he would have been liable to pay for non-acceptance of the same office, to be recovered in like manner as hereinbefore directed, unless he shall become entitled to claim exemption from payment of any such fine, or from accepting or serving such office, under any provision herein contained.

Penalty same as for non-acceptance.

Any Mayor, Alderman, Councillor, Auditor, or Assessor, if he shall be declared bankrupt, or insolvent, or absent himself from the City for more than a certain time shall lose his office.

LIII. Provided always, and be it enacted, That if any person holding the office of Mayor, Alderman, Councillor, Auditor, or Assessor of the said City, shall have his estate placed under sequestration as insolvent under, or take the benefit of, any Act now or hereafter in force for the relief of insolvent debtors, or shall compound, by deed or otherwise, with his creditors, or being Mayor, shall be absent from the said City for more than two calendar months, or being an Alderman, Councillor, Auditor, or Assessor, shall be absent from the said City for more than six calendar months at one and the same time, (unless in case of illness,) then, and in every such case, such person shall immediately become disqualified, and shall cease to hold such office respectively; and in the case of such absence shall be liable to the same fine, to be recovered in the same manner as if he had refused to accept the said office; and the Council thereupon shall forthwith declare the said office to be vacant, and shall specify the same by a notice, in writing, under the hands of three or more of them, countersigned by the Town Clerk, such notice to be affixed on some public place within the City, and the said office shall thereupon become vacant; but every person so becoming disqualified and ceasing to hold office, on account of his estate being placed under sequestration, or of his applying to take the benefit of any Act for the relief of insolvent debtors, or having compounded with his creditors as aforesaid, shall, on obtaining his certificate, or on payment of his debts in full, or obtaining a release from his creditors, be capable (if otherwise qualified) of being re-elected to such office; and every person becoming disqualified to hold such office, on account of absence as aforesaid, shall, on his return to the said City, be capable of being re-elected to such office, provided he shall then be otherwise qualified.

Same fine for absence as for non-acceptance.

On release from creditors or return to Sydney, persons may be re-elected.

Penalty on persons not qualified, &c., acting as Mayor, Alderman, Councillor, Auditor, or Assessor.

LIV. And be it enacted, That if any person shall act as Mayor, or Alderman, Councillor, Auditor, or Assessor for the said City, without having made the declaration hereinbefore required in that behalf, or without being duly qualified at the time of making such declaration, or after he shall cease to be qualified according to the provisions of this Act, or after he shall have become disqualified to hold any such office, he shall, for every such offence, forfeit the sum of fifty pounds, such sum to be recovered, together with full costs of suit, by any person who shall sue for the same within three calendar months after the commission of such offence, by action of debt, or on the case, in the Supreme Court of New South Wales; and every person so sued by reason of not being so qualified in respect of estate or property shall prove that he was, at the time of so acting, qualified as aforesaid, or otherwise shall pay the said penalty, without any further evidence being given on the part of the plaintiff than that he acted as the Mayor, or as Alderman, Councillor, Auditor, or Assessor under this Act, as the case may be: Provided always, that it shall be lawful for any defendant, by a Judge's order, to be obtained within fourteen days after he shall have been served with process in any such action, to require the plaintiff to give security for costs; and in such case all further proceedings in the said cause shall be stayed until the plaintiff shall give security, to the satisfaction of the proper officer of the Court for the cost of such action, in case a verdict shall pass for the defendant,

How to be recovered.

Plaintiff to give security for costs.

or

or the plaintiff shall become nonsuited, or discontinue such action, or if, upon demurrer or otherwise, judgment shall be given against the plaintiff; and the defendant shall, in either of such cases, recover his full costs, as between attorney and client: Provided also, that no such action shall be brought except by a Citizen of the said City, nor unless the Citizen bringing the same shall, within fourteen days after the commission of the offence, have served a notice, in writing, personally upon the party committing such offence, of his intention to bring such action; and in case the plaintiff in any such action shall obtain a verdict, the money so to be recovered shall, after payment of the costs and expenses attending the recovery thereof, be paid and apportioned as follows, that is to say, one moiety thereof to the person so suing, and the other moiety thereof in aid of the City Fund.

Elections, continued.

Actions must be brought by Citizens.

Appropriation of penalties.

LV. And be it enacted, That all proceedings of the said Council, or of a Committee of the said Council, or of any person acting as Mayor, Alderman, Councillor, Auditor, or Assessor, shall, notwithstanding it be afterwards discovered that there was some defect in the election of any such Mayor, Alderman, Councillor, Auditor, or Assessor, or person acting as such, or that they or any of them were disqualified, be as valid as if every such person had been duly elected and qualified to be Mayor, Alderman, Councillor, Auditor, or Assessor respectively.

Informalities in election of Mayor or Councillors not to invalidate proceedings.

OFFICERS.

Officers.

LVI. And be it enacted, That the Council of the said City shall and may from time to time appoint, employ, and continue in office respectively, a Town Clerk, a Treasurer, a Surveyor or Surveyors of the said City; and such collectors, workmen, and other officers and servants as in their discretion they may deem necessary and proper for the execution of the powers and duties vested in the said Council by virtue of this Act, or by virtue of any other Act of the said Governor and Council; and assign and allow salaries, wages, and remuneration to such officers and servants, and from time to time remove, or dismiss such servants and officers respectively; and in case of a vacancy in any such office or employment as aforesaid, by death, resignation, removal, or otherwise, the said Council may appoint another fit and proper person in the place of the person so making such vacancy.

Power to appoint Town Clerk and other officers;

to remove and dismiss them;

and to appoint successors.

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

Mayor empowered to suspend officers, and make temporary appointments.

If the officer suspended be dismissed no wages due during suspension.

LVIII. And be it enacted, That whenever, in consequence of death, absence, or any lawful impediment, it shall not be possible for any Alderman, or Assessor, or Town Clerk, or any other officer or person, to perform any particular matter or thing which by this Act he is directed to perform, it shall and may be lawful for the Mayor for the time being to appoint any other Alderman, Assessor, or person to perform the same; and if by reason of death, absence, or any lawful impediment, the Mayor shall be prevented from performing any matter or thing which he may, by the provisions of this Act, be required to perform, the Council may either

If, by death or otherwise, any officer is prevented from doing any matter required under this Act, Mayor to appoint a person in his stead.

If Mayor prevented from acting, Council may act or appoint a person to do so.

Officers, continued. either perform the same, or, by the majority of their voices, appoint some other person to perform it.

Power to make allowance to Mayor, and pay salaries to officers.

LIX. And be it enacted, That it shall and may be lawful for the said Council, to order the payment to the Mayor and Town Clerk, and to every such other officer to be employed as aforesaid, of such allowance or salary as to the said Council shall seem reasonable and proper : Provided that the salary of the Mayor, if any, be fixed within ten days after his acceptance of office, and that such salary be in lieu of all fees, perquisites, and other emoluments.

Officers, &c., intrusted with money to give security for duly accounting for the same;

LX. And be it enacted, That before any officer or servant, not already appointed, shall enter upon any office or employment under the said Council, by reason whereof he will or may be intrusted with the custody or control of money, the said Council shall require and take from him such security for the faithful execution of such office or employment, and for duly accounting for all moneys which may be intrusted to him by reason thereof, as such Council may think sufficient ; and every such officer or servant employed in the collection of moneys under the authority of this Act shall, within seven days after he shall have received any moneys, unless the said Council shall appoint a shorter time for that purpose, and then within such time as the said Council shall appoint, pay over the same to the City Treasurer, and shall, as and when the said Council may direct, deliver a list signed by him containing the names of all persons who have neglected or refused to pay any sums respectively due by them, and every officer and servant of the said Council, as well during his continuance in office or employment as upon his resignation, dismissal, or ceasing to hold his office or employment, shall respectively, when and in such manner as he shall be required by the said Council, make out and deliver a true and perfect account in writing, signed by him, of all moneys received by him for the purposes of this Act, distinguishing how, and to whom, and for what purpose such moneys have been disposed of, and shall, together with such account, deliver the vouchers or receipts for all payments made by him, and pay over to the said City Treasurer, all moneys owing by him upon the balance of accounts ; and if any such officer or servant fail to render such account, or to produce and deliver up such of the said vouchers and receipts as may be in his possession or power, or to pay over any such moneys as aforesaid, or if for the space of five days after being thereunto required, he fail to deliver up to the said Council all books, papers, writings, property, effects, matters and things in his possession or power, belonging to the said Council, then, and in every such case, a Justice of the said City shall, on complaint being made to him in that behalf, summon the party charged to appear and answer the complaint before two Justices of the said City, at a time and place to be specified in the summons, and upon the appearance of the party charged, or upon proof that the summons was personally served upon him, or left at his last known place of abode, if it appear to the last mentioned Justices that he has failed to render any such account, or to produce and deliver up any such vouchers or receipts, or any such books, papers, writings, property, effects, matters, or things as aforesaid, and that he still fails or refuses so to do, it shall be lawful for them, by warrant, under their hands to commit the offender to gaol, there to remain without bail, until he shall have rendered such account and produced and delivered up all such vouchers, receipts, books, papers, writings, property, effects, matters, and things in respect of which the charge was made ; and if it appear that the party charged has failed to pay over any such moneys as aforesaid, and that he still fails or refuses so to do, it shall be lawful for the last mentioned Justices, by a like warrant, to cause the same to be levied by distress and sale of his goods and chattels, and in default of any sufficient distress, to commit him to gaol, there to remain without bail for a period of three months, unless such moneys be sooner paid : Provided always, that if the complainant, by deposition on oath, show to the satisfaction of any Justice, that there is probable cause for believing that the party

and pay over moneys within seven days to Treasurer ;

and deliver vouchers.

Proceedings in case of refusal ;

or on proof of intention to abscond.

charged

charged intends to abscond, it shall be lawful for such Justice, without previous summons, by warrant under his hand and seal, to cause him to be forthwith apprehended, and in such case the said party shall, within twenty-four hours after apprehension, be brought before the same or some other Justice, who may order that he be discharged from custody, if such Justice think there is no sufficient ground for detention, or that he be further detained until he be brought before two Justices, at a time and place to be named in the order, unless bail to the satisfaction of the Justice be given for the appearance of the party before such two Justices: Provided also, that no such proceeding shall be construed to relieve or discharge any surety of the offender from any liability whatsoever.

Officers, continued.

no proceedings against an officer shall relieve his surety.

LXI. And be it enacted, That the charters, deeds, muniments, and records of the Corporation, or relating to the property thereof, shall be kept in such place as the Council from time to time shall direct; and the Town Clerk for the time being shall have the charge and custody thereof, and be responsible for the same.

Charters, deeds, muniments, and records, to be kept by Town Clerk.

LXII. And be it enacted, That the Mayor of the said City, for the time being, shall on every occasion of emergency, when delay would be injurious, have full power and authority, and is hereby empowered to exercise all and every, or any function, power, or authority of any Committee of the said Council, in regulating or stopping the supply of water, or altering or repairing the streets of the said City, or do any other act, matter, or thing, for the benefit and advantage of the said City, without first obtaining the consent or authority of the said City Council: Provided always, that all such proceedings of the Mayor shall be reported by him to the Council, at its first meeting after he shall have exercised any authority hereby given.

Power to Mayor to regulate or stop supply of water, &c., and act in cases of emergency.

Proceedings to be reported to Council.

PROPERTY FOR CHARITABLE PURPOSES—BORROWING MONEY.

LXIII. And be it enacted, That it shall be lawful for the said Council, in their corporate capacity, to accept and have vested in them the use of and interest in any property, real or personal, conveyed, made over, devised, or bequeathed to them, in their said corporate capacity, in trust for any charitable purposes for which any such property, real or personal, may be so conveyed, made over, devised, or bequeathed; and it shall also be lawful for the said Council to act as trustees in the administration of any such property to such charitable purposes.

Property for charities—Borrowing money. Council may accept property for charitable purposes.

XXIV. And be it enacted, That it shall and may be lawful for the said Council to borrow, on the credit of the said Corporation, and of the rates, revenues, or other property thereof, real or personal, or any of them, or any part thereof respectively, by mortgage or otherwise, any sum or sums of money; provided that the sum or sums so borrowed do not exceed the aggregate amount of the revenue of the said Corporation for the period of five years: Provided always that no sum or sums of money be so borrowed which would, if added to the previous debt or debts of the Corporation, make the aggregate of their debt or debts to exceed the amount of five years revenue of the Corporation immediately preceding the date of any such loan: Provided further, that no sum or sums of money be borrowed, by mortgage or otherwise, on any aid of money given by the Government towards defraying any portion of the expenses of the said Corporation.

Council may borrow money, but not to exceed the aggregate of five years' revenue, on credit of corporate property.

but not on any money aid from Government.

LXV. And be it enacted, That in every such mortgage deed the consideration shall be truly stated, and the same deed shall be under the common seal of the said Mayor, Aldermen, Councillors, and Citizens, and all mortgages of rates may be in the form in the Schedule to this Act annexed marked (F.,) or to the like effect.

Form of Mortgage.

Schedule F.

LXVI. And be it enacted, That a register of all mortgages shall be kept by the Town Clerk of the said City, and within fourteen days after the date of any mortgage an entry shall be made thereof, at full length, in such register, and every register may be perused, at all seasonable times by any Citizen, or by any person interested in any such mortgage without fee or reward.

Register of Mortgages to be kept, and to be open for inspection.

LXVII.

Property for charities—borrowing money, continued.
Transfer of Mortgages.

Schedule G.

LXVII. And be it enacted, That any person entitled to any such mortgage may transfer his right and interest therein to any other person, and every such transfer shall be by deed, wherein the consideration shall be truly stated, and every transfer of mortgages of rates may be according to the form in the Schedule (G) to this Act annexed, or to the like effect.

Register of transfers to be kept.

LXVIII. And be it enacted, That within thirty days after the date of every such transfer it shall be produced to the Town Clerk of the said City, and thereupon such Clerk shall cause an entry thereof to be made in the same manner as in the case of the original mortgage, and for such entry the Clerk may demand a sum not exceeding five shillings; and after every such entry, every such transfer shall entitle the transferee, his executors, administrators, or assigns, to the full benefit of the original mortgage, and the principal and interest thereby secured, and such transferee may in like manner assign or transfer the same again toties quoties; and it shall not be in the power of any person, except the person to whom the same shall have been last transferred, his executors, administrators, or assigns, to make void, release, or discharge the mortgage so transferred, or any money thereby secured.

Interest of borrowed money to be paid half-yearly unless otherwise provided.

LXIX. And be it enacted, That unless otherwise provided by any mortgage, the interest of the money borrowed thereupon shall be paid half-yearly, by the City Treasurer, to the several parties entitled thereto.

Moneys borrowed on security of rates to be paid off in a limited time by means of a sinking fund;

LXX. And be it enacted, That in order to discharge the principal money borrowed as aforesaid on security, the said Council shall every year appropriate and set apart, out of the City revenues, such a sum or sums of money annually as the said Council shall in that behalf direct, as a sinking fund to be applied in paying off the respective principal moneys so borrowed, and shall from time to time cause such sinking fund to be invested in Government Securities, and to be increased by accumulation, in the way of compound interest or otherwise, until the same respectively shall be of sufficient amount to pay off the principal debts respectively to which such sinking fund shall be applicable, or some part thereof, which the Council shall think fit ought then to be paid off, at which time the same shall be so applied in paying off the same, and not otherwise.

to be invested in Government securities.

Water.

WATER.

Council to hold, construct, and maintain water-works;

LXXI. And whereas it will greatly contribute to the health, comfort, and convenience of the inhabitants of the said City, and also be a great accommodation to shipping in the harbour of Sydney, that an abundant supply of fresh water be provided therein: Be it enacted, That it shall be lawful for the said Council to hold, construct, and maintain such waterworks as may be necessary for such purposes, and such as may at any time be constructed and erected according to the provisions hereinafter contained: Provided, however, that nothing herein contained shall be construed to give to the said Council any jurisdiction or authority over the harbour of Sydney in other matters.

but to have no jurisdiction over harbour.

Council empowered to make the water-works;

LXXII. And be it enacted, That it shall be lawful for the said Council, by their officers, their deputies, agents, workmen, and assistants, to make, construct, erect, maintain, lay down, and keep waterworks, reservoirs, cisterns, tanks, cuts, aqueducts, conduits, engines, waste gates, stop gates, stop locks, sluices, banks, bridges, pumps, pipes, tunnels, works, machinery, and conveniences, in and through the said City, and from time to time to regulate and conduct, continue, cleanse, open, widen, enlarge, alter, amend, and use, or discontinue the same, and make and maintain other works, as such Council shall think fit and proper; and to bore, dig, trench, and remove earth, stone, gravel, and any other matter or thing which may be dug or met with in and for the making and perfecting, repairing and maintaining of any such waterworks as aforesaid, or which may obstruct the making, perfecting, repairing, or maintaining of the same; and for effecting the purposes aforesaid, the said Council, and their officers, deputies, agents, workmen, and assistants are hereby empowered

to

to go, enter, and pass, in, upon, over, under, and through, all or any of the rivers, brooks, streams, and waters, highways, roads, waste lands, streets, lanes, alleys, and passages in the said City or its vicinity; and also to construct, erect, do, and perform, all other matters and things which shall be deemed necessary and convenient for making, completing, improving, and continuing such waterworks, and for bringing a sufficient supply of water for the said City, and through all the streets, lanes, roads, alleys, passages, courts, and public places in such City, and for conveying and distributing such water to the respective houses, factories, hospitals, prisons, warehouses, workshops, offices, and all other buildings and premises within the same: Provided that the said Council, their officers, workmen, and assistants, shall do as little damage as may be in the execution of the several powers to them hereby granted, and shall make full satisfaction to the owners or occupiers of, and all persons interested in, any lands, tenements, or other hereditaments which shall be taken, used, removed, or injured, for all damage by them sustained in, or by, the execution of any of the powers hereby granted.

LXXIII. And be it enacted, That the rate to be charged by the said Council for the supply of water, shall be fixed and regulated by the Council of the said City: Provided always, that in case the owner or occupier of any house or premises shall be dissatisfied with such rate, it shall not be compulsory on such owner or occupier to be supplied with water by the Corporation: Provided also, that the charge for supplying water shall not exceed in any year the rate of five shillings for each room any such house shall contain, kitchens and wash houses being for this purpose rated as rooms; but for public houses, inns, sugar houses, manufactories, or other establishments requiring a large consumption of water, and including stables and gardens, the Council shall be at liberty to make such arrangement with the parties as may be mutually settled between them: Provided further, that the rate for supplying water to the shipping frequenting Port Jackson shall not exceed the rate limited by an Act of the said Governor and Legislative Council, passed in the fourth year of the reign of Her present Majesty Queen Victoria, intituled "*An Act to amend an Act, intituled, 'An Act for the better preservation of the Ports, Harbours, Havens, Roadsteads, Channels, navigable Creeks and Rivers in New South Wales, and the better regulation of Shipping in the same.'*"

LXXIV. Provided always, and be it enacted, That nothing herein contained shall be deemed to authorize the said Council to make any charge for water supplied to any house or other establishment belonging to or occupied on behalf of Her Majesty, nor to any ships or vessels belonging to or in the service of Her said Majesty, except any actual expense which may be incurred by the said Council in supplying the water in every such case; but that every such house, establishment, ship or vessel as aforesaid, shall be entitled to obtain such supply of water as may be directed by order of His Excellency the Governor.

LXXV. And be it enacted, That any person who shall injure any public fountain, pump, cock, or water pipe, cistern, or public water course, or any part thereof respectively, shall pay the costs of repairing the same; and if the injury be wilfully done, shall forfeit any sum not exceeding twenty pounds; and any person who shall have in his possession any private key for the purpose of opening any public cock, or who shall in any manner clandestinely or unlawfully appropriate to his own use any water from any fountain, pipe, or cistern belonging to the said Council, shall forfeit any sum not exceeding twenty pounds; and any person who shall open or leave open any cock of any public fountain or pump, so that the water shall or may run to waste, shall forfeit any sum not exceeding two pounds; and any person who shall wash any clothes or other materials at any public fountain or pump shall forfeit and pay any sum not exceeding one pound; and any person who shall lead or cause to be led or taken any horses, cattle, sheep, or other animal, to any public fountain or pump now erected or hereafter to be erected by the said Council

satisfaction for damage.

Rates for water, how to be fixed;

not to exceed 5s. a room, except for manufactories, &c.

Rate for shipping not to exceed limit fixed by 4 Vic. No. 4.

Establishments and vessels belonging to Her Majesty to receive supplies of water free of expense;

except actual outlay.

Penalty for injuring, Public fountains, &c.;

or having private key.

or allowing water to run to waste,

or washing clothes, &c.,

or watering horses, &c., thereat.

Water, continued.

Council, for the purpose of watering or cleansing the said horses, cattle, sheep, or other animals, at such public fountains or pumps, shall for every such offence forfeit and pay any sum not exceeding five pounds.

Penalties on persons for bathing in or causing water in reservoirs to be fouled.

LXXVI. And be it enacted, That whosoever shall bathe in any stream, reservoir, conduit, aqueduct, or other waterworks belonging to or under the management or control of the City Council, or in any reservoir, conduit, aqueduct, or other waterworks constructed, continued, or maintained under this Act, in any place; or shall wash, cleanse, throw, or cause to enter therein any animal, rubbish, filth, staff, or thing of any kind whatsoever; or shall cause or permit or suffer to run or be brought therein the water of any sink, sewer, drain, engine, or boiler, or other filthy, unwholesome, or improper water; or shall do anything whatsoever whereby any water belonging to the said City Council, or under their management or control, or whereby any water of or contained in any such reservoir, conduit, aqueduct, or other waterworks so constructed, continued, or maintained in any such ward or place as aforesaid shall be fouled, shall, for every such offence, forfeit a sum not exceeding five pounds, and a further sum of twenty shillings for each day whilst the offence is continued after written notice in that behalf from some Officer of the said Council.

Council on Petition from two thirds of the inhabitants of any street, empowered to water the same at the expense of the inhabitants of such street.

LXXVII. And be it enacted, That if at any time two thirds of the inhabitants along any street, road, place, or square, shall petition the said Council to water such street, road, place, or square, it shall be lawful for the said Council, and they are hereby authorized and required to hire and employ the necessary number of men and water carts for the purpose, and to impose upon the inhabitants of such street, road, place, or square, a rate sufficient to cover the expense of the same, in addition to the general City and lighting rates; and the said Council shall, for the purpose of collecting, raising, and levying the rates necessary for this purpose, proceed in the same manner, and have the same powers, remedies, and privileges, as for collecting, raising, and levying the City and lighting rates imposed under and by virtue of this Act.

Lighting.

Lamps to be set up, and lighted with gas, oil, or otherwise.

LIGHTING.

LXXVIII. And be it enacted, That it shall be lawful for the said Council, and the said Council is hereby empowered, from time to time, to purchase and provide such and so many lamps, of such sorts and sizes, and such and so many lamp irons and lamp posts, and other posts and rails, as they shall judge necessary, and to direct the same to be put or fixed upon or against the walls, rails, or palisadoes of any houses or buildings, or upon or against any other walls or places, or to be put up and erected in such other manner, within all or any of the streets, highways, market-places, and other public ways or places, within the limits of the said City, as they shall think proper, and to cause the same to be taken down, altered, or renewed, when and as often as they shall think fit, and to cause the said lamps to be lighted with gas, or oil, or otherwise, for such number of hours in every twenty-four hours, and during such times and seasons of the year, as the said Council shall deem necessary and proper for lighting all or any of the streets, market-places, or other public ways or places within the said City.

Penalty for wilfully breaking lamps, &c.

LXXIX. And be it enacted, That if any person shall wilfully take away, or wilfully break, throw down, or otherwise destroy or damage any lamp which shall be erected by or by order of the said Council, or by any person or persons at his or their own expense, for the purpose of lighting any of the streets, market-places, or other public ways or places within such City, or any post, iron, cover, or other furniture thereof, or shall wilfully extinguish the light of any such lamp, it shall be lawful for any Justice of the Peace having jurisdiction within the limits of the said City, and he is hereby required, upon complaint made to him of any such offence, to issue a warrant for apprehending the party accused; and it shall be lawful for any person who shall see such offence committed to apprehend, and also for any person to assist in apprehending the offender, and, by authority of this Act, without any other warrant, to deliver him into the custody of a constable, in order to be secured and conveyed before some Justice having jurisdiction as aforesaid; and such Justice shall

How enforced.

shall proceed to examine, upon oath, any witness or witnesses who shall appear or be produced to give evidence touching such offence; and if the party accused shall be convicted of such offence, either by his own confession or on evidence on oath as aforesaid, then, and in every such case, he shall for such offence, and if more than one, for each several offence, forfeit and pay any sum not less than one nor more than five pounds, and shall, besides, make full satisfaction to be ascertained by such Justice for the damage which shall have been done thereby; and in case such offender shall not, upon conviction, forthwith pay such penalty, and also make such satisfaction as aforesaid, such Justice is hereby required and empowered to commit such offender to any gaol or house of correction, there to be kept to hard labor (if such Justice shall so order) for any time not exceeding six calendar months, unless such penalty shall be sooner paid, and satisfaction made.

Lighting, continued.

how recovered.

LXXX. And be it enacted, That if any person shall carelessly or negligently break, destroy, or damage, any lamp which shall be set up by order of the said Council, or by any person or persons at his or their own expense, or any post, iron, cover, or any furniture thereof, respectively, and shall not, upon demand, make satisfaction for the damage so done, then, and in every such case, it shall be lawful for any Justice of the Peace having jurisdiction as aforesaid, and he is hereby required, upon complaint thereof made to him, on oath, to summon before him the party complained of; and, upon hearing the parties on both sides, or on the non-appearance of the party complained of (oath having been made that the party complained of had been served with such summons, or that the same had been left at his usual place of abode,) to examine into the matter of such complaint, and to award and order such sum of money (by way of satisfaction) to be paid by the party complained of to the complaining party, as to such Justice shall appear just and reasonable; and in case the sum so awarded shall not be paid forthwith, the same, together with the expenses attending the recovery thereof, shall 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 sufficient distress such offender may be committed to gaol for any term not exceeding one calendar month, unless full satisfaction be sooner made.

Satisfaction to be made for negligently breaking lamps, &c.

how recovered.

LXXXI. And be it enacted, That it shall be lawful for the said Council, from time to time, to contract with any Gas-light Company or hereafter to be established, or with any one or more persons, or with any Corporation, for lighting the streets, highways, market places, and other public ways and places, within the limits of the said City, with gas, oil, or otherwise, from year to year or for any number of years, and upon such terms and conditions, in all respects, as the said Council shall, from time to time, think proper; and to provide and fit up lamps, lamp posts, lamp irons, and all other works necessary for such purposes within the same.

Power to contract for lighting.

STREETS, SEWERS, DRAINS.

Streets, Sewers, Drains.

LXXXII. And be it enacted, That the formation, repair, and ordering of all public roads, lanes, streets, highways and passages, and other public ways or places within the said City, shall be wholly under the management and direction of the said Council, and the same shall be performed and carried on under the superintendence of the Surveyor or Surveyors to be by them, from time to time, appointed, as herein mentioned.

The formation and repair of streets to be under direction of Council and their Surveyors.

LXXXIII. And be it enacted, That the Surveyor or Surveyors so to be appointed by the said Council shall have and enjoy all the powers, privileges, and immunities, which were granted to the Town Surveyor of Sydney by an Act passed in the fourth year of the reign of His late Majesty King William the Fourth, intituled, "*An Act for regulating the Police in the Town and Port of Sydney, and for removing and preventing Nuisances and Obstructions therein*;" and by another Act, passed in the fifth year of the reign of His said late Majesty, intituled, "*An Act for better regulating the Alignment of Streets in the Town of Sydney*;" and also all such powers, privileges, or immunities as are given to any Surveyor or Supervisor duly appointed under the provisions of an Act, passed in

Powers given to Surveyors duly appointed by the Council.

4 Wm. IV. No. 7.

5 Wm. IV. No. 20.

in

*Streets, Sewers,
Drains, continued.*
8 Wm. IV. No. 6.

Powers of Surveyor
General as to align-
ment of streets, &c.,
transferred to Coun-
cil.

Penalties how re-
covered.

Council to keep
streets in repair ;

and pavements ;

sewers and gutters ;

but no street to be
opened or widened,
&c., until confirmed
by Executive
Council under the
Act.

4 Wm. IV. No. 11.

Power to place bars
across the streets &c.,
under repair ;

in the eighth year of the reign of His said late Majesty, intituled, "*An Act for regulating Buildings and Party Walls, and for preventing Mischiefs by Fire in the Town of Sydney*;" and that the Council of the said City shall have the same powers, authorities, and duties, with respect to the appointment of a City Surveyor or Surveyors,—the setting out of carriage and foot ways in the said City,—the regulation of foot ways in the said City, and the alignment and regulation of the streets thereof, and all other powers, authorities, and duties, as regards the streets of the said City, as are given to the Surveyor General of the said Colony, for the time being, by the said three last mentioned Acts, or any of them, or any other Acts of the said Governor and Legislative Council; and that the penalties imposed by the said Acts, or any of them, upon any persons convicted of any breach or neglect of the said regulations, shall be enforced and recovered by the said Council, or by the City Surveyor or Surveyors appointed by the said Council, in like manner as they could have been enforced and recovered by the Surveyor General, or the Town Surveyor or Surveyors appointed by him, under the provisions of the said Acts, or any of them, if the same had continued in full force.

LXXXIV. And be it enacted, That it shall be lawful for the said Council, and such Council is hereby authorized, empowered, and required, from time to time, when and as often, and in such manner as it shall think proper and necessary, to order and cause the several streets, roads, ways, (as well carriage as foot ways), foot-crossings, passages, and places in the said City, which now are, or hereafter shall be declared to be, and are, or shall be, adopted as public or common highways and thoroughfares, and each and every of them respectively, to be altered, widened, diverted, turned, or extended, paved, flagged, macadamised, or otherwise constructed, improved, repaired, or amended, supported, and kept in good order and condition, with such materials as the said Council shall think proper; and also, from time to time, to cause the pavements, flagging, or other materials, of such public or common highways, and thoroughfares, to be taken up and relaid, or renewed, and the ground and soil thereof to be raised, lowered, or altered, in such manner and with such materials as the said Council shall deem proper and direct; and also, from time to time, to cause proper and convenient sewers, gutters, drains, and water-courses, to be made along or under the said several streets, roads, lanes, highways, passages, or other public places, for carrying off water, mud or other filth from the same; and to cause grates to be placed on or over any of the said sewers, gutters, drains, or water-courses; and to remove, renew, alter, or vary the situations of the grates now placed, or hereafter to be placed, on or over the same, in such manner as the Council shall think proper: Provided however, that nothing herein contained shall be deemed to authorize the said Council to open, alter, widen, divert, turn, or extend, any street within the said City, until such opening, alteration, widening, diversion, turning, or extension shall have been previously notified and confirmed by order of the Governor, with the advice of the Executive Council, under the provisions of the Act of the said Governor and Legislative Council, passed in the fourth year of the reign of His said late Majesty, King William the Fourth, intituled, "*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*."

LXXXV. And be it enacted, That it shall be lawful for the Surveyor of the said Council, during such time as any of the said streets, roads, lanes, highways, passages, or public places, within the said City, shall be under repair, or during the making or repairing of any sewers or drains therein, to take proper precaution for guarding against accident by shoring up and protecting the adjoining houses, and to cause so many bars, posts, rails, and chains, or other obstructions, to be fixed, set up, and placed across or along any of the streets, lanes, highways, passages, or other public places, within the said City, to prevent the passing of carriages, carts, drays, horses, and cattle, whilst such works and repairs are in progress, as to the said Surveyor may seem proper; and during the construction

construction or repair thereof by them, to cause the same to be lighted and guarded during the night, so as to prevent accidents; and if any person or persons shall throw down, break, remove, damage, or injure any of the said bars, posts, rails, chains, or other obstructions, or shall extinguish any such light, without the authority or consent of the said Council or the City Surveyor, every person so offending shall, for every such offence, forfeit and pay a sum not exceeding forty shillings, to be recovered, together with costs, and the expense of repairing the injury done, in manner hereinbefore prescribed in other cases.

*Streets, Sewers,
Drains, continued.*
and to light and
guard the same
during the night.

Penalty for offending
how to be recovered.

LXXXVI. And be it enacted, That it shall be lawful for the said Council, from time to time, to erect and set up, in such parts of the said streets, lanes, highways, passages, and other public places, as they may think necessary, any posts, pillars, stones, rails, bars, chains, or any other permanent or temporary fence or fences, for the purpose of preserving any of the footways within the said City clear from annoyance by horses, cows, swine, or other animals, and for the purpose of keeping off carriages, carts, drays, and other vehicles, from any of the said foot ways, and for the prevention of accidents; and also to paint, repair, and replace any posts, pillars, stones, rails, bars, chains, or other fence work, from time to time, whenever it shall appear to be requisite; and also, from time to time, to order and cause the removal of all or any posts, rails, pales, and fences, which are or shall be in any of the said streets, roads, lanes, highways, passages, or public places, and which the Council shall deem to be an useless obstruction to the free passage along the same.

Power to set up posts
for guarding foot-
ways;

and to paint and
repair the same;

and to cause their
removal when
deemed an obstruc-
tion.

LXXXVII. And be it enacted, That it shall and may be lawful for the said Council to cause such and so many common sewers, drains, and water courses, public wells and pumps, of such materials, dimensions, and forms, as they may think fit and necessary, to be constructed and made or continued in, along, or across any of the streets, lanes, roads, highways, passages, or other public places, within the said City; and also to adopt any of the common sewers, drains, or water courses, wells or pumps, which now are or hereafter shall be made within the same; and to cause the same to be altered, enlarged, repaired, or cleansed, as the said Council may deem proper; and to enter upon, and conduct through, and make upon, any private lands (whether the same shall have been or shall be acquired by the owner or owners, occupier or occupiers thereof, by grant or purchase from the Crown, or from any private individual or individuals, or in any other manner whatsoever,) all or any such sewers, drains, water courses, wells, or pumps as may be deemed necessary, having first given fourteen days' notice of their intention so to enter upon such lands to the owner or owners, occupier or occupiers thereof; and in case it shall be found necessary to enter upon any such private lands as aforesaid, for the purpose of altering or completing any of the aforesaid sewers, drains or water courses, wells or pumps, which now are or hereafter may be within the said City, it shall be lawful for such Council to enter upon such lands, and alter or continue such sewers, drains or water courses, wells or pumps, having first given fourteen days' notice, in manner aforesaid: Provided, however, that such lands be not, in either of the cases last mentioned, occupied as courts, yards, or gardens, or by dwelling houses, or as approaches to any dwelling-house: And provided further, that if the owners or occupiers of any lands or grounds into or through or upon which any sewer, drain, or water course, wells or pumps, shall be made, altered, and continued, as aforesaid, shall be injured thereby, and such owners or occupiers shall refuse to treat, or cannot agree with the said Council, as to the recompense to be paid for such injury, such owners or occupiers may apply to the next Court of General Quarter Sessions of the Peace for the District of Sydney, and the Justices there assembled shall have power to empanel a Jury, then attending, to assess the recompense which ought to be paid to such owners or occupiers for such injury as aforesaid; and thereupon the said Justices shall order the sum assessed by such Jury to be paid to such owners and occupiers accordingly; and such judgment shall be final to all intents and purposes; and the said Justices may award costs to either party, at their discretion.

Power to make com-
mon sewers, drains,
&c.;

and to alter and
cleansed the same;

and to enter upon
lands for this pur-
pose after 14 days'
notice;

but not on courts,
yards, gardens, &c.;

recompense for in-
juries how assessed.

LXXXVIII.

*Streets, sewers,
Drains, continued.*
Penalty for damaging
materials or sewers ;

and satisfaction, how
recovered.

No placards to be
affixed on any wall
of the said City
under a penalty,
except on places
appointed by the
Council ;

or on house or build-
ing of owner or
occupier.

As to width of streets
and alleys ;

how measured.

Penalty on offenders,
how recovered.

No rock or stone to
be blasted within the
limits of the said City,
without permission,
under a penalty.

All lanes, streets,
alleys, or thorough-
fares, to be properly
formed before the
Council shall be
called upon to pave
or cleanse the same.

LXXXVIII. And be it enacted, That if any person shall wilfully or maliciously, or by negligence, break up, injure, destroy, or otherwise damage any of the flagging or pavement, or the foot ways, or carriage ways, of the said streets, roads, lanes, public passages or places, or any of the sewers or gratings, or any of the posts, pales, and rails, or fences, or any of the works done by such Council in pursuance of this Act, every person so offending shall for each and every such offence, if there shall be more than one, forfeit and pay a sum not exceeding ten pounds, and shall also make full satisfaction for the injury done thereby; and in default thereof the same shall be levied by distress and sale of the offender's goods and chattels, in manner aforesaid; and in case of the insufficiency of such distress, such offender shall be imprisoned in any gaol or house of correction, for any term not exceeding six calendar months, unless such penalty shall be sooner paid and satisfaction made.

LXXXIX. And be it enacted, That from and after the passing of this Act it shall not be lawful for any person to paste, or otherwise affix any placard or other paper upon any wall, house, or building, within the said City, except on such places as may be appointed by the said Council for the purpose; nor to deface any such wall, house, or building, by chalk or paint, or in any other manner; and any person who shall be guilty of any such offence, shall forfeit and pay on conviction, any sum not exceeding forty shillings, and it shall be lawful for any constable or other person to apprehend and convey any person so offending before any Justice of the Peace of the said City, to be dealt with according to law: Provided always, that nothing in this enactment contained shall prevent any person from pasting or affixing any placard or other paper on any house or building owned or occupied by such person, or on any fence or wall connected therewith.

XC. And be it enacted, That from and after the passing of this Act, no street or alley shall be formed within the limits of the said City unless such street be of the width of forty feet at least, and such alley of the width of twenty feet at least from front to front, in every part thereof respectively, the width of such streets and alleys respectively to be ascertained by measuring at right angles to the course thereof, from front to front of the buildings on each side of such street or alley; and every such alley shall have two entrances thereto, each being at the least of the full width of the alley, and one at the least open from the ground upwards; and any person offending against the provisions hereof, either as respects the width or entrances of such streets or alleys respectively, shall be deemed guilty of a nuisance, and being thereof lawfully convicted shall be liable to fine and imprisonment, at the discretion of the Court or Judge before whom any such offender may be convicted, and shall be compelled by due course of law to abate such nuisance: Provided always, that all alleys or passages now in existence of less than eight feet in width shall be properly secured at their entrances, at the expense of the adjoining proprietors, by posts with cross top rails or turnstiles, to secure them from the intrusion of horses and cattle.

XCI. And be it enacted, That from and after the passing of this Act it shall not be lawful for any person to blast, or cause to be blasted, any stone or rock within the limits of the said City without the permission of the said Council, or of the City Surveyor; and any person offending in this respect shall, on conviction, forfeit and pay any sum not exceeding five pounds.

XCII. And be it enacted, That when any person or persons shall hereafter form, or cause to be formed, any lane, street, alley, or public thoroughfare within the said City of Sydney, in or upon any property belonging to and being the private property of any such person or persons, every such person or persons shall cause such lane, street, alley, or public thoroughfare to be properly formed and made before the Council of the said City shall be called upon to pave, repair, or cleanse any such lane, street, alley, or public thoroughfare: Provided always, that if any such person or persons who shall form, or cause to be formed, any such lane

lane, street, alley, or public thoroughfare within the said City, shall not form and make such lane, street, alley, or public thoroughfare within three calendar months after a notice, signed by the Town Clerk, in the form or to the effect in the Schedule hereunto annexed, marked H, shall have been left at any of the buildings, tenements, or other property of such persons respectively, it shall be lawful for the said Council, and they are hereby authorized and required forthwith to cause such lane, street, alley, or public thoroughfare to be formed and made, and to keep an exact account of the expense thereof in a book, to be open to the inspection of any Citizen at all reasonable hours, free of charge.

*Streets, Sewers,
Drains, continued.*

Schedule H.

XCIII. And be it enacted, That it shall be the duty of the said Council, within one calendar month after such lane, street, alley, or public thoroughfare shall have been formed and made by the said Council as aforesaid, to apportion the expense thereof among the respective proprietors of the adjoining property, according to the annual or assessed value of such property, and to cause an account of the proportionate amount of the cost so ascertained to be left at the buildings, tenements, or other property of such proprietors respectively, and if the respective proprietors of such property shall not within fourteen days after such account shall have been so left, pay to the City Treasurer the amount of such account, the said Council shall, for the purpose of raising and collecting the same, proceed in the same manner, and have the same powers, remedies, and privileges as for collecting and raising the City and other rates under this Act: Provided always, that if any goods distrained on for such accounts shall belong to any tenant and not to the proprietor of any such property, such tenant shall be at liberty to deduct the amount which he may pay on such distress being made from any rent due, or to become due, to such proprietor, or be at liberty to sue him for any damage he may sustain thereby.

*Expense of forming
such street, lane, &c.,
to be apportioned
among the respective
proprietors.*

*Proceedings in case
of non-payment.*

*Relief by tenant
against landlord.*

XCIV. And be it enacted, That if any building, or wall, or any thing affixed thereon, within the limits of the said City, be deemed by any Surveyor of the said City of Sydney, duly appointed by the Council of the said City of Sydney in that behalf, to be in a ruinous state, or dangerous to passengers or to the occupiers of the neighbouring buildings, such Surveyor shall immediately cause a proper hoard or fence to be put up for the protection of passengers, and shall cause notice in writing to be given to the owner of such building or wall, if he be known and resident within the limits of the said City, by leaving the same at his usual place of abode, and shall also cause such notice to be put on the door or other conspicuous part of the said premises, or otherwise to be given to the occupier thereof, if any, by leaving the same on the premises, requiring such owner or occupier forthwith to take down, secure, or repair such building, wall, or other thing, as the case shall require; and if such owner or occupier do not begin to repair, take down, or secure such building, wall, or other thing, within the space of three days after any such notice has been so given or put up as aforesaid, and complete such repairs, or taking down, or securing, as speedily as the nature of the case will admit, the said Surveyor may make complaint thereof before any two Justices of the Peace in and for the said City, and it shall be lawful for such Justices to order the owner, or in his default the occupier (if any) of such building, wall, or other thing, to take down, rebuild, repair, or otherwise secure, to the satisfaction of such Surveyor, the same, or such part thereof as appears to them to be in a ruinous or dangerous state, within a time to be fixed by such Justices; and in case the same be not taken down, repaired, rebuilt, or otherwise secured within the time so limited, or if no owner or occupier can be found on whom to serve such order, the Council of the said City shall, with all convenient speed, cause all or so much of such building, wall, or other thing, as shall be in a ruinous condition, or dangerous as aforesaid, to be taken down, repaired, rebuilt, or otherwise secured in such manner as shall be requisite; and all the expenses of putting up such fence, and of taking down, repairing, rebuilding, or securing such building, wall, or other thing, shall be paid by the owner or occupier thereof; and if on demand

*City Surveyor to
cause a hoard or fence
to be put up in front
of ruinous or danger-
ous buildings, and
notice to be given to
proprietor to take
down or secure such
building.*

*If owner or occupier
neglect to take down
or repair, Council
may cause the same
to be done, charging
owner or occupier
with the expenses.*

*Streets, Sewers,
Drains, continued.*
The expenses to be
levied by distress
and sale.

Corporation may sell
the materials of ruin-
ous buildings pulled
down, restoring to the
owner overplus aris-
ing from the sale.

Dangerous places to
be repaired or inclo-
sed by Council ;

at the expense of
owner.

How recoverd.

Penalty for continu-
ing Deposits of
Building Materials or
Excavations an un-
reasonable time,

to be determined by
Justice.

Lights to be placed
near Deposits of
Building Materials or
Excavations under a
penalty.

Hoards or fences to be
set up during repairs;

demand of the expenses aforesaid, such owner or occupier shall neglect or refuse to pay the same, then such expenses may be levied by distress and sale of his or her goods and chattels ; and any Justice of the Peace in and for the said City of Sydney may issue his warrant accordingly.

XCV. And be it enacted, That if any such house or building as aforesaid, or any part of the same, be pulled down by virtue of the powers aforesaid, the said Council may sell the materials thereof, or so much of the same as shall be pulled down, and apply the proceeds of such sale in payment of the expenses incurred in respect of such house or building ; and the said Council shall render any overplus arising from such sale to the owner of such house or building, on demand ; nevertheless, the said Council, although they may sell such materials for the purposes aforesaid, shall have the same remedies for compelling the payment of so much and such part of the said expenses as may remain due after the application of the proceeds of such sale as are hereinbefore given to them for compelling the payment of the whole of the said expenses.

XCVI. And be it enacted, That if any building, or hole, or any other place near any street be, for want of sufficient repairs, protection, or inclosure, dangerous to the passengers along such street, the said Council, or some person to be appointed by them in that behalf, shall cause the same to be repaired, protected, or inclosed, so as to prevent danger therefrom ; and the expenses of such repair, protection, or inclosure shall be repaid to the Council of the said City by the owner of the premises so repaired, protected, or inclosed ; and shall be recoverable from him, with damages and full costs of suit, by action of debt in any Court of competent jurisdiction.

XCVII. And be it enacted, That in no case shall any such building materials or other things, or such hole, be allowed to remain for an unnecessary length of time under a penalty, not exceeding five pounds, to be paid for every such offence by the person who shall cause such materials or other things to be laid, or such hole to be made, and a further penalty, not exceeding forty shillings, for every day during which such offence is continued after the conviction of such offence ; and in any such case the question as to what is an unnecessary length of time shall be determined by the Justice of the Peace by whom the same shall be heard.

XCVIII. And be it enacted, That when any building materials, rubbish, or other things are laid, or any hole made, in any of the streets, the person causing such materials or other things to be so laid, or such hole to be made, whether by order of the said City Council or not, shall, at his own expense, cause a sufficient light to be fixed in a proper place upon or near the same, and shall continue such light every night from sunset to sunrise while such materials or hole remain ; and such person shall, at his own expense, cause such materials or other things, and such hole, to be sufficiently fenced and inclosed until such materials or other things are removed, or the hole filled up, or otherwise made secure ; and every such person who shall fail so to light such fence, or to inclose such materials or other things, or such hole, shall for every such offence be liable to a penalty not exceeding five pounds, and a further penalty, not exceeding forty shillings, for every day while such default is continued.

XCIX. And be it enacted, That every person intending to build or take down any building within the limits of the said City, or to cause the same to be so done, or to alter or repair the outward part of any such building, or to cause the same to be done, where any street or footway will be obstructed or rendered inconvenient by means of such work, shall, before beginning the same, cause sufficient hoards or fences to be put up, in order to separate the building where such works are being carried on from the street, with a convenient platform and handrail, if there be room enough, to leave as a footway for passengers outside of such hoard or fence, and shall continue such hoard or fence with such platform and handrail as aforesaid standing and in good condition, to the satisfaction of the City Surveyor, during such time as the public safety or convenience

requires

requires, and shall in all cases in which it is necessary, in order to prevent accidents, cause the same to be sufficiently lighted during the night; and every such person who shall fail to put up such fence, or hoard, or platform, with such handrail as aforesaid, or to continue the same respectively standing and in good condition as aforesaid, during the period of such building or taking down, or who shall not while the said hoard or fence is standing keep the same sufficiently lighted in the night, or who shall not remove the same when directed by the City Surveyor within a reasonable time afterwards, shall for every such offence be liable to a penalty not exceeding forty shillings for every day such default is continued.

*Streets, Sewers,
Drains, continued.*
and to be kept lighted
during the night;

penalty for neglect.

C. And be it enacted, That from and after the passing of this Act no house, shop, warehouse, or other building, and no fence, wall, or other erection, shall be erected, or commenced to be erected, or allowed to project or encroach in or upon the footway of any street, or part of a street, within the said City of Sydney, which street, or part of a street, is now or shall be hereafter proclaimed or set out according to law, as a public way, street, or thoroughfare in the said City, or dedicated to the use of the public; and if any such house, shop, warehouse, or other building, or any fence, wall, or other erection, be erected, or commenced to be erected or built, in or upon the footway, or beyond the building line of any such street, or part of a street, as aforesaid, every such building, house, shop, warehouse, fence, wall, or other erection, shall be deemed and declared a nuisance; and any person who shall build, erect, or put up, or cause or procure the same to be built, erected, or put up, shall be deemed guilty of a misdemeanor, and being thereof lawfully convicted, shall be liable to be fined and imprisoned, at the discretion of the Court or Judge before whom any such offender may be convicted; and it shall and may be lawful for the Council of the said City, after any such conviction as aforesaid, and they are hereby empowered to cause such building, house, shop, warehouse, fence, wall, or other erection, to be pulled down, and the materials thereof to be sold by public auction, and from the proceeds thereof to reimburse and pay themselves for any expense that may or shall have been incurred by them in pulling down such building, house, shop, warehouse, fence, wall, or other erection; and if after such sale there be any surplus, to hand over and pay the same to the owner of such building, house, shop, warehouse, fence, wall, or other erection, if claimed within two years; or if not claimed within such period then the same shall go to and be considered as part of the City fund: Provided always, that nothing in this enactment contained shall apply to any house, shop, warehouse, or other building, or to any fence, wall, or other erection at present erected or built within the said City.

Encroachment upon
the footway,

deemed a nuisance.

Offender guilty of a
misdemeanor.

Encroachment may
be pulled down and
materials sold.

Not to apply to
existing buildings,
walls, or fences.

CI. And be it enacted, That from and after the passing of this Act any person who shall pull down, destroy, or deface any board, or printed or written paper containing any By-laws of the said Council, or any Citizen List Roll, or other printed or written paper affixed against or upon any building, wall, fence, or pale, (which the said Council are hereby authorized to affix on any place or public building within the said City,) shall be liable to a penalty of not more than forty shillings for every such offence, and any person so offending may be apprehended and conveyed before a Justice of the Peace of the said City, to be dealt with according to law.

Penalty for pulling
down or defacing
any board containing
By-laws.

SANITARY.

CII. And be it enacted, That the said Council shall cause all the streets, together with the foot pavements and surface drains, from time to time, to be properly swept and cleansed, and all dust and filth of every sort found thereon to be collected and removed; and shall cause all the dust, ashes, and rubbish to be carried away from the houses and tenements in the said City at convenient hours and times; and shall cause the privies and cesspools within the said City to be from time to time emptied and cleansed in a sufficient and proper manner: Provided always, that the occupier of any house or tenement within the limits of the said City may keep and remove any such soil, ashes, or rubbish as shall be made on his

Sanitary.

Council to cause the
streets and drains to
be cleansed, and dirt,
ashes, &c., to be
removed from the
houses.

Occupier may keep
soil and ashes made
on his own premises
for manure, if not a
nuisance.

own

Sanitary, continued.

own premises, and as shall be kept for manure, so that the same be not a nuisance to the inhabitants residing near such premises, and that the same be removed at such times and in such manner as shall be approved of by the said Council.

Dust boxes to be erected by the Council.

CIII. And be it enacted, That the said Council, if they think fit so to do, may cause any number of moveable or fixed dust boxes, or other conveniences, wherein dust and ashes may be deposited until removed and carried away, to be provided and placed in such of the streets of the said City as they shall judge necessary, and may require the occupiers of houses or tenements within such streets to cause all their dust and ashes to be deposited daily in the said dust boxes, or other conveniences; and every person who after such dust boxes or conveniences shall have been so provided, shall deposit, or cause, or permit to be deposited, any ashes or dust in any part of any street within the said City, except in some of the said dust boxes, or other conveniences, and every person who shall lay, or cause to be laid, any dirt, dung, or other filth in any part of any such street, except in such dust boxes, shall for every such offence forfeit and pay a sum not exceeding ten shillings.

Penalty for depositing dust or ashes except in dust boxes.

Council may provide lands &c., for deposit of soil and materials, and for building stabling, &c.

CIV. And be it enacted, That the said Council may from time to time provide places convenient for the deposit of the night soil, dung, ashes, and other filth and rubbish to be collected under the authority of this Act, and for stabling and keeping all horses, cattle, implements, and other things required for the purposes of this Act; and for any of such purposes the said Council may purchase or hire any lands or buildings by them considered necessary, or they may cause any new building to be made for the purpose upon any land which shall be purchased or hired by them under the provisions of this Act either within or without the boundaries of the said City.

Dust, &c., collected to be vested in the Council;

CV. And be it enacted, That the dust and filth which the said Council shall cause to be collected from the streets, privies, sewers, and cesspools, and all the dust, ashes, and rubbish, which the said Council shall cause to be collected and carried away from the houses or elsewhere within the limits of the said City, shall be the property of the said Council, and they shall have the power to sell and dispose of the same as they think proper, and the moneys arising from the sale thereof shall be applied in aid of the City Fund.

and may be sold.

The Council to appoint or contract with Scavengers.

CVI. And be it enacted, That the said Council may appoint and employ a sufficient number of Scavengers, or contract with any person or persons for sweeping, cleansing, and watering the streets, and for removing all dust, ashes, rubbish, and filth therefrom, and from the houses and tenements therein, and for emptying privies and cesspools in the manner by this Act directed; and such Scavengers shall on such days and at such hours, and in such manner as the said Council may from time to time appoint, sufficiently execute all such works and duties as they may have respectively contracted or been employed to perform; and every such Contractor who shall fail to sweep and properly cleanse or water, or who shall fail to clean out and empty any privy, cesspool, or sewer which he may have contracted to clean out and empty at the time and in the manner prescribed by the said Council, or to collect or remove any dirt, ashes, or rubbish which he may have contracted to remove at the time and in the manner prescribed by the said Council for that purpose, or who shall lay any of such soil, dust, ashes, rubbish, or filth, in any other place than such as are appointed by the said Council for that purpose, shall for every such offence be liable to a penalty not exceeding five pounds.

Penalty on Scavengers for neglect of duty.

Penalty for obstructing Scavengers.

CVII. And be it enacted, That every occupier of any building or land within the limits of the said City, and every other person who shall refuse to permit the said Scavengers to remove such dirt, ashes, or rubbish as by this Act they are authorized to do, or who shall obstruct the said Scavengers in the performance of their duty, shall, for every such offence, be liable to a penalty not exceeding five pounds.

CVIII.

CVIII. And be it enacted, That every person other than the person employed by the said Council, or by some person contracting with them for that purpose, who shall collect or carry away any night soil, dust, ashes, rubbish or filth, by this Act directed to be removed by persons employed by the said Council, from any streets or public place within the limits of the said City, shall be liable to a penalty not exceeding forty shillings for such offence.

Sanitary, continued.

Penalty on persons other than Scavengers removing night soil, &c.

CIX. And be it enacted, That the said Council may erect such public urinals and conveniences within the limits of the said 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 for any injury occasioned to any person by the erection thereof, out of the moneys to be levied under this Act.

Council may cause public conveniences to be erected.

CX. And be it enacted, That the said Council may from time to time fix the hours within which only it shall be lawful to empty privies or remove offensive matter within the limits of the said City; and when the said Council have fixed such hours, and given public notice thereof, every person who within the limits of the said City shall empty, or begin to empty, any privy, or remove along any thoroughfare within the said limits any offensive matter at any time except within the hours so fixed, and also every person who at any time shall use for any such purpose any cart or carriage not having a covering proper for preventing the escape of the contents of such cart, or of the stench thereof, or who shall wilfully slop or spill any such offensive matter in the removal thereof, or who shall not carefully sweep and clean every place in which any such offensive matter has been placed or unavoidably slopped or spilled, shall be liable to a penalty not exceeding ten pounds; and in default of the apprehension of the actual offender, the driver or person having the care of the cart or carriage employed for any such purpose shall be deemed to be the offender.

Penalty for conveying offensive matters at improper times.

In default of finding actual offender, driver to be liable.

MARKETS.

CXI. And be it enacted, That the Council of the said City shall have the same powers, authorities, duties, and immunities, in respect to Markets, as are given to the Commissioners to be elected and appointed under and by virtue of an Act of the Governor and Legislative Council, passed in the third year of the reign of Her present Majesty, intituled, "*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,*" whether the said Act shall already have been in force or not within the said City prior to its Incorporation.

Markets.

Council to have the same power and authority for the regulation of Markets as Commissioners elected in pursuance of 3 Vic., No. 19.

BY-LAWS.

CXII. And be it enacted, That it shall be lawful for the said Council to make, publish, alter, modify, amend or repeal, such By-laws and Regulations as to them shall seem meet for regulating their proceedings, and the conduct of their officers and servants, and for conducting the election of Mayor, Aldermen, Councillors, or other Corporate Officers, in any matters which may not be sufficiently provided for by this Act, and which may not be inconsistent therewith; and for the good rule and government of the said City; and for the prevention and suppression of all nuisances whatever; and for regulating the quality, and the place and manner of selling butchers' meat; for regulating bathing in the waters adjoining the City; for the suppression and restraint of disorderly houses, and houses of ill fame and repute; for prohibiting forestalling and regrating, and every kind of fraudulent device and practice in relation to the sale of marketable commodities; for compelling the owners or occupiers of cellars, tallow chandlers' shops, soap factories, and tanneries, and the owners of privies, sewers, slaughter houses, and other houses or places which may be in an unwholesome or offensive state, or be likely to become so, to cleanse the same, from time to time, and in such manner as the said Council may think necessary and proper, with a view to promote the health and comfort of the inhabitants of the said City; and for the regulation

By-laws.

Council to have power to make bye-laws.

By-laws, continued. lation and government of carters, porters, and drivers, and for the conduct of the proprietors and drivers of hackney carriages; and for regulating slaughter houses, subject to the provisions of an Act of the Governor and Legislative Council of New South Wales, passed in the fifth year of the reign of His late Majesty King William the Fourth, intituled, "*An Act for regulating the Slaughtering of Cattle,*" and of a certain other Act of the said Governor and Council passed in the thirteenth year of the reign of Her present Majesty, intituled, "*An Act to amend the law relating to the licensing of slaughter houses within the City and suburbs of Sydney, and for the prevention of other nuisances within the same;*" for suppressing and restraining noisome and offensive trades, billiard tables, gaming tables, and gambling of every description; for preventing obstructions and incumbrances in and upon the streets, wharves, and waters of the said City; for regulating the flagging, paving, and repairing of the streets and roads, and for keeping the same clear from dirt; and also to appoint, by such By-laws, such fines as they shall deem necessary for the prevention and suppression of such offences, and for enforcing such Regulations: Provided that no fine so to be appointed shall exceed the sum of ten pounds: Provided also, that no such By-law shall be of any force until the expiration of forty days after the same, or a copy thereof, sealed with the seal of the Corporation, shall have been sent to the Governor for the time being of the said Colony, nor until a copy of such By-law shall have been affixed to the outer door of the Town Hall, or in some other public place within the City, nor until a copy of the same shall have been published in the *New South Wales Government Gazette*, for at least one week; and if at any time within the said period of forty days the Governor of the said Colony shall disallow such By-law, or any part thereof, such By-law, or the part thereof so disallowed, shall not come into operation: Provided likewise, that in the case of any such By-laws, it shall be lawful for the said Governor, at any time within such forty days as aforesaid, to enlarge, as he shall think fit, the period within which any such By-laws shall remain inoperative; and no such By-law shall come into force until after the expiration of such enlarged period: Provided further, that no By-law to be passed by the said Council shall be repugnant to this Act, or to the general spirit and intendment of the laws in force within the Colony of New South Wales; and that no penalty imposed by an Act passed in the fourth year of the reign of His late Majesty King William the Fourth, intituled, "*An Act for regulating the Police in the Town and Port of Sydney, and for removing and preventing Nuisances and Obstructions therein,*" shall be increased so as to make the whole penalty amount to more than ten pounds.

By-laws not in force until forty days after a copy is sent to the Governor;

Governor may extend the number of days.

By-laws not to be repugnant to the laws of the Colony; and no penalty under the Act 4 Wm. IV. No. 7, to be increased to more than £10.

Present by-laws if not inconsistent with this Act, to continue in force until repealed or altered by new by-laws.

Grower or producer bringing produce to pay sixpence only for each load exclusive of stall dues.

License fees for hawking within the City, and exemptions.

CXIII. And be it enacted, That the By-laws and Regulations made by the said Council established by the said first recited Act, or such of them as are now in force, except so far as the same are inconsistent with the provisions of this Act, shall continue and remain in full force until the same shall be repealed, altered, modified, or varied by any By-laws or Regulations passed under and by virtue of this Act.

CXIV. And be it enacted, That from and after the first day of January next, it shall not be lawful for the said Council, by any By-laws then in force, or which may thereafter be passed, to impose on any grower or producer of any agricultural or garden produce, or his servant bringing such produce to any market within the said City, or hawking, selling, or offering the same for sale in any street, ward, or place within the limits of the said City, any license fees, tolls, or dues, beyond three-pence for each barrow-load, and sixpence for each cart-load of such produce so brought to any such market, or hawked within the said City, to be paid to the Clerk of the said market for the use of the said Council, exclusive of dues for stall or standing room, or for weighing when such produce is sold within any such market.

CXV. And be it enacted, That from and after the first day of January next, any person shall be at liberty to sell, or offer for sale, in any part of the said City, any fish, water, fuel, or milk, free of all license fees

fees, or other charges ; and any person shall be at liberty to sell or offer By-laws, continued. for sale from a hand basket, within any part of the said City, free of all license fees or other charges, any of the articles hereinafter mentioned ; and any person shall be at liberty to sell, or offer for sale, from a wheelbarrow, on payment of three-pence per day, and from a cart or other vehicle, on payment of sixpence per day to the Clerk of the said market, for the use of the said Council, in any street, ward, or place within the said City, any fruit, butter, cheese, eggs, poultry, game, potatoes, or other esculent roots, vegetables or garden produce of any description, anything in the By-laws now in force, or hereafter to be passed, to the contrary notwithstanding.

CXVI. And be it enacted, That from and after the first day of January next, the maker of any articles or goods, and the printer or publisher of any newspaper, magazine, or other literary production, and the children, apprentices, agents, or servants of such maker, printer, or publisher, shall be at liberty to sell, or offer for sale, their respective productions, free of all license fees or other charges, in any street, ward, or place within the limits of the said City. No license fees to be charged from makers of goods. &c.

CXVII. And be it enacted, That from and after the first day of January next, it shall not be lawful for the said Council to impose any license fees, or other charges, on any person for selling, or offering for sale, in the house, shop, private wharf, or premises occupied by such person, any of the agricultural or garden produce, goods, or other articles hereinbefore enumerated, or any horses, cattle, sheep, goats, swine, or live stock of any description, anything in the By-laws of the said Council now in force, or hereafter to be passed, to the contrary notwithstanding. No license fees or charges to be imposed on persons selling on their own premises.

CXVIII. And be it enacted, That from and after the first day of January next, it shall not be lawful for the said Council, by any By-laws now in force, or hereafter to be passed, to impose any higher fees on produce brought to the said markets, or any higher rents or tolls for occupying stalls or standing places, for selling horses, cattle, or live stock, or for weighing articles at the weigh bridge, than the dues, rents, or tolls, specified and set forth in the Schedule to this Act annexed, marked I. Prescribing limit as to dues, tolls, and charges at the Sydney Markets. Schedule I.

CXIX. And be it enacted, That all the provisions herein contained, relative to offences against this Act, punishable upon summary convictions, shall be taken to apply to all offences committed in breach of any By-law or Regulation made by virtue of the said first recited Act or this Act. Breaches of by-laws punishable on summary convictions.

CXX. And be it enacted, That it shall be competent for the Council of the said City to fix by any By-law such penalty or penalties, whether fixed or variable, as to them shall seem meet for the enforcement of the provisions thereof: Provided always, that no fine appointed by any such By-law shall exceed ten pounds, and that no By-law heretofore made by the said Council established by the said first recited Act, shall be invalid or inoperative on account of any variable fine or penalty prescribed thereby, but shall, in regard to such variable fine or penalty, be taken to have been and be as valid and operative as if such By-law had been made and passed after this Act shall have come into operation. By-laws enforced by penalties; not to exceed £10; and may be fixed or variable.

CXXI. And be it enacted, That a copy of any By-laws passed or to be passed under and by virtue of the said first recited Act or this Act, under the Common Seal of the Mayor, Aldermen, Councillors, and Citizens of the said City, with a Declaration thereon signed by the Mayor of the City for the time being, and countersigned by the Town Clerk, or person holding the situation of Town Clerk when the By-law came into force, that the same had been sent, sealed with the said Seal, to the Governor for the time being of the said Colony, and that all the other requirements of the ninety-second section of the said first recited Act, or of the one hundred and twelfth section of this Act, as the case may be, have been complied with, shall be received as evidence of the existence of any such By-law, and of the sending and publishing thereof, in all Courts of Law and Equity, and before all Justices in Sessions or otherwise. Evidence of by-laws.

CXXII.

*Council Meetings,
Resolutions, &c.*

COUNCIL MEETINGS, RESOLUTIONS, &c.

All acts of the Council done by a majority of the Councillors present, being one-third part of the whole, to be deemed acts of the whole Council.

Who to preside.

Chairman to have a casting but not a second vote.

Minutes to be kept.

Two days notice of meetings to be given;

to be called by Mayor;

if Mayor refuse to call a meeting eight members may do so.

Summons specifying business to be sent by Town Clerk.

Quarterly meetings.

No Resolution of the Council to be revoked at a subsequent meeting, unless under certain circumstances.

Power to take extracts from minutes, &c.

CXXII. And be it enacted, That all acts whatsoever, authorized or required by virtue of this Act to be done by the said Council of the said City, and all questions of adjournment, or others that may come before such Council, may be done and decided by the majority of the Members of the Council who shall be present at any meeting held in pursuance of this Act, the whole number present at such meetings not being less than one-third part of the number of the whole Council; and at all such meetings, the Mayor, if present, shall preside; and the Mayor, or, in the absence of the Mayor, such Alderman as the Members of the Council then assembled shall choose to be Chairman of that meeting, or if there be no Alderman present, such Councillor as may be chosen to preside, shall have a casting vote in all cases of equality of votes, but shall not in any case have a second vote; and Minutes of the proceedings of all such meetings shall be drawn up and fairly transcribed into a book to be kept for that purpose, and shall be read by the Town Clerk, or person acting as such, at the meeting or adjourned meeting immediately succeeding, and shall be signed by the Mayor, Alderman, or Councillor presiding at the meeting when the Minutes are so read: Provided always, that previous to any meeting of the Council held by virtue of this Act, a notice of the time and place of such intended meeting shall be given two clear days at least before such meeting, by fixing such notice on the outer door of the Town Hall, or the building for the time being used as such, or on some other public place within the said City; and such notice shall be signed by the Mayor, who shall have power to call a meeting of the Council as often as he shall think proper; and in case the Mayor shall refuse to call any such meeting, after a requisition for that purpose, signed by at least eight Members of the said Council, shall have been presented to him, it shall be lawful for the said eight Members to call a meeting of the said Council by giving such notice as hereinbefore required in that behalf, such notice to be signed by the said Members, instead of the Mayor, the said Members stating therein the business proposed to be transacted at such meeting; and in every case a summons to attend the Council, specifying the business proposed to be transacted at such meeting, signed by the Town Clerk, shall be left at the usual place of abode of every Member of the Council, or at the premises in respect of which he is enrolled a Citizen, or sent to him by post, two clear days at least before such meeting; and no business shall be transacted at such meeting other than is specified in such notice: Provided always, that there shall be four quarterly meetings in every year, at which the Council shall meet for the transaction of general business, and the said quarterly meetings shall be holden at noon on the ninth days of the months of February, May, August, and November, respectively, or any such quarterly meeting may be holden on any other day within three days next following any of the days so respectively appointed, as the Council at any quarterly meeting next preceding the same shall determine.

CXXIII. And be it enacted, That no Resolution at any meeting of the said Council shall be revoked or altered at any subsequent meeting, unless notice of the intention to propose such revocation or alteration be given to the Town Clerk ten days, and by the Town Clerk to the Mayor and each of the Aldermen and Councillors, seven days at least before holding the meeting, nor unless such revocation or alteration be determined upon by a majority, consisting of two-thirds of the Members present at such subsequent meeting, if the number of Members present at such subsequent meeting be not greater than the number present when such Resolution was come to, or by a majority, if the number of Members present at such subsequent meeting be greater than the number present at such former meeting.

CXXIV. And be it enacted, That from and after the passing of this Act, any Citizen shall be at liberty, at all seasonable times, on payment of the sum of one shilling, to make any copy of, or take any extract from, the book required to be kept for the purpose of entering the Minutes of Council

Council, and also to make any copy or take any extract from any Order in Council for the payment of any money; and it shall also be lawful for the Mayor, or any Alderman or Councillor of the said City, at all seasonable times, to make any copy of, or take any extract from, the books of account of receipt and expenditure and other books of account required by this Act to be kept.

Council Meetings, Resolutions, &c., continued.

COMMITTEES.

CXXV. And be it enacted, That it shall be lawful for the said Council to appoint out of their own body, from time to time, such and so many Committees, either of a general or a special nature, and consisting of such number of persons as they may think fit, for any purposes which, in the discretion of such Council, would be better regulated and arranged by means of such Committees, and to fix the quorum of any such Committees, and to continue, alter, or discontinue, such Committees: Provided always, that the acts of every such Committee shall be submitted to the Council for their approval, and that no such Committee shall consist of more than seven members, including the Chairman.

Committees.

Council may appoint Committees;

whose acts must be reported to Council.

Committee not to consist of more than seven.

CXXVI. And be it enacted, That every Committee so appointed may meet and adjourn from time to time as they may think proper for carrying into effect the purposes of their appointment; but no business shall be transacted at any meeting of the Committee unless the quorum of Members, if any be fixed by the said Council, and if no quorum be fixed, unless three members be present; and at all meetings of the Committee the Mayor, if present, shall preside, and in his absence such Alderman, and in the absence of the Alderman such Councillor, as the Members present shall appoint shall be Chairman; and all questions shall be determined by a majority of the votes of the Members present, and in case of an equal division of votes, the Chairman shall have a casting vote, but shall not have a second vote as a Member of the Committee.

Unless quorum of Committee be present no business to be done.

Who shall preside.

Chairman to have a casting but not a second vote.

CITY FUND.

CXXVII. And be it enacted, That the rents and profits of all lands, houses, market dues, tolls, and other hereditaments which shall belong to and be vested in the Corporation of the said City, and the interest, dividends, and annual proceeds of all moneys, dues, chattels, and valuable securities belonging or payable to the Corporation, and all rates levied under this Act, shall be paid to the said Treasurer; and all the moneys which the said Treasurer shall so receive shall be carried to an account to be called the "City Fund;" and such Fund shall be applied towards the payment of the allowance, if any be made, to the Mayor, and of the respective salaries of the Town Clerk, Treasurer, Surveyor, and Collectors, and of any other officer or servant whom the Council shall appoint; and also towards the payment of the expenses incurred from time to time in preparing and printing Citizen Lists, and Notices, and in other matters attending such elections as are herein mentioned; and towards the expense of purchasing, or erecting and maintaining, the corporate and other buildings which may belong to the said Corporation, and towards the payment of all other expenses, not herein otherwise provided for, which shall be necessarily incurred in carrying into effect the provisions of this Act.

City Fund.

Rents and profits of all Corporate property, and all fines and rates received, to be carried to the account of the City Fund;

and to be applied to pay salaries and all expenses under this Act.

ASSESSMENT AND RATES.

CXXVIII. And be it enacted, That it shall be lawful for the said Council, and they are hereby authorized and required from time to time, to order and direct such valuer or valuers as they may appoint, to make and enter in books to be provided for the purpose, (a separate book being kept for each Ward in the former to the effect of the Schedule to this Act annexed, marked K, and such books being called the Ward Assessment Books), an assessment of every building, tenement, or other property, within the limits of the said City, according to its full, fair, and average annual value, clear of all outgoings; and such Ward Assessment Books, when completed by such valuers respectively, shall be by them delivered to the Town Clerk, who shall as soon as conveniently may be thereafter,

Assessment and Rates.

Assessment of City property to be made by valuers, and notice thereof to be given to proprietors or occupiers.

Schedule K.

cause

Assessment and Rates, continued.

Schedule L.

Power of appeal to Quarter Sessions against assessment;

after seven days notice of appeal to Town Clerk.

Valuers to make declaration before entering on duties.

Form of Declaration.

Assessment books to be confirmed by the Council, after appeals disposed of by Quarter Sessions.

No appeals against assessments to be entertained by City Council, but appeals may be made to Quarter Sessions once in every year.

City Surveyor on or before 31st December in every year, to make a return of buildings pulled down or become ruinous, and a return of new buildings.

cause a notice to be served on or left at the premises of every proprietor or occupier, (as the case may be), of the building, tenement, or other property assessed, and such notice shall be in the form, or to the effect, of the Schedule to this Act annexed, marked L, and shall contain the name of the person whose property is assessed, the net annual value of such property, and the amount at which the same is assessed: Provided always, that if any person shall think himself aggrieved by any such assessment, it shall be lawful for him to appeal against such assessment to the Justices of the Peace at the next Court of Quarter Sessions held within the said City, unless such Quarter Sessions shall be held within fourteen days from the delivery of such notices respectively, and in that case, at the then next following Court of Quarter Sessions; and such Justices shall have power to hear and determine the same, and to award relief in the premises, as the justice of the case may require; and the decision of such Justices shall be final and conclusive, as regards the matter of such appeal: Provided also, that the person so appealing as aforesaid shall give notice in writing to the Town Clerk of such his intention of appealing against the said assessment seven days before the holding of the Court of Quarter Sessions at which such Appeal may be heard and determined.

CXXIX. And be it enacted, That no such valuer so to be appointed by the said Council as aforesaid, shall be capable of acting as such until he shall have made and subscribed a Declaration before any Justice of the Peace for the said City, who is hereby authorized to take the same; and such Declaration shall be in words, or to the effect following, that is to say:—"I, A. B., having been appointed a valuer for the City of Sydney, do hereby declare that I take such office upon myself, and that I will diligently, faithfully, and impartially, perform the duties thereof, to the best of my judgment, skill, and ability, and without favor or affection, prejudice or malice, to any person whomsoever."

CXXX. And be it enacted, That if no Notice of Appeal be lodged with the Town Clerk within the time hereinbefore prescribed, or in case of any Appeals being so lodged, then after the same shall be determined by the said Court of Quarter Sessions, and the necessary alterations, if any, made in the Ward Assessment Books, such books shall be confirmed by the said Council, and signed by the Town Clerk, and shall thereupon be, and be called the Assessment Books of the said City, until a new assessment be made, and new Assessment Books completed and confirmed by the said Council, in the manner and form herein prescribed, subject nevertheless to such powers of alteration and amendment as are hereinafter given to the said Council.

CXXXI. And be it declared and enacted, That no Appeals against the assessments so made, shall be at any time entertained by the said Council: Provided always, that at the last Court of Quarter Sessions which shall be held in the said City, in every year, any person who may feel himself aggrieved by the assessment on his property, and who shall have given seven days notice to the Town Clerk as aforesaid, of his intention so to do, may in addition to the privilege of Appeal hereinbefore given, appeal to the said Court of Quarter Sessions against the said assessment, and such Appeals shall be heard and determined finally by such Court, and the necessary alterations in the said Assessment Books, shall be made by the said Council in the manner hereinbefore prescribed.

CXXXII. And be it enacted, That the City Surveyor shall, on or before the thirty-first day of December, in every year, lodge with the Town Clerk, a return of all buildings pulled down or become ruinous, within each Ward of the said City, from the date when the last Assessment Books were confirmed, or from the first day of January, as the case may be, to the said thirty-first day of December in every year, the assessments on which buildings shall be forthwith erased from the said Assessment Books; and a return of all buildings or tenements erected or altered in each Ward of the said City, within the same period, containing an assessment of the same according to their full, fair, and average annual value

clear

clear of all out-goings; and notice of such assessment shall be given to the parties interested, in the form and manner required in the case of an original assessment, and such parties on giving seven days' notice to the Town Clerk as aforesaid, shall have the like power of Appeal to the Court of Quarter Sessions as is hereinbefore prescribed for Appeals against the original assessments; and after the Appeals are so determined, the assessments shall be entered in books to be called Supplemental Ward Assessment Books, confirmed by the said Council and signed by the Town Clerk in the manner hereinbefore prescribed; and shall thereafter be considered as much a portion of the original Ward Assessment Books of the said City, and shall be as valid and effectual in law to all intents and purposes, as if they had been inserted in the said Ward Assessment Books before the same were originally confirmed by the said Council.

Assessment and Rates, continued.

The like power of appeal against these as against original assessments.

Supplemental Assessment Books.

CXXXIII. And be it enacted, That from the Assessment Books of the said City, so confirmed as aforesaid, the Town Clerk shall cause to be made for each Ward of the said City a book in the form prescribed in the Schedule annexed to this Act marked M, containing an account of the situation of each property assessed, the name of the person rated, the amount of City, Lighting, and other rates for which he may be so rated, and the amount of such rates paid and in arrear at any time, which books shall be respectively signed by the Town Clerk, and shall be known as the Rate Books of the said City, and shall within three months after the confirmation by the said Council of the said Assessment Books as aforesaid, be filed by the Town Clerk in the office of the City Treasurer, and shall be altered, or new Rate Books filed in the said office, within one month after the confirmation of any addition to or alteration of the said Assessment Books in consequence of the erection of new buildings or otherwise; and every Citizen of the said City shall have access thereto at all convenient times, and be permitted to inspect the same without fee or reward; and if the Town Clerk shall neglect to file such books, or alter the same when necessary, within the time aforesaid, or if the said City Treasurer shall refuse to allow any such Citizen to inspect the same as aforesaid, then and in every such case such Town Clerk or Treasurer shall forfeit and pay on conviction any sum not exceeding five pounds, to be recovered and applied as is hereinafter directed.

Rate book to be made and filed with Treasurer.

Schedule M.

Citizens to have access to Rate Books without fee.

Penalty on Town Clerk or Treasurer for neglect.

CXXXIV. And be it enacted, That the rate books so filed with the City Treasurer, and all entries duly made therein, shall be received in all Courts in the said Colony, as evidence of the facts therein set out.

Rate books to be received as evidence.

CXXXV. And be it enacted, That notwithstanding anything hereinbefore contained to the contrary it shall be lawful for the said Council from time to time, upon the complaint of any person liable to the payment of any rate under this Act or any other Act of the said Governor and Council, to remit or excuse the payment thereof, or any part thereof, on account of the poverty of the person rated.

Council may remit rates on account of poverty.

CXXXVI. And be it enacted, That it shall be lawful for the said Council, and they are hereby authorized and required, on or before the thirty-first day of December in every year, to estimate as correctly as may be, what amount, in addition to the various sums at the credit of the said Council in the City Fund, will be sufficient for the payment of the expenses to be incurred in carrying into effect the provisions of this Act for the year immediately succeeding the year in which such estimate shall be made; and in order to raise the amount so estimated, the said Council are hereby authorized and required, on the assessment so made as aforesaid, to cause such City and Lighting rates to be raised as the said Council may see proper, such City rate not to exceed one shilling and sixpence in the pound, and such Lighting rates not to exceed sixpence in the pound, in any year; and such City and Lighting rates shall, on or before the thirty-first day of January in every year, be fixed and ordered by the said Council to be paid into the office of the City Treasurer in two equal proportions, the first moiety thereof to be paid into such office on or before the thirty-first day of March, and the second moiety thereof on or before the thirtieth day of September in every year.

Estimates to be prepared by Council on or before the 31st day of December in every year.

City rate not more than one shilling and sixpence in the pound, and Lighting rate not more than sixpence in the pound; to be ordered by 31st January:

when and where payable.

*Assessment and Rates,
continued.*

Proceedings when
persons neglect or
refuse to pay City,
lighting, or other
rates.

Schedule N.

Mayor may order
distress warrants.

Costs of distress.

Schedule O.
Tenements unoccu-
pied six months
exempt.

What persons prima-
rily liable to rates.

When insufficient
distress on premises
proprietor liable ;

relief by tenant
against landlord.

CXXXVII. And be it enacted, That if any person shall neglect or refuse to pay into the office of the City Treasurer as aforesaid, the amount of any City, Lighting, or other rates to which he may be liable as the occupier or owner of any building, tenement, or other property, under the provisions of this Act or any other Act of the said Governor and Council, for the space of fourteen days after a notice in writing in the form or to the effect of the Schedule to this Act annexed, marked N, signed by the City Treasurer, shall have been left at the building, tenement, or other property, in respect of which such rate or rates shall have been made, or at the usual place of abode of the person so liable as aforesaid, and which notice shall demand payment to be made to the City Treasurer of the rate or rates so due at such time as shall be therein expressed ; and after public notice of the ordering of such rates, and the time and place of paying the same, shall have been given by the Town Clerk in the *New South Wales Government Gazette*, and one daily or other newspaper circulating in the said City ; then and in such case it shall be incumbent on the Mayor, and he is hereby authorized and required to issue a warrant or warrants of distress, in the form and manner hereinafter described, against all persons indiscriminately, who may be defaulters in the payment of any such rate or rates ; and it shall be lawful for such officer as the Mayor may appoint for the purpose, and such assistants able to read and write as he may take with him, on being authorized by such warrant or warrants, under the hand of the Mayor, to enter into any part of the building, tenement, or other property, in respect of which such rate or rates shall have been made as aforesaid, and to distrain the goods therein or thereon, and to remain in such building, tenement, or other property in charge thereof ; and if the sum for which such distress shall have been so taken shall not be paid, on or before the expiration of three days, together with the costs of such distress, it shall, between the hours of twelve of the clock at noon and two of the clock in the afternoon on the next day thereafter, be lawful for such officer so appointed as aforesaid, to cause the goods so distrained on, or a sufficient part thereof, to be sold by public auction, either on the premises or at such other place in the City of Sydney as such officer may think proper to remove them to for such purpose ; and the surplus, if any, that may remain after deducting the amount of the sum distrained for, with costs as aforesaid, to pay over on demand to the owner of the goods so sold : Provided always, that in no case shall the costs of making such distress exceed the costs specified in the Schedule to this Act annexed, marked O ; and that where the building, tenement, or other property shall have been in fact untenanted, or occupied by servants solely for the care of the same, for the whole of the period in respect of which the rate is demanded, such owner shall be wholly exempt.

CXXXVIII. And be it enacted, That, except as herein provided, the person primarily liable to the payment of rates under the said first recited Act, or this Act, or under any other Act of the said Governor and Council, in respect of any building, tenement, or other property assessed, shall be the occupier thereof or person in possession at the time when such rates shall be demanded, or (in case of a change of such possession in the meantime) the person occupying the premises when the warrant of distress shall be executed ; and in case the premises shall be vacant for a period less than six months, and there shall not be sufficient distress found therein, then the proprietor or landlord shall be liable for the amount, and such amount, after demand shall have been made thereof, shall be recoverable by distress and sale of the goods and chattels of such proprietor or landlord, if any be found on the tenant's premises or in the City of Sydney, or by action of debt in any Court of competent jurisdiction : Provided, that in all cases where any tenant shall be called on to pay, and shall pay accordingly, either a greater amount of rates than he shall in fact owe for rent, or an amount of rates extending over any period of time during which he shall not have been in possession as tenant, he shall be entitled either to deduct the amount of excess so paid from the accruing or future rent, or to recover the same from the party liable

liable to pay the same (after demand) by an action as for money paid in an ordinary case in any Court of competent jurisdiction. Assessment and Rates, continued.

CXXXIX. And be it enacted, That for the purpose of saving expense and simplifying the levying or collecting of any rate, sum or sums of money, imposed or due to the said Council under the provisions of the said first recited Act, or this Act, or under any other Act of the said Governor and Council, it shall be lawful for the Mayor, and he is hereby authorized and required, to make and issue one or more warrant or warrants of distress against any number of persons neglecting or refusing to pay the same. One warrant of distress may be issued against any number of persons.

CXL. And be it enacted, That the warrant or warrants of distress as aforesaid may be directed to any bailiff or person appointed by the Mayor of the said City in that behalf; and such warrant or warrants shall be in the words or to the effect of the form set out in the Schedule to this Act annexed, marked P. Warrant may be directed to any person appointed by the Mayor. Form of warrant. Schedule P.

CXLI. Provided however, and be it enacted, That nothing in this Act contained shall empower the said Council to levy any rate whatever on any lands or buildings the property of Her Majesty, and used for a public or literary purpose, within the said City; nor on any building hired by the Government for any public purpose; nor on any hospital, benevolent asylum, or building used exclusively for charitable purposes; nor on any church or chapel, or other building used exclusively for public worship; nor on any building used as a school, provided it be inhabited only by the master or mistress of the school, or his or her family, and the school be one receiving aid from the Government, or otherwise of a public character. Buildings the property of Her Majesty, or used for public purposes, church, chapel, or public school exempt from rates.

CXLII. And for the purpose of removing doubts as to the liability of persons to be rated for lighting, and the powers of the said Council to collect such rates, be it declared and enacted, That from and after the passing of this Act every building, tenement, or other property, liable for City rates, shall be equally liable for Lighting rates; that no rate-payer shall be entitled to dispute payment of, or shall be entitled to appeal against, the Lighting rates imposed by this Act, by reason of any inequality or incorrectness in the apportionment of the said Lighting rates, or the number and situation of gas, oil, or other lamps between and among the several Wards of the said City; that the said Council shall, for the purpose of collecting, raising, and levying the Lighting rates necessary for the purposes of this Act, proceed in the same manner, and have the same powers, remedies, and privileges, as for collecting, raising, and levying the City rates under and by virtue of this Act; and also that the Lighting rates imposed and collected under and by virtue of the said first recited Act, shall be as valid and effectual in law to all intents and purposes as if the same had been imposed and collected under and by virtue of this Act: Provided always, that no publican or other person who is compelled by law to keep, and actually keeps, a gas light of equal brilliancy with those lighted at the expense of the said Council, and for the same period of time on the curb stone in front of his premises, shall be liable to be rated for Lighting rates. Provision for removing doubts as to the liability of persons to be rated for lighting, and the powers of the Council to levy lighting rates. Lighting rates imposed and collected under first Act, as effectual as under this Act. Publicans exempt from lighting rates.

CXLIII. And be it enacted, That if any action of trespass, replevin, or other action, shall be brought against the said Council, or against any person or persons for the taking of any distress, making of any sale, or doing any other act, matter, or thing, by authority of this present Act, the defendant or defendants in any such action shall and may either plead not guilty, or otherwise may plead specially, or make avowry, cognizance, or justification for the taking of the said distress, making of sale, or other act, matter, or thing done by virtue of this Act, alleging in such plea, avowry, cognizance, or justification, that the said distress, sale, trespass, or other act, matter, or thing, whereof the plaintiff or plaintiffs complained, was done by authority of this Act, and according to the tenor, purport, and effect of this Act, without expressing any other matter or circumstance contained in this present Act, to which plea, avowry, cognizance, or justification, the plaintiff or plaintiffs shall be admitted to reply, that Defendant in a suit commenced against him may plead not guilty, or plead specially, or make avowry, cognizance, or justification.

Assessment and Rates, continued.

that the defendant or defendants did take the said distress, make the said sale, commit the said trespass, or did any other act, matter, or thing complained of in his or their declaration of the defendant's or defendants' own wrong, without any such cause as alleged by the said defendant, whereupon the issue in every such action shall be joined; and the said avowry, cognizance, or justification may be in the form or to the purport or effect in the Schedule to this Act annexed marked Q.

Form of avowry. Schedule Q.

No member of the Council shall act as a Justice of the Peace in any appeals against rates.

CXLIV. And be it enacted, That no Member of the said Council who may be a Justice of the Peace shall be at liberty to act and sit as such in any matter of appeal against any assessment or rate.

Payment of Moneys.

Treasurer to pay no money but by order of the Council.

PAYMENT OF MONEYS.
CXLV. And be it enacted, That the City Treasurer shall pay no money on account of the Mayor, Aldermen, Councillors, and Citizens, save only in all or any of the cases provided for by this Act, or upon the order in writing of the Council, signed by three or more Members thereof, and countersigned by the Town Clerk.

Accounts.

Accounts of receipts and disbursements to be kept by Treasurer;

to be audited in June and December;

to be open for public inspection;

and to be published in January.

ACCOUNTS.
CXLVI. And be it enacted, That the City Treasurer shall, in books to be kept for that purpose, enter true accounts of all sums of money received and paid, and of the several matters for which such sums shall have been received or paid; and such books shall, at all times, be open to the inspection of the Mayor, or any of the Councillors; and all the accounts, with all vouchers and papers relating thereto, shall, in the months of June and December in every year, be submitted to the Auditors hereinbefore provided to be elected, and to such Member of the Council as the Mayor shall name, for the purpose of being examined and audited from the first day of January to the thirtieth day of June, and from the first day of July to the thirty-first day of December inclusively, in every year; and if the said accounts shall be found to be correct, the Auditors and the Member of Council appointed by the Mayor as aforesaid, shall sign the same; and after such accounts shall have been so examined and audited, in the month of December in every year, the City Treasurer shall make out in writing, and shall cause to be printed, a full Abstract of his accounts for the year; and a copy thereof shall be open to the inspection of all the rate-payers of such City, and copies thereof shall be delivered to all rate-payers of such City, applying for the same, on payment of one shilling for each copy; and a copy of the said Abstract shall, in the month of January in every year, be published in the said *New South Wales Government Gazette*, and in one daily or other newspaper circulating in the said City.

Actions, Penalties, Distress.

Proceedings of *Quo Warranto* against Mayor, &c., to be commenced within six months.

Penalties on Mayor, Aldermen, Auditors, Assessors, Collectors, and Town Clerk, for neglecting to comply with the provisions of this Act.

ACTIONS, PENALTIES, DISTRESS.
CXLVII. And be it enacted, That from and after the passing of this Act, every application to the Supreme Court of New South Wales for the purpose of calling upon any person to shew by what warrant he claims to exercise the office of Mayor, Alderman, Councillor, Assessor, or Auditor, shall be made before the end of six calendar months after the election, or the time when the person against whom such application shall be directed shall have become disqualified, and not at any subsequent time.

CXLVIII. And be it enacted, That if the Mayor, or any Alderman, Auditor, or Assessor of the said City shall neglect or refuse to revise such Citizen List, or to conduct or declare such election as aforesaid, or audit the City accounts at the times and in the manner herein provided, every such Mayor, Alderman, Auditor, or Assessor respectively shall, for every such offence, forfeit and pay the sum of one hundred pounds; and if any Collector, appointed under the provisions of the said first recited Act, or of this Act, shall neglect or refuse to make out, sign, and deliver such list as aforesaid, or if the Town Clerk shall neglect or refuse to receive, print, and publish such lists as aforesaid, or if any such Collector or Town Clerk shall refuse to allow any such list to be perused by any person having right thereunto, every such Collector and Town Clerk respectively, for every such offence, shall

shall forfeit and pay the sum of fifty pounds; and the said penalties hereby in such case imposed shall be recovered, with full costs of suit, by any person who shall sue for the same within three calendar months after the commission of such offence, by action of debt, or on the case, in the Supreme Court of New South Wales; and the money so recovered shall, after payment of the costs and expenses attending the recovery thereof, be paid and apportioned as follows, that is to say, one moiety thereof to the person so suing, and the other moiety thereof in aid of the City Fund hereinbefore mentioned.

*Actions, Penalties,
Distress, continued.*

Recovery and
apportionment of
penalties.

CXLIX. And be it enacted, That all penalties, fines, and forfeitures inflicted or imposed under the provisions of this Act, or of the said first recited Act, or by, or under any rule, order, or By-law made in pursuance thereof respectively, may in case of non-payment be recovered in a summary way by the order and adjudication of any one Justice of the Peace having jurisdiction within the City, on complaint made to him, on the oath or affirmation of any person or persons so complaining, or on the confession of the parties offending (which oath, affirmation, or confession, such Justice is hereby authorized and required to administer and receive); and in default of immediate payment of any such penalty, fine, or forfeiture, the same shall be levied by distress and sale of the offender's goods and chattels, by warrant under the hand of such Justice, and shall be paid over to the City Treasurer in aid of the City Fund, rendering the overplus (if any,) on demand, to the party or parties whose goods and chattels shall be so distrained and sold, the reasonable charge of such distress and sale being first deducted; and in case such penalties, fines, and forfeitures, shall not be forthwith paid, it shall be lawful for such Justice and he is hereby authorized and required, to order such offender or offenders to be detained and kept in safe custody until return can conveniently be made to such warrant of distress, unless such offender or offenders shall give sufficient security to the satisfaction of such Justice, for his, or her, or their appearance, before such Justices of the Peace, or before some other Justice of the Peace for such jurisdiction, on such day or days as shall be appointed for the return of such warrant of distress (such day or days not being more than ten days from the taking of any such security, which security the said Justice is hereby empowered to take by way of recognizance or otherwise); but if, upon the return of such warrant, it shall appear that no sufficient distress can be had whereupon to levy the said penalty or penalties, and such costs as aforesaid, and the same shall not be forthwith paid, or in case it shall appear to the satisfaction of any such Justice, upon confession of the offender or offenders, or otherwise, that he, she, or they, hath or have not sufficient goods and chattels whereupon such penalties, forfeitures, costs, and expenses, can be levied, if a warrant of distress were issued, such Justice shall not be required to issue such warrant of distress, and thereupon it shall be lawful for such Justice, and he is hereby authorized and required, by warrant under his hand, to commit such offender or offenders to any common gaol or house of correction, there to remain for any time not exceeding three calendar months, unless such penalty or forfeiture shall be sooner paid and satisfied, together with all the costs and charges attending such proceedings, to be ascertained by such Justice, or unless such offender or offenders shall otherwise be discharged in due course of law.

Penalties, under this
Act, and under By-
laws, to be recovered
in a summary way.

by distress and sale;
and paid to City
Treasurer.

If no sufficient dis-
tress be found,
offender may be im-
prisoned.

CL. And be it enacted, That where any distress shall be made for any money to be levied under this Act, or under the first recited Act, or under any By-law made in pursuance thereof respectively, the distress itself shall not be deemed unlawful, nor the party or parties making the same be deemed a trespasser or trespassers, on account of any defect or want of form in the summons, conviction, warrant of distress, or other proceeding relating thereto, nor shall the party or parties distraining be deemed a trespasser *ab initio* on account of any irregularity which shall be afterwards committed by the party or parties distraining, but the person or persons aggrieved by such irregularity shall and may recover full satisfaction for the special damage in an action on the case.

Distress not unlawful
for want of form.

*Actions, Penalties,
Distress, continued.*
Officers and others
may secure offenders,
without any other
warrant than this Act.

CLI. And be it enacted, That it shall be lawful for any officer of the said Council, or for any other person or persons, to seize and detain any person or persons who shall commit any offence or offences against this Act, or the said first recited Act, or against any By-law made in pursuance thereof respectively, and to convey him, her, or them, before any one or more Justice or Justices of the Peace having jurisdiction within the said City, without any other warrant or authority than this Act for so doing; and such Justice or Justices is and are hereby respectively empowered and directed to proceed immediately to the conviction or acquittal of such offender or offenders.

Offenders to be dealt
with summarily
under 5 Wm. IV.
No. 22;

CLII. And be it enacted, That all proceedings in respect to offences committed against the provisions of this Act, or of the said first recited Act, or of any By-law authorized as aforesaid, which are hereby directed to be had before any one or more Justice or Justices of the Peace, shall be heard and determined in a summary way, according to the provisions of an Act passed by the Governor and Legislative Council of the said Colony, in the fifth year of the reign of His late Majesty King William the Fourth, intituled, "*An Act to regulate Summary Proceedings before Justices of the Peace,*" or according to the law in force for the time being, regulating summary proceedings before Justices of the Peace, except only where some other special course of proceeding may be directed by this Act; and all proceedings under or by virtue of this Act for the recovery of any penalty, shall be good, valid, and effectual, to all intents and purposes, although a formal information in writing shall not have been exhibited: Provided, however, that in case of non-payment of any penalty under this Act, above the amount of five pounds, and no sufficient distress can be found, it shall and may be lawful for the convicting Justice or Justices, by his or their warrant or warrants, to commit any person convicted in any such penalty, to any of Her Majesty's Gaols, for any term not less than one nor more than three calendar months, to be computed from the day on which such offender shall have been actually arrested, and not from the date of such warrant; and for the purpose of ascertaining the date of such arrest, the constable, or other person who shall make the same, is hereby required to indorse on the back of such warrant the date of such arrest, under a penalty of five pounds, which shall and may be recovered before any one or more Justice or Justices of the Peace: Provided also, that in case of any constable neglecting so to indorse the said warrant as aforesaid, the same shall not vitiate any arrest, but in such case the time of imprisonment shall be computed from the date of such warrant.

except where other-
wise directed by this
Act;

and in cases of pen-
alty above £5, for
want of sufficient dis-
tress may be
imprisoned.

Penalty on constable
neglecting to indorse
warrant.

Informers to be a
competent witness.

Proceedings must be
commenced within
three months.

Penalty on witness
not attending, or re-
fusing to give evi-
dence.

How recovered.

Appeal allowed in
cases above £5.

CLIII. And be it enacted, That in all prosecutions for penalties under this Act, and upon every complaint to be heard and determined as aforesaid, the informer shall be considered and is hereby declared to be a competent witness: Provided always, that no person shall be convicted of any offence contrary to the provisions of this Act in a summary way before any Justice or Justices of the Peace after the expiration of three calendar months from the time when such offence shall have been committed.

CLIV. And be it enacted, That if any person shall be summoned as a witness to give evidence before any Justice or Justices of the Peace touching any of the matters aforesaid, either on the part of the prosecution or of the person or persons accused, and shall neglect or refuse to appear at the time and place to be for that purpose appointed, without a reasonable excuse for such neglect or refusal, to be allowed by such Justice or Justices, or appearing shall refuse to be examined according to law, and give evidence before the Justice or Justices before whom such prosecution shall be depending, then every such person shall forfeit for every such offence a sum not less than two pounds nor more than twenty pounds, to be recovered in a summary way before any two Justices of the Peace.

CLV. And be it enacted, That any person who shall think himself or herself aggrieved by any fine or penalty above the sum of five pounds

pounds, imposed under the authority of this Act, or of the said first recited Act, may appeal against the same to the Court of Quarter Sessions, according to the provisions of the law which shall be in force for the time being for the general regulation of Appeals of such or the like nature.

*Actions, Penalties,
Distress, continued.*

CLVI. And be it enacted, That all informations and convictions under this Act, or the said first recited Act, shall be according to the provisions of the Act before mentioned, passed in the fifth year of the Reign of His said late Majesty King William the Fourth, intituled, "*An Act to regulate Summary Proceedings before Justices of the Peace,*" or according to the law in force for the time being, regulating summary proceedings before Justices of the Peace; and that no conviction under this Act, nor any adjudication made on Appeal therefrom, shall be quashed for want of form, or be removed by *certiorari*, or otherwise, into the Supreme Court; and no warrant of commitment shall be held void by reason of any defect therein: And provided also, that no objection shall be taken or allowed to any warrant, information, complaint, or conviction made or preferred under or by virtue of this Act, or the said first recited Act, for any alleged defect in substance or in form, or for any variance between it and the evidence adduced on the part of the complainant, but if any such variance or defect shall appear to the Justice or Justices present at and acting in the hearing of the case, it shall be lawful for such Justice or Justices, upon such terms as he or they shall think fit, to cause the said proceedings to be amended, and to adjourn the hearing of the case to some future day if necessary: Provided always, that this enactment shall not invalidate any information or conviction, laid or drawn in any other form which may be specially suited to the case.

*Informations and
convictions to be
according to the Act,
5 Wm. IV. No. 22.*

*Proceedings not to be
quashed for want of
form, nor removed by
Certiorari.*

*Warrant not to be
objected to for want
of form.*

*Proceedings may be
amended by Justice.*

CLVII. And be it enacted, That no action at law shall lie against any Justice of the Peace, Constable, or other Peace Officer, for or on account of any matter or thing whatsoever done, or to be done, commanded by him, in the execution of his duty or office, under this Act, or the said first recited Act, against any party or parties offending, or suspected to be offending, against the provisions of this Act, or any By-law made in pursuance thereof, respectively, unless there be direct proof of corruption or malice, and unless such action be commenced within three calendar months after the cause of action or complaint shall have accrued; and if any person shall be sued for any matter or thing which he has so done, or shall have done, in the execution of his duty under this Act, or the said first recited Act, he may plead the general issue and give the special matter in evidence.

*No actions to lie
against Justices
and others for
things done under
this Act, except on
proof of corruption
or malice;*

*and unless com-
menced within three
months after offence.*

ACTS NOT REPEALED.

Acts not repealed.

CLVIII. And whereas an Act was passed by the said Governor and Council in the sixth year of the Reign of Her said Majesty, intituled, "*An Act to remove doubts, in respect to the exercise of certain powers, by the Councils of the City of Sydney and the Town of Melbourne, and to declare the competency of witnesses, and the jurisdiction of Magistrates, in certain cases within the same:*" And whereas it is expedient to declare that nothing in this Act contained shall be deemed or construed, either expressly or by implication, to repeal any of the provisions contained in the said last mentioned Act so far as they relate to the said City of Sydney: Be it therefore enacted, That notwithstanding the enactments herein contained, the provisions of the said last mentioned Act, shall, so far as the same relate to the said City of Sydney, continue in full force, and apply to the said Corporate Body, and to the Citizens of the said City; and that the powers and capacities of the Judges, Justices, and others mentioned in the said Act, shall not be in any manner prejudiced or affected by this Act.

*6 Vic., No. 18, to
continue in full force
within the City of
Sydney.*

CLIX. And be it declared and enacted, That nothing herein contained shall be construed to repeal, alter, or amend, in any greater degree than may be specially directed or authorized in this Act, any of the provisions or enactments of the following Acts, passed by the Governor and Council of New South Wales, to wit:—an Act passed in the

*Certain Acts not
repealed further than
specially directed by
this Act.*

fourth

*Acts not repealed,
continued.*
4 Wm. IV. No. 7.

5 Wm. IV. No. 1.

5 Wm. IV. No. 29.

5 Wm. IV. No. 6.

4 Vic. No. 17.

11 Vic., No. 21.

13 Vic., No. 42.

This Act not to pre-
judice or affect the
provisions of the
Electoral Act, 6 Vic.
No. 16, with
reference to members
or officers of the
Corporation.

fourth year of the Reign of His late Majesty King William the Fourth, intituled, "*An Act for regulating the Police in the Town and Port of Sydney, and for removing and preventing Nuisances and Obstructions therein*;" an Act passed in the fifth year of the Reign of His said late Majesty, intituled, "*An Act for regulating the Slaughtering of Cattle*;" an Act passed in the fifth year of the reign of His said late Majesty, intituled, "*An Act for better regulating the alignment of Streets in the Town of Sydney*;" an Act passed in the eighth year of the Reign of His said late Majesty, intituled, "*An Act for regulating Buildings and Party Walls, and for preventing mischiefs by fire, in the Town of Sydney*;" and an Act passed in the fourth year of the Reign of Her present Majesty Queen Victoria, intituled, "*An Act for the further and better regulation and government of Seamen, within the Colony of New South Wales and its Dependencies, and for establishing a Water Police*"; and an Act passed in the eleventh year of the Reign of Her present Majesty, intituled, "*An Act to enable the Council of the City of Sydney to make By-laws for the licensing and regulating Hackney Carriages within the City of Sydney, and its vicinity, and the conduct of the Owners and Drivers thereof*;" and also an Act passed in the thirteenth year of the Reign of Her present Majesty, intituled, "*An Act to amend the law relating to the licensing of Slaughter Houses within the City and Suburbs of Sydney, and for the prevention of other Nuisances within the same.*"

CLX. And whereas by the Act passed by the said Governor and Council, in the sixth year of the reign of Her present Majesty, intituled, "*An Act for the division of the Colony of New South Wales into Electoral Districts, and for the Election of Members to serve in the Legislative Council*," certain powers are vested in, and certain duties are required to be performed by the Mayor of the said City of Sydney, and Deputies and Collectors to be appointed by him, the Town Clerk for the said City, and the Aldermen and Assessors of each Ward thereof: Be it therefore enacted and declared, That nothing in this Act contained shall be deemed or construed, either expressly or by implication, to prejudice or affect the enactments contained in the said last mentioned Act, or any of them, and that the same powers, duties, and privileges shall be, and continue to be, vested in, and to be performed and enjoyed by the Mayor for the time being of the said City, and by the Deputies and Collectors to be appointed by him, and the Town Clerk, Aldermen, and Assessors, and other officers and persons elected and appointed respectively, under and by virtue of this Act, as would have been vested in, and been performed and enjoyed by the Mayor for the time being of the said City, and the Deputies and Collectors appointed by him, and the Mayor, Town Clerk, Aldermen, and Assessors, and other officers and persons elected and appointed respectively, in and by the said first recited Act, if this Act had not been passed; and that in case the said Mayor, or the Deputies and Collectors, to be respectively appointed by him, or the Town Clerk, Aldermen, Assessors, or other officers or persons, shall neglect or refuse to perform any of the duties so imposed upon them, respectively, they shall be respectively liable to forfeit and pay the respective penalties imposed by the sixty-first section of the said Act, passed in the said sixth year of the reign of Her said Majesty, intituled "*An Act to provide for the division of the Colony of New South Wales into Electoral Districts, and for the Election of Members to serve in the Legislative Council.*"

Perambulation.

Mayor and Town
Clerk to perambulate
boundaries once in
three years.

PERAMBULATION.

CLXI. And be it enacted, That within the period of two years next after the passing of this Act, and within the period of six calendar months after the expiration of every successive period of three years thereafter, a circuit of perambulation of the metes and bounds of the said City, and of the several Wards into which the same is divided, shall be made by the Mayor, accompanied by the Town Clerk of the said City; and the Town Clerk shall, at the time of making such perambulation, enquire whether the name or names whereby the same metes and bounds, or any part thereof

thereof, are or is described, have or has been changed, and by what name or description the same are or is then commonly known and distinguished; and if any change in the description thereof shall have taken place, shall note the same in a book to be kept by him for that purpose, to be called the "Boundary Book" of the said City; and the Mayor is hereby required, in the event of any of the boundary mark or marks of the said City, or any Ward thereof, being destroyed, obliterated, or defaced, to cause the same to be renewed or repaired, at the expense of the Body Corporate, within three calendar months next after such perambulation as aforesaid.

Perambulation, continued.

Boundary Book.

Mayor to renew boundary marks defaced.

CLXII. And be it enacted, That every Mayor or Town Clerk who shall neglect to perform the duties hereinbefore prescribed shall, for every such offence, forfeit and pay the sum of twenty pounds, to be recovered, with full costs of suit, by any person who shall sue for the same within three calendar months after the commission of such offence, by action of debt in the Supreme Court of New South Wales; and the money so recovered, after paying the expenses of the recovery thereof, shall be paid and apportioned as follows, (that is to say,) one moiety thereof to the person so suing, and the other moiety thereof in aid of the City Fund hereinafter mentioned.

Penalty on Mayor or Town Clerk for neglect.

How recovered,

and appropriated.

CLXIII. And be it enacted, That the boundary marks of the said City and of the several Wards thereof set up by the Mayor of the said City under the provisions of the first recited Act, shall be, and be known as the boundary marks of the said City and of the several Wards thereof respectively, until the same be altered under the provisions of this Act.

Confirmation of the present boundary marks.

CLXIV. And be it enacted, That every person who shall wilfully or maliciously pull down, deface, obliterate, injure, conceal, or destroy any of the boundary marks of the said City, shall, for every such offence, forfeit and pay, in addition to the value of such boundary mark or marks as aforesaid, any sum not exceeding forty shillings, to be recovered according to the provisions of this Act relative to offences against the same punishable upon summary conviction.

Penalty for defacing or injuring boundary marks.

RIGHTS OF MAJESTY.

CLXV. Provided always, and be it declared and enacted, That nothing in this Act contained shall be deemed to affect or to interfere with any right, title, or interest of Her Majesty, Her Heirs and Successors, or in any way to limit the Royal Prerogative.

Rights of Majesty.

Act not to affect the rights of Her Majesty.

INTERPRETATION.

CLXVI. And be it enacted, That whenever any doubt shall arise whether any house or other building be within one or any other Ward of the said City, it shall be competent for the Council of the said City to decide such doubt, and such decision shall be final.

Interpretation.

Doubts as to situation of houses with respect to wards to be determined by the Council.

CLXVII. And be it enacted, That no misnomer or inaccurate description contained in this Act, shall in anywise prevent or abridge the operation of this Act with respect to the subject of such description, provided the same shall be designated so as to be understood.

Misnomer or misdescription not to abridge operation of this Act.

CLXVIII. And be it enacted, That whenever any matter or thing shall, by this Act, be directed to be performed on a certain day, and that day happen to be Sunday, Good Friday, or Christmas Day, the said matter or thing shall be performed on the next succeeding day.

Anything directed to be done on a holiday to be done on the day following.

CLXIX. And be it enacted, That wherever in this Act the word "Governor" is used, the same shall be held to mean the Governor or person administering the Government of the said Colony, for the time being; and that in the construction of this Act, the following words and expressions shall have the meanings hereby assigned to them, unless such meanings be repugnant to or inconsistent with the context, (that is to say) words importing the singular number shall include the plural number, and words importing the plural number shall include the singular number,

Interpretation clause.

Meaning of terms.

words

Interpretation, continued.

words importing the masculine gender shall include females as well as males, the word "month" shall mean calendar month, and the word "Justice" shall mean any Justice of the Peace acting for the City of Sydney.

Passed the Legislative Council, this twenty-sixth day of September, one thousand eight hundred and fifty.
 WM. MACPHERSON, CLERK OF THE COUNCIL.

CHARLES NICHOLSON,
 Speaker.

In the name and on the behalf of Her Majesty I assent to this Act.

CH^S. A. FITZ ROY,
 GOVERNOR.

Govt. House, Sydney, 2nd October, 1850.

SCHEDULES REFERRED TO.

A.

FORM OF CITIZEN LIST.

See Section 10.

List of Citizens in Ward, in the City of Sydney.

Christian Name and Surname of each Person at full length.	Nature of the Qualification.	Street, lane, or other place in this Ward, where the property affording the Qualification is situated.
Ashton John	Shop	No. 23, Clarence-street.
Carter James	Counting House	No. 10, George-street.
Dealtry William.....	Ditto	Ditto.
Evelyn John	Dwelling House	No. 20, Elizabeth-street.

(Signed) A. B. Collector of Ward.

B.

NOTICE OF CLAIM.

See Section 11.

TO THE TOWN CLERK OF THE CITY OF SYDNEY.

I hereby give you notice, that I claim to have my name inserted in the Citizen List of the City of Sydney, in virtue [of the house, warehouse, counting house, chamber, shop, or office, as the case may be,] which I occupy at

Dated at this day of Year 18 .

(Signed) JOHN ASHTON, of [place of abode,]

C.

NOTICE OF OBJECTION.

To the Town Clerk of the City of Sydney, and to the person objected to.

See Section 11.

I hereby give you notice, that I object to the name of Thomas Bates, of
 [describe the person objected to, as described in the Citizen List,]
 being retained on the Citizen List of the City of Sydney.

Dated this

(Signed) JOHN ASHTON, of [here state the dwelling house or property for which he is included in the Citizen List, or for which he is entitled to be so included.]

D.

LIST OF CLAIMANTS.

The following Persons claim to have their names inserted in the Citizen List of the City of Sydney.

See Section 11.

Christian Name and Surname of each Claimant.	Nature of the Property in respect to which he prefers his claim.	Place where the Property is situated.
Alton Frederick	Dwelling house	No. 17, King-street.
Baker Joseph	Ditto	Elizabeth-street.
Chisholm Charles	Counting House	George-street.

(Signed) A. B.
Town Clerk.

Dated at Sydney, this day of

E.

LIST OF PERSONS OBJECTED TO.

The following persons have been objected to, as not being entitled to have their names retained on the Citizen List of the City of Sydney.

See Section 11.

Christian Name and Surname of each Person objected to.	Nature of the Property for which his name is on the Citizen List.	Place where the Property is situated.
Amwell Charles	Counting House	No. Clarence-street.
Barton William	Dwelling house	No. Cumberland-street.
Curtis John	Shop	No. 2, Pitt-street.

(Signed) A. B.
Town Clerk.

Dated at Sydney, this day of

F.

FORM OF MORTGAGE OF RATES AND CORPORATE REVENUE.

No.

By virtue of an Act of the Governor and Legislative Council of New South Wales, passed in the fourteenth year of the Reign of Her present Majesty Queen Victoria, intituled, "An Act to provide for the Regulation of the Corporation of the City of Sydney," the Mayor, Aldermen, Councillors, and Citizens of the City of Sydney, incorporated by such Act, in consideration of the sum of pounds sterling, lent and paid to the said Corporation by A. B., of for the purposes of the said Act, do grant and assign unto the said A. B., his executors, administrators, and assigns, all the moneys arising and to arise from the rate

See Section 65.

rate [here describe the rates or other property proposed to be mortgaged]; to hold to the said A. B., his executors, administrators, and assigns, from the day of the date hereof, until the said sum of pounds, with interest at the rate of pounds per centum per annum for the same, shall be fully paid and satisfied; and it is hereby declared that the said principal sum shall be repaid on the day of , and that in the meantime the interest thereof shall be paid on the day of and the day of in every year. Given under the Common Seal of the Mayor, Aldermen, Councillors, and Citizens of the City of Sydney, at Sydney, this day of one thousand eight hundred and

A. B.,
Mayor.

G.

FORM OF TRANSFER OF MORTGAGE.

See Section 67.

I, A. B., in consideration of the sum of pounds sterling, paid to me by C. D., of do hereby transfer to the said C. D. his executors, administrators, and assigns, a certain mortgage No. bearing date the day of and made by the Mayor, Aldermen, Councillors, and Citizens of the City of Sydney, for securing the sum of pounds and interest (or if such transfer be by indorsement on the mortgage insert instead of the words after "assigns" the within security), and all my property, right, and interest in and to the money thereby secured, and in, and to the moneys thereby assigned. In witness whereof I have hereunto set my hand and seal, this day of one thousand eight hundred and

A. B. (l.s.)

H.

See Section 92.

Form of Notice to the Owners of the houses, buildings, tenements, and other property in the street, lane, or thoroughfare required to be formed and made by the Council of the City of Sydney.

You, and the other owners of houses and other property in are hereby required within months from the service of this notice to form and make such street, lane, or thoroughfare, (as the case may be,) to the satisfaction of the City Surveyor; and you are hereby to take notice, that unless you cause such street, lane, or thoroughfare to be so formed and made within the time above specified, the same will be executed by the Council of the said City, and the cost thereof will be levied on you and each of you respectively in proportion to the annual or assessed value of your property in the said street, lane, or thoroughfare, in pursuance of the provisions of the Act of Council, 14 Victoria, No. 41.

Dated the day of , A. D. 18 .
(Signed) A. B.,
Town Clerk.

I.

See Section 118.

Schedule shewing the limit of Dues to be charged on Produce brought to the George-street and the Hay and Cattle Markets, and the Tolls or Rent for occupying Stalls or Standings therein.

GEORGE-STREET MARKET.

TOLLS AND DUES.	Not exceeding	
	s.	d.
In the north-east Shed, A, for every load of any size.....	0	6
In the remaining three Sheds, B, C, and D, for every load if drawn by one horse or other animal.....	0	6
If drawn by two horses or other animals.....	0	9
If drawn by three or more horses or other animals.....	1	0
STALL DUES.		
For each Stall in the north-east Shed, A, per day.....	0	6
" " the north-west Shed, B, per week.....	3	0
" " the south-east Shed, C, per week.....	2	0
" " the south-west Shed, D, per week.....	3	0

HAY, CORN, AND CATTLE MARKET.

TOLLS AND DUES.	Not exceeding	
	s.	d.
For every horse, mare, gelding, foal, ass, or mule.....	1	0
Every head of neat cattle.....	0	6
Every sheep, lamb, pig, or goat.....	0	1
Every load of hay, if drawn by one horse or other animal.....	0	6
Do. Do. two or more horses or other animals.....	1	0
Every load of straw, Do. one horse or other animal.....	0	3
Do. Do. two or more horses or other animals.....	0	6
Every load of wheat, barley, fodder, &c., if drawn by one horse or other animal....	0	6
Do. Do. Do. two or more horses or other animals.....	1	0
For every weight and measure adjusted.....	0	3
Every article weighed, per cwt.....	0	1
Articles weighed on weigh bridge, per load.....	1	0
if above a ton weight.....	1	6

K.

FORM OF ASSESSMENT BOOK.

An Assessment of the Gross and Net Annual Value of all Property liable to be rated in Ward, in the City of Sydney.

No.	Situation.	Name of Person Rated.	Name of Owner or Landlord of Property rated.	Description of Property.	Gross Annual Value in Pounds.	Net Value fixed by Valuers.	Net Value fixed by City Council.

See Section 128.

(Signed) { A. B. } Valuers.
 { C. D. }

L.

L.

(FORM OF NOTICE OF ASSESSMENT.)

CITY OF SYDNEY.

Ward

See Section 128. No.

Town Clerk's Office,
Sydney,

185 .

To

NOTICE is hereby given, that by virtue of the Act of the Governor and Legislative Council, 14 Victoria, No. 41, the Council of the City of Sydney, have ordered and directed you to be assessed in respect of the undermentioned property, at the sum hereunder set forth :

Person rated.	Property Assessed.	Net value of property, clear of outgoings.
		£

Notice is also hereby given, that if you be dissatisfied with the above assessment, you may appeal against the same to the Justices of the Peace, at the next Court of Quarter Sessions, held in and for the City of Sydney, unless the same be held within fourteen days from the date of serving this notice, and in that case to the Court of Quarter Sessions then next following, on lodging at the Town Clerk's Office a notice in writing of your intention to appeal seven days at least before the holding of such Court, whose decisions on all cases of appeal shall be final, and if no notice of appeal against the above assessment be lodged at the said Office, within the period above prescribed, such assessment will be finally confirmed by the said Council.

A. B.,

Town Clerk.

Date of Service

185 .

M.

M.
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.	LIGHTING RATE.		Date of Payment.
					Amount in the pound.	Amount. £ s. d.		Amount in the pound.	Amount. £ s. d.	

See section 133.

See section 137.

N.

(FORM OF NOTICE OF RATES.)

CITY OF SYDNEY.

Ward

No.

Town Hall, York-street,
Sydney,

185 .

To

NOTICE is hereby given, that by virtue of the Act of the Governor and Legislative Council, 14 Victoria, No. 41, the Council of the City of Sydney, have ordered and directed you to be assessed and rated in respect of the undermentioned property, at the sums and for the purposes hereunder set forth:—

Person rated.	Property Assessed.	Net value clear of outgoings.	Nature of Rates.	In the Pound.	Amount of Rates.
			City rate half year, ending		
			Lighting rate half year ending		
				£	

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.

A. B.,

City Treasurer.

Date of Service

185 .

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

City Treasurer's Office,
Sydney,

185 .

Received the amount of rates above mentioned.

City Treasurer.

O.

SCHEDULE OF COSTS.

For every warrant of distress	s.	d.
For every levy	1	0
For man in possession, each day, or part of a day	0	6
For inventory, sale, commission, and delivery of goods, not exceeding one shilling in the pound on the net proceeds of the sale.	3	0

See section 137.

P.

See section 140.

(FORM OF WARRANT OF DISTRESS AGAINST A NUMBER OF DEFAULTERS.)

To _____ and his Assistants.

WHEREAS the persons whose names are mentioned and set forth in the Schedule hereunder written have been rated by the Council of the City of Sydney, at the sums and for the purposes set down opposite to their respective names in the said Schedule: And whereas the said several sums were due and payable on account of such rates by such persons respectively on the _____ day of _____ : And whereas default has been made in the payment of the said several sums to the Treasurer of the said City, and the said sums are still due and owing, although due notice demanding payment of the same, was left at the buildings, tenements, or other property, or at the usual place of abode of the persons specified and named in the said Schedule respectively: These are therefore to authorize you forthwith to make distress of the goods and chattels of the several persons whose names are mentioned and set out in the Schedule hereunder written; and if within the space of three clear days next after the making of such distresses respectively the said several sums set opposite to their respective names at which they were so rated as aforesaid, and the said several sums for costs, also set opposite to their respective names, including the charge of taking and keeping the said distress in each case, shall not be paid, that then you do sell the goods and chattels of the party so making default, so by you distrained, and out of the money arising by such sales respectively you retain the sums so set opposite to the name of each party, whose goods you shall have so sold, rendering to him the overplus, the charges of taking, keeping, and selling the said distress being first deducted; 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 Rate Payers.	Description of Property.	Situation of Property.	RATES.			Costs.	Total.
				City Rate, half year ending	Lighting Rate, half year ending	Arrears of City and Lighting Rates.		

Given under my hand, at the Town Hall, this _____ day of _____

(Signed) _____ A. B., Mayor.

SCHEDULE OF COSTS.

For every warrant of distress	s. d.
For every levy	1 0
For man in possession, each day, or part of a day	0 6
For inventory, sale, commission, and delivery of goods, not exceeding one bill in the pound on the net proceeds of the sale.	3 0

See section 143.

Q.

SHORT FORM OF AVOWRY.

In the Supreme Court of }
New South Wales. }

The _____ day of _____
in the year of our Lord

A. ats. B.

And for an Avowry in this behalf, the defendant (or defendants as the case may be), as [here insert either the Mayor or the title of the officer or other person or persons] of the Mayor, Aldermen, Councillors, and Citizens of the City of Sydney, and the said &c., well avow the taking of the said [here enumerate the goods and chattels taken] of the Plaintiff (or Plaintiffs as the case may be), as in the said declaration mentioned, in the said place in which &c., and justly because they say that the said seizing, taking, and detaining of the said goods and chattels were done by them, the defendant (or by them the defendant and the said A. B.) by authority of a certain Act of the Governor and Legislative Council of New South Wales, passed in the fourteenth year of the reign of Her present Majesty Queen Victoria, intituled, "An Act to provide for the Regulation of the Corporation of the City of Sydney," and according to the tenor purport and effect of the said Act: And this the defendant (or defendants) is (or are) ready to verify &c.

[To be signed by Counsel.]

No. XLII.

An Act declaratory of the right of Occupants of Crown Lands to impound cattle, and other animals, found trespassing thereon. [Assented to, 2nd October, 1850.]

Preamble.

Declaring that all Occupants of Crown Lands whether under lease, license or other authority granted by the Crown, are empowered to impound animals trespassing thereon, and in addition to damages to charge expenses of driving; subject to appeal to nearest Court of Petty Sessions,

WHEREAS doubts have arisen whether persons who now or may hereafter occupy Waste Lands of the Crown, under lease, license, or other authority granted by or behalf of the Crown, are entitled to impound cattle or other animals trespassing thereon, and it is expedient to remove such doubts: Be it declared and enacted, by His Excellency the Governor of New South Wales, with the advice and consent of the Legislative Council thereof, That all persons in occupation by lease, license, or other authority, granted by or on behalf of the Crown, shall be and are hereby empowered to impound any cattle, sheep, horses, or other animals trespassing thereon; and to drive them (if needs be) to the next or nearest public pound, and in addition to the amount of damage chargeable by law upon any such cattle, sheep, horses, or other animals, so trespassing as aforesaid, to charge all costs and expenses attending the driving of the same to any such pound: Provided always, that if the owner or bailee of any animals so trespassing, shall be dissatisfied with any such charges, he may apply to the Court of Petty Sessions nearest to such pound, which shall have power to summon all parties with the witnesses, and to examine them upon oath in a summary way, and to assess such damages as may appear to be reasonable and fair, and such assessment of damages shall be final and conclusive, between such parties; and such Court of Petty Sessions, shall have power (if necessary,) to order so many of any such trespassing animals to be sold, as shall be required to pay all such damages, as well as all fees and other charges due to the keeper of any pound in which any animal so trespassing shall be impounded.

Locus in quo in action of replevin.

II. And be it declared and enacted, That in any action of replevin brought for any distress of cattle, sheep, horses or other animals damage feasant beyond the Settled Districts, it shall be sufficient in any pleading, particular, or other proceeding to describe the locus in quo in the same manner as such locus in quo is required to be described in any action of trespass quare clausum fregit.

Passed the Legislative Council, this twenty-seventh day of September, one thousand eight hundred and fifty.
WM. MACPHERSON, CLERK OF THE COUNCIL.

CHARLES NICHOLSON,
Speaker.

In the name and on the behalf of Her Majesty I assent to this Act.

CH^s. A. FITZ ROY,
GOVERNOR.

Govt. House, Sydney, 2nd October, 1850.